ALASKA LEGISLATURE SPECIAL COMMITTEE/SUBJECT FILE 8672
2005 SCOMM 77: SENATE SPEC.COMM.EXXON VALDEZ OIL SPILL...1991

222

file - Exxon Settlement

April 2, 1991

MEMORANDUM

TO: Trustee Council Members

FROM: for Paul Gertler, Chair Susan MacMullin
Management Team

SUBJECT: Agenda for April 4, 1991 Trustee Council Meeting

Below is a proposed agenda for the Trustee Council Meeting scheduled for April 4th at 10:30 a.m. in Juneau. If you need clarification or have additional items for the agenda, please call me at (786-3579) or fax your comments to me (786-3350).

DRAFT

TRUSTEE COUNCIL MEETING
APRIL 4, 1991
FOREST SERVICE CONFERENCE ROOM
5TH FLOOR -- FEDERAL BUILDING
JUNEAU, ALASKA
10:30 a.m.

Note: see #3

AGENDA

Decision Item

1. 1991 Restoration Science Program

This is the last piece of the 1991 science progam. A budget placeholder number of $3,875,000 was approved by the Trustee Council and then the State and Federal Trustees in January. This is the number which appears in "Pink Book." The Work Group and the Management Team were asked to return to the Trustee Council with a recommended 1991 Restoration Science Program.

Decision: The Management Team and Work Group are recommending twelve projects for OY3 with a total budget of approximately $2.3 million. The Trustee Council is asked to approve the package and suggest modification, if any.

Information Items

2. 1991 Injury Assessment Program and Settlement

If the settlement in approved, litigation concerns may no longer be a major factor in study design. Consequently there may be an opportunity for further efficiencies in the injury assessment program. However, as the State is still involved in third party litigation, litigation concerns are still a factor.

3. <u>Status of Information and Data Release</u>

- Summary of injuries to Congress
- Information release to the public

Discussion Items

4. <u>Organization for Trustee Council Work</u>

The Council will discuss how to proceed in the interim, before the settlement takes effect and for the three or four months after settlement as the reorganization plan is developed and put into place.

5. <u>Trustee Coordination with State and Federal On Scene Coordinators for OY3 Cleanup</u>

The costs of this year's cleanup will be taken out of the 1992 settlement payment. Accordingly, the Trustees will need to be involved more closely than in past years on the decisions of where, how, and how much to invest in clean up.

cc: Management Team
Legal Team
Restoration Planning Work Group

Exxon and state may pair for suits

By MATT KOHLMAN
The Associated Press

3-27-91

JUNEAU — The state may be forced to join Exxon Corp. to fend off civil lawsuits that have been filed against them over the Exxon Valdez oil spill, Alaska Attorney General Charlie Cole said Thursday.

The possibility means scientific and legal information that could help third-party litigants would be withheld from the public, he said.

Cole spoke before a Senate committee formed to review the $1 billion settlement signed earlier this month by the oil giant and state and federal officials.

Legislators, environmentalists and others have urged the state to release its scientific and economic studies of the spill to help assess whether the settlement is adequate to pay for the damage.

Cole has said he will not release the information as long as there is a chance it can be used against the state. To do so, he said, would be foolish.

About 18 private plaintiffs, including groups such as Natives and commercial fishermen, have filed civil claims against the state. Cole said most of the plaintiffs also are suing Exxon, and a judge would probably consolidate the lawsuits.

Exxon faces more than 160 private claims for damages resulting from the March 24, 1989, grounding of the tanker Exxon Valdez in Prince William Sound. Nearly 11 million gallons of crude oil spilled into the scenic waterway, killing marine wildlife and oiling hundreds of miles of shoreline.

"The state now is placed in a position of becoming defendants with Exxon," Cole said. "That wouldn't be our preference. We would prefer to be aligned with Alaska residents other than Exxon in litigation."

The two-year statute of limitations has run out for

Please see Page B-3, SUITS

SUITS: State, Exxon may pair

Continued from Page B-1

people or groups to sue the state over the spill. And Cole has provided some incentive for lawsuits already filed to be dropped, including the availability of state-collected damage assessment and legal work.

"It's safe to say that the state certainly would be willing to lend whatever assistance it could to prosecution of the third-party claims," he added.

State may join ranks with Exxon

By MATT KOHLMAN
THE ASSOCIATED PRESS

The state may be forced to join Exxon Corp. to fend off civil lawsuits that have been filed against them over the Exxon Valdez oil spill, Alaska Attorney General Charles Cole says.

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"The state now is placed in a position of becoming defendants with Exxon," Cole said. "That wouldn't be our preference. We would prefer to be aligned with Alaska residents other than Exxon in litigation."

The concept of the state sitting side by side with Exxon at the court table does not thrill legislators either.

"It's real difficult to accept that we would side with Exxon," said Sen. Sam Cotton, D-Eagle River and chairman of the Senate Special Committee on Oil and Gas. "Nobody wants that to happen."

Sen. Jay Kerttula, D-Palmer, said there are always political woes to the state being in court. "If people sue you, you've got to protect yourself."

The two-year statute of limitations has run out for people or groups to sue the state over the spill. And Cole has provided some incentive for lawsuits already filed to be dropped, including the availability of state-collected damage assessment and legal work.

"It's safe to say that the state certainly would be willing to lend whatever assistance it could to prosecution of the third-party claims," he added.

PHOTO BY BOB TKACZ

AG Charles Cole: 'The state now is placed in a position of becoming defendants with Exxon.'

SCOMM

77:71

Alaska State Legislature

HOUSE OF REPRESENTATIVES

Official Business

P.O. Box V
State Capitol
Juneau, Alaska 99811

TO: Mike Greeny, Director
Legislative Finance Division

Randy Welker, Legislative Auditor
Legislative Audit Division

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

Representative Kay Brown, Chair
House DEC Budget Subcommittee

DATE: March 25, 1991

SUBJ: Accounting of *Exxon Valdez* Spill Related Expenditures

As you are perhaps aware, during recent meetings of the House Special Committee on the *Exxon Valdez* Oil Spill Settlement questions have been raised about the quantity and type of the total expenses incurred by the state in responding to the *Exxon Valdez* oil spill. These same questions have also been raised during the operating budget deliberations of the House Finance Committee.

In the proposed Exxon settlement, it is proposed that the state can recover up to $72 million for reimbursement of the state's past spill expenses. At this point, however, we are not aware of any definitive accounting of the state's spill-related expenditures incurred to date. **The purpose of this memorandum is to ask for your assistance in providing both the House Special Committee on the *Exxon Valdez* Oil Spill Settlement and the House Finance Committee with an accounting of state expenditures on the *Exxon Valdez* spill response, clean up and related activities such as legal costs.**

Specific questions we would like addressed include the following:

1. What is the total amount of state expenditures in response to the *Exxon Valdez* oil spill, including response, clean up, damage assessment, restoration and litigation, accounted for by agency, by Fiscal Year, and by funding source (ie., general fund, Oil and Hazardous Substance Release Response Fund/470 Fund, program receipts, other)?

2. Which of these expenditures have been billed to Exxon or other parties? Which of these expenditures have been reimbursed by Exxon or other parties? Which of these expenditures, if any, are still potentially eligible for reimbursement from Exxon or other parties, apart from reimbursement as part of the proposed settlement (ie., is Exxon still in the process of reviewing expenditures for possible reimbursement apart from the proposed settlement)?

It is our understanding that the former Oil Spill Coordinating Office had been tracking the state's spill-related expenditures but we do not know what became of the materials or analysis developed by that office, or whether that information is still current. We also understand that Peterson and Associates, under subcontract to the Department of Law's contractor, Preston Thorgrimson in Seattle also prepared an analysis of these accounts under the direction of a Mr. Bob Grey. We would also note that Commissioner John Sandor indicated to the House Finance DEC Budget Subcommittee that the DEC had initiated an internal audit of the Oil and Hazardous Substance Release Response Fund (470 Fund). The status of this audit is not known, although it could presumably provide information relevant to the effort of accounting for total state spill related expenditures.

In order to expedite the work of the House Special Committee on the *Exxon Valdez* Oil Spill Settlement, we would appreciate a response to this request by April 18. We appreciate your assistance with this request. If you have questions concerning this matter, please let us know or contact our offices (Eric Myers in Representative Brown's office at 465-4998 or Andy Hemenway in Representative Gruenberg's office at 465-4968).

cc: Commissioner John Sandor
Attorney General Charlie Cole
Dick Pegues/Department of Law

what about lit expenses in
3d party cases... eg Bas?

SCOMM

77:72

HOUSE CONCURRENT RESOLUTION NO. 29 am

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTEENTH LEGISLATURE - FIRST SESSION

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

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

A RESOLUTION

Relating to the proposed Exxon Valdez oil spill settlement.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

FURTHER RESOLVED that copies of this resolution shall be sent to the Honorable H. Russel Holland, Chief Judge, United States District Court for the District of Alaska; Jack G. Clarke, Senior Vice-President, Exxon Corporation; Richard Stewart, Assistant Attorney General, Environmental and

Natural Resources Division, United States Department of Justice; the Honorable Walter J. Hickel, Governor of the State of Alaska; and to the Honorable Charles F. Cole, Attorney General of the State of Alaska.

Thumbs down on Exxon spill deal

5-2-91

House leaders urge settlement rejection

By DIRK MILLER
TIMES CAPITAL BUREAU

JUNEAU — House majority leaders are recommending the Legislature reject the proposed $900 million settlement of federal and state civil claims against Exxon USA Inc. stemming from the nation's worst oil spill.

The vote is scheduled for today.

In a caucus Wednesday night, House Speaker Ben Grussendorf, D-Sitka, urged the majority to reject the civil portion of the settlement unless changes are made.

Those include making Exxon's payment term one year, instead of 11 years; increasing the criminal fine to $500 million; reducing civil claims to $700 million and dropping a $100 million reopener clause.

The House meets today at 10 a.m. to take up a resolution rejecting the pact and suggesting those changes. It also will take up a resolution that would approve the settlement. The majority is made up of 23 Democrats and four Republicans.

"What it says is we are rejecting the present settlement, Grussendorf said. "At the same time, we would entertain further negotiations."

Senators, though, are waiting for Exxon to decide if it will opt out of the settlement. Federal Judge H. Russel Holland recently rejected part of the agreement, a $100 million criminal fine.

Exxon has until Saturday to decide if it wants to withdraw

See Reject, page A9

Reject

Continued from page A1

from the civil portion of the settlement, and Cole has asked lawmakers to wait until Exxon makes a move.

"I prefer to wait until the last minute," Senate President Dick Eliason, R-Sitka, said. "I feel simply, it's up to Exxon now and if they don't move, I would assume they are not dealing with us in good faith."

Eliason, chairman of the Senate's spill review panel, said the Senate was not interested in passing a resolution that attempts to make major changes.

Gov. Walter J. Hickel has said he will abide by the Legislature's vote and reject the settlement if lawmakers turn it down.

Cole said the governor would consider a rejection by one body and approval in another as turning the settlement down. The same would be true if no action were taken, he said.

But Eric Rehmann, Hickel's press secretary, said the governor's options would be open if lawmakers cannot come up with a unified decision.

"They were given 45 days to make a decision, they ought to be able to make one," Rehmann said. "You'd like to see them give some kind of clear signal."

Grussendorf, though, said he was not sure if the House had the votes to reject the settlement. It would take a simple majority, 21, to reject it.

Rep. Max Gruenberg, D-Anchorage, said he thought he knew of about 25 votes that would reject the settlement with conditions.

At least one member of the majority, Bill Hudson, R-Juneau, said he would vote for Hickel's settlement. Others said they had not decided how to vote.

Hudson said he felt the Legislature had no choice but to approve it, regardless of his reservations about parts of it.

"I hate to have to vote for this damn thing," Hudson said. "I do not want to be a part and party to turning down $900 million."

Minority Leader Robin Taylor, R-Wrangell, said lawmakers should vote yes or no, but not try to change the settlement. If the Senate and House cannot come to agreement, he said, Hickel should approve the settlement, Taylor said.

"An inability to reach consensus is agreement," Taylor said.

But others said the state could do better.

"The overwhelming majority of my people asked me not to vote for the settlement," said Rep. Cliff Davidson, D-Kodiak. Kodiak Island was one of the areas damaged when the Exxon Valdez rammed Bligh Reef March 24, 1989, spilling almost 11 million gallons of oil.

Representatives objected to the settlement's amount, its dedication of a trust fund to be administered by both federal and state trustees, its effect on private lawsuits and Cole's decision to keep state spill studies secret.

Meanwhile, Attorney General Charles Cole said Wednesday he decided not to deliver the House spill review panel's counter-offer because of his fears it might doom the agreement. Most of those terms are contained in the resolution supported by House majority leaders.

Cole had promised the committee to deliver the changes to federal and Exxon officials during a meeting on extending the Legislature's Friday deadline to accept or reject the pact.

He told the committee he decided during a restless night Tuesday that to do so would endanger the $1 billion agreement.

"It was my view that the very sending of that document to Exxon and the Department of Justice might in itself cause Exxon or the Department of Justice, i.e. the United States, to withdraw," Cole said. "The document just won't sell."

Cole said he also had concerns over the secrecy of the suggestions and the propriety of the state's attorney general delivering the committee's proposal.

"So, after I arrived at that conclusion with that underlying reasoning, (I) thought about it for a few minutes and engaged in a restful sleep for the remainder of the evening," Cole said.

The decision may have soothed Cole's slumber, but it troubled some lawmakers Wednesday.

"Damned right I'm upset," said Gruenberg, chairman of the panel. "I'm real concerned about what went on here."

Gruenberg and other lawmakers said time was running out for the House to accept or reject Hickel's settlement plan.

Cole told lawmakers that he was meeting today at noon with Exxon and federal officials to again discuss extending the Legislature's deadline.

"I'm reasonably confident we can reach an agreement on an extension of time," Cole said, "which the Legislature can have to approve the agreement."

A status hearing is being held on the federal Exxon litigation before Judge Holland today.

House seems set against spill deal

By DAVID POSTMAN
Daily News reporter

JUNEAU — The state House appears ready to reject the proposed $1 billion Exxon Valdez settlement. The controlling Democrats say it's not enough money, fails to protect fishermen and Natives and gives too much power to the federal government.

After a two-hour meeting of the House Majority Caucus Wednesday night, House Speaker Ben Grussendorf said he expects the deal to be defeated when it comes up for a vote today. The same prediction came from Caucus Chairwoman Fran Ulmer and Rep. Max Gruenberg, chairman of the committee that reviewed the settlement.

"I cannot recommend to the people of this state that we approve the settlement," Gruenberg said. "I am not satisfied."

The move to reject the proposal came after Attorney General Charlie Cole refused to try to renegotiate the pact among Exxon, the federal government and the state. Wednesday afternoon Gruenberg's committee said the settlement should be rejected and renegotiated with terms more to its liking.

On the Senate side, Senate President Dick Eliason was once confident the deal would be approved but said Wednesday because of last week's ruling that threw out Exxon's criminal plea bargain, "Now, I don't know."

Eliason said more important than the House committee "mucking around" is what Exxon does.

The state has until Friday to approve or pull out of the settlement. Exxon has until Saturday.

Cole said that in discussions with Exxon and the federal government Wednesday he was not able to get an extension. But he said he is confident one will be granted today.

Eliason said he will be watching carefully.

"If they're really interested in this agreement they will let us know before we run out of time," he said. "I feel simply it's Exxon's move and if they don't make a move they're not operating with us in good faith anymore."

Eliason has suspended any Senate action on the settlement until he hears from Exxon.

But the House committee,

Please see Page B-3, SPILL

Anchorage Daily News file photo
Attorney General Charlie Cole

Continued from Page B-1

after weeks of hearings, meetings and closed-door briefings, endorsed a resolution that says the $1 billion settlement should be scrapped unless major changes are made — including getting most of the money up front rather than having to wait a decade.

While there was no opposition on the committee to the resolution, member Ramona Barnes, R-Anchorage, said she did not agree with all the 10 recommended changes and she planned to voice her objections when it comes up for a vote on the floor today.

Many of the points in the resolution were also in a two-page secret memorandum the committee gave to Cole Tuesday. Cole told the committee then that he would pitch the proposal to Exxon and federal government lawyers during a Wednesday morning teleconference.

But Wednesday afternoon Cole told the committee he had changed his mind and didn't mention the document — which was made public at the meeting — during the teleconference.

Cole said he woke up at 3 a.m. and began thinking about agreeing to pass the document on to Exxon and the federal lawyers.

"At 4:22 I decided it would be inappropriate for me to send that document," he said.

Cole said he had several reasons for disregarding the committee's instructions and for going back on what he had said the day before. He said "the very sending of that document" might kill the deal, the House committee did not represent the full legislature's point of view, and he did not want to be part of any secret negotiations — something he said he was criticized for early in the process.

"I think my judgment was sound and I stand by it," Cole said. "That document just won't sell, OK? It will not enhance the settlement in any way."

Cole also said the committee was asking for too much.

"This is not simply a matter of changing a paragraph or two. It goes right to the heart of the document."

Changes called for in the resolution approved Wednesday would:

• Increase the criminal fine from $100 million to $500 million. The $100 million proposed fine was thrown out last week by a federal judge who said it was too low. According to the resolution, $100 million of the fine would be paid to the state with at least $300 million going to the trust fund that would be created to pay for restoration.

• Require the payment of at least $700 million within a year of the deal being approved. The current proposal calls for the $1 billion in payments to be spread over the next decade.

• Prohibit Exxon from deducting any of the settlement payments from state taxes.

• Require that the trustees governing the spill money include two legislators who would be non-voting members.

• Require legislative approval before any of the state's share of the trust fund money can be spent.

• Require the release of confidential scientific and economic studies unless the state could show that releasing the reports would "materially and substantially harm the state's case in pending litigation."

• Require Exxon and the state to "enter good-faith negotiations" to settle the hundreds of private lawsuits filed after the spill.

The proposals are similar to those in the memo given to Cole.

Committee members were clearly angry that Cole had refused to present their proposal.

"You're damn right I'm upset," Gruenberg said. "I'm real concerned about what went on here.

"It really is going to cause significant problems with the attorney general's relationship with the legislature on this issue."

Rep. Fran Ulmer, D-Juneau, told Cole he hurt his own case, saying his action "throws further doubt on the viability of the agreement as it stands today."

Only Barnes came to Cole's defense.

"If I were you — and I'm not — I would have taken the exact position that you did and I must say I'm glad you had the guts to do it," she told Cole.

Cole said the House should not do anything until after noon today when he will hear if the state has gotten an extension.

"I think we should remain reasonably sanguine about the situation we face," he said. "I don't have the sense Exxon is looking for a way to get out."

to Sheila from Sandra

Statement by Governor Walter J. Hickel
regarding
Action by the Alaska Legislature on the Exxon Valdez Settlement

"I have said from the beginning that if the Legislature did not approve the Exxon Valdez settlement that I would not sign it. Yesterday, 26 members of the House majority voted to reject the settlement. Today, the Senate adjourned without taking action. Consequently, the proposed settlement has been terminated.

"I think it is regrettable that, from the day the House received the settlement for its review, it has made a partisan, political issue of it, choosing to ignore the needs of the resources and the people of Prince William Sound and Kodiak.

"I remain convinced that the settlement would have been in the best interest of the people of Alaska. We do not have an extra $100 million in the general fund to use for clean-up and restoration of those areas impacted by the oil spill. With the termination of the settlement, we will now have to spend millions each year on lawyers to litigate with Exxon.

The people of Alaska should be outraged. Those who live in Prince William Sound and Kodiak will suffer for years because of this selfish decision made by the House of Representatives. The House majority could have eased the burden on those Alaskans, could have allowed $100 million a year to flow into rehabilitating those impacted areas. They chose, instead, years of uncertainty and despair.

I am deeply disappointed by what has happened in the Legislature. In all my years in government, I have never put politics ahead of the country.

Ala a State House of Represent ives
Seventeenth Legislature
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RCS# 47
Item 328

05-01-91
15:47:06

SCS CSHB 5(RLS)

Concur

Yeas:	25	Boyer, Brown, Bruckman, Carney, Choquette, Davidson, Davis,B., Ellis, Finkelstein, Foster, Gonzales, Gruenberg, Grussendorf, Hudson, Ivan, Jacko, Koponen, Kubina, Lincoln, Mackie, MacLean, Moyer, Parnell, Phillips,R., Ulmer
Nays:	14	Baker, Barnes, Davis,C., Donley, Hanley, Larson, Leman, Martin, Miller,M.A., Navarre, Phillips,G., Sharp, Taylor, Zawacki
Excused:	1	Miller,M.W.
Absent:	0	

1 Davis,C. changed from "~~Absent~~ Yea" to "Nay".
3 Donley changed from "~~Absent~~ Yea" to "Nay".
4 Miller,M.A. changed from "~~Absent~~ Yea" to "Nay".
2 Navarre changed from "~~Absent~~ Yea" to "Nay".

File with Exxon info

NOAA

Office of the General Counsel

Rapicom Transmission Sheet

Date 5/3/91

Addressee Senator Richard Eliason

Phone Number 907/465-4916 Routing

FAX Number 907/465-4928

Originator Karen Swanson-Woolf

Phone Number 202/377-4981 Routing

FAX Number 377-8893

Number of Pages 3
(including cover sheet)

COMMENTS

MAY 03 '91 11:51 6

Washington Post 5/3/91

Alaska House Votes to Kill Exxon Pact

Gov. Hickel Is Urged To Seek $1.2 Billion In Spill Renegotiation

By John Lancaster
Washington Post Staff Writer

The Alaska House last night rejected the settlement in which Exxon Corp. agreed to pay up to $1 billion for damage caused by the Exxon Valdez oil spill, apparently killing the agreement between the oil company and the federal and state governments.

The vote deals a blow to Bush administration hopes for a prompt resolution of the litigation stemming from the nation's worst oil tanker spill. Just last week, a federal judge in Anchorage rejected as too lenient the plea bargain in which Exxon agreed to pay $100 million to settle criminal charges arising from the spill.

The Democratic-led House, voting 27 to 13, rejected the $1 billion settlement of civil claims from the spill after lawmakers said it would not adequately protect fishermen and Native Americans who depend on the resources of Prince William Sound, the Associated Press reported. Some lawmakers also expressed resentment of Exxon Chairman Lawrence Rawl, who said after the settlement's terms were announced that it would not affect Exxon's profitability.

"One legislator said he felt like [Rawl] ought to be put in jail," said a spokesman for Rep. Cliff Davidson (D), chairman of the state's House resources committee, in a telephone interview from Juneau. "People were quite offended by the fact that Rawl was so arrogant as to downplay the cost of the settlement to Exxon."

The House resolution urges Alaska Gov. Walter J. Hickel (I) to renegotiate the settlement on more favorable terms. The House suggested a $1.2 billion settlement—a $700 million civil penalty to be paid within one year and a $500 million criminal fine.

Hickel has said he would terminate the existing $1 billion agreement if the Legislature did not approve it, but a spokesman told reporters in Juneau last night that the governor remains optimistic the settlement can be kept alive.

The House can consider the resolution once more before it is taken up by the Senate, but no Senate vote is scheduled, and there might not be one, according to legislators.

Earlier yesterday, the House voted 26 to 14 to reject another

See EXXON, A11, Col. 1

Alaska House Votes to Kill Exxon Pact

EXXON, From A1

resolution that would have approved the settlement.

Rep. Terry Martin (R) said the spill was an accident and that too many people wrongly want to see Exxon crippled. "No oil company is out to deliberately destroy the land," AP quoted him as saying.

But Rep. Niilo Koponen (D) said Exxon contributed to the spill by systematically cutting back on its tanker safety standards. "This was not a pure act of God, a pure accident," Koponen said, according to AP. "This spill was waiting to happen."

Exxon spokesman Joe Tucker in Anchorage told AP the company would have no immediate comment on the House vote.

The settlement would have been the largest of an environmental damage case in U.S. history.

In addition to the criminal fine, it would have required Exxon to pay $900 million over 11 years to restore natural resources damaged in Prince William Sound and the Gulf of Alaska. The settlement would have settled all state civil claims against the huge oil company and any the federal government might have brought.

The tanker Exxon Valdez spilled nearly 11 million gallons of crude oil after it ran aground on a charted reef on March 24, 1989. The disaster killed countless fish, birds and marine mammals and disrupted commercial fishing and the subsistence lifestyle of the region's native peoples.

Lawmakers complained that the $1 billion settlement did not provide enough money considering the enormity of the disaster and its effect on Alaska. Because the $900 million would have been paid over

GOV. WALTER J. HICKEL
... vowed to follow legislative lead

more than a decade, its real value after inflation would have been far less, according to AP, which said its analysis showed an annuity for that amount could cost Exxon as little at $486.3 million.

The state, federal government and Exxon could try to renegotiate the settlement or decide to go to trial.

Under the criminal portion of the settlement, Exxon pleaded guilty to four misdemeanor pollution charges, and several felonies were dismissed. The record $100 million environmental fine would have been split between the state and federal governments.

U.S. District Judge H. Russel Holland in Anchorage said April 24 that the fine did not provide enough deterrence. He said it would suggest "spills are a cost of business that can be absorbed."

Exxon, which has paid an estimated $2.5 billion to clean up the spill, had total sales of more than $107 billion last year. It reported earnings of more than $5.1 billion.

Holland's ruling activated a provision that lets Exxon withdraw from the civil settlement by Saturday. Exxon has not said whether it would withdraw, AP reported.

Exxon and federal officials denied the state's request Wednesday to give the Legislature another week to approve or reject the pact, according to AP.

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^Federal Judge Rejects Criminal Plea Agreement: 'Fines Not Adequate<
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^By JOHN ENDERS=
^Associated Press Writer=

ANCHORAGE, Alaska _ A federal judge today (Wednesday) rejected a criminal plea agreement that was part of a billion dollar deal between Exxon, the state and federal governments, saying the fines simply were not adequate.

Speaking before a packed courtroom, Judge H. Russel Holland said there was no question that the Exxon Valdez oil spill was ''off the chart'' as far as American environmental disasters go.

The tanker Exxon Valdez spilled nearly 11 million gallons of North Slope crude oil on March 24, 1989, when it slammed into a charted reef, creating the nation's worst oil spill.

Exxon did not immediately withdraw its guilty pleas on criminal pollution charges. Holland gave the company 30 days to consider what actions it may take.

Under the plea agreement negotiated by the state of Alaska, the U.S. Dept. of Justice and Exxon, the giant oil company was to have paid a $100 million criminal fine and another $900 million to settle state and federal civil claims for natural resource damages.

Short-term effects of the spill were the deaths of thousands of waterfowl, bald eagles, otters, seals and fish.

The long-term effects still are being studied, but lawyers for approximately 90 law firms around the country involved in civil litigation have worked hard to keep the results under wraps ...ter any future court bat...

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State Attorney General Charl... ...ole said after the sentencing hearing that the state intends to pursue settlement of the civil litigation against Exxon.

That includes the proposed $900 million in restitution for the clean up, which is being reviewed by both houses of the Alaska Legislature.

Cole said he still thinks a civil settlement is in the best interests of the state.

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ANCHORAGE, ALASKA, THU

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Judge rejects

Holland breaks with past

By CHARLES WOHLFORTH
Daily News reporter

U.S. District Court Judge Russel Holland stepped far out of character in the minds of lawyers who know him when he declared Exxon's $100 million plea bargain not punishment enough for its 1989 oil spill Wednesday.

Holland has made a series of pro-Exxon rulings in other spill litigation, is known as a cautious, conservative jurist, and, before his appointment to the bench by President Ronald Reagan in 1984, had a 12-year history as an oil industry insider. He owns stock in three oil production companies.

"Generally, plea agreements are viewed as a done deal," said National Wildlife Federation attorney Erik Olson. "He has a reputation of being a fairly solid, conservative jurist. He was a Reagan appointee. It was certainly not something people were expecting he'd reject."

Holland's style has always been cautious competence, said Jack Roderick, who once was his law partner. Roderick said Holland wasn't the type to make brash decisions.

"The penalty, he's saying, is not justified, and he's right," Roderick said. "But I just wouldn't expect it of Russ."

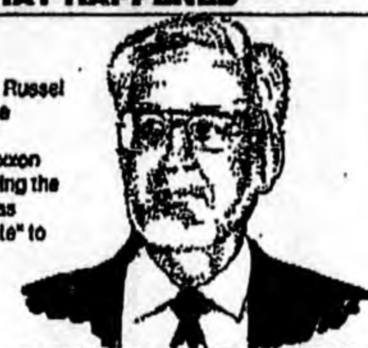
Holland's ties with the oil industry run deep and are social as well as financial.

As recently as 1982 he placed Alyeska Pipeline Service Co. at the top of a list of clients of his three-member law firm. Exxon owns 20 percent of Alyeska. Holland represented oil companies developing the North Slope oil fields from as early as 1972, and one retired Alaska Public Utilities Commission staffer said Holland represented Exxon itself in an early 1970s regulatory case.

Holland is currently a member of the Petroleum Club in Anchorage, a posh dinner club for important members of the oil industry.

Please see Back Page, HOLLAND

WHAT HAPPENED



U.S. District Judge Russel Holland rejected the proposed criminal settlement of the Exxon Valdez oil spill, saying the $100 million fine was "simply not adequate" to deter future spills.

WHAT'S GONE

Agreement hammered out among Exxon, the state of Alaska and the federal government for Exxon to pay $50 million to the state and $50 million to the federal government.

WHAT'S LEFT

The $900 million settlement of civil claims, though that may now be in jeopardy. Holland's rejection of the criminal fines allows Exxon to withdraw from the civil settlement if it wishes.

WHAT'S AHEAD

Exxon has 30 days to decide whether it will withdraw its guilty pleas to four misdemeanor pollution charges that were part of the criminal settlement. It has until May 4 to decide if it will withdraw from the $900 million civil settlement. The state and federal governments have until May 3 to decide if they want to pull out.

KEY PLAYERS

Charlie Cole
Alaska attorney general
"I'd like to have seen the state receive the $50 million."

James Neal
Lead attorney for Exxon Shipping Co.
"We thought it was a good plea agreement."

Wally Hickel
Alaska governor
"If $100 million isn't right, what is?"

RON ENGSTROM and PAMELA DUNLAP-SHOHL / Anchorage Daily N

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HOLLAND: Judge breaks with past on ruling

Continued from Page A-1

Club manager Shannon Trumbull said Holland has been in only a couple of times in the last three months, and she asked him about his absence the last time.

"He said he'd be in more now that things are slowing down," Trumbull said.

Holland does not talk to reporters.

Holland, 54, was born in Michigan and received his law degree there before coming to Alaska in 1961. He began practicing law in 1963 as an assistant U.S. attorney, then went into private practice in 1965. His law partner in the late 1960s was Ted Stevens, whom Gov. Wally Hickel appointed to a vacant seat in the U.S. Senate in 1969.

Roderick took Republican Stevens' place in the firm, working with Holland about a year before moving on to a business project.

"He was a workmanlike lawyer, a good day-to-day lawyer, and he was not the kind of guy who would turn out to be a judge," Roderick said. "He was very careful. Politically, he was conservative. He was a Stevens type of guy."

Attorney John Hedland said Holland represented Mobil Corp. or another of his industry clients when they were opposing the formation of the North Slope Borough in 1972 before the Local Boundary Commission. Hedland was chairman.

"Mobil was kind of his flagship client at that time," Hedland said.

Eighteen years later, Holland presided over some of the trials in the huge federal prosecution of contracting officials who milked the borough for millions of dollars in graft. He blasted a sentencing agreement U.S. attorneys reached with three engineers convicted in those cases, calling it "a travesty" that was "far too lenient for what those men were involved in."

Retired APUC staffer Bob Lindblom said Holland represented Exxon before the utilities commission. Lindblom couldn't remember the date of the case, but said it was before Standard Oil of New Jersey changed its name to Exxon in 1972. In the case, Exxon persuaded the commission to allow it to set up its own, unregulated phone system on the North Slope, Lindblom said.

Documents supporting Lindblom's claim could not be retrieved from APUC archives before this story was written.

Holland also represented Mobil in concert with attorneys for the seven other original pipeline owners — including Exxon — when they sought APUC approval for the rates they wanted to charge for shipping oil through the line.

He owns stock in three companies involved in oil and gas production, according to a financial disclosure report he filed last May. The value of the holdings in CMS Energy, Rowan Companies, and Texas Utilities totals between $11,000 and $35,000. The report does not include exact figures.

Holland has also been an active trader of real estate, including deals made with Stevens up to 1978, according to property records. With a handful of other partners, Holland in 1982 borrowed more than $3 million from the now-failed Alaska Mutual Bank, a loan secured by a lot near the bank's west Anchorage office. On his current disclosure form he lists the partnership as worth less than $1,000.

Also in 1982, two years before his appointment, Holland listed his firm's main clients in the Martindale-Hubbell Law Directory as Alyeska, Mobil, Atlantic Richfield, Cook Inlet Pipeline Co., the Alaska Oil and Gas Association, ERA Helicopters, Fuller O'Brien Corp. and Dragnet Fisheries.

On the bench, Holland's rulings have often favored the oil industry. Last [illegible] he issued an unpreced[illegible] order blocking enfor[illegible] of environmental [illegible]tions against Alyesk[illegible] the company said the[illegible] impossible to abide [illegible] threatened to shut dow[illegible] pipeline.

When Holland threw out the plea agreement, attorneys stopped questioning his objectivity, but they began wondering about how to reconcile the decision with his past.

"He's a lawyer's lawyer. He liked the practice of law," Roderick said. "He's objective. He doesn't let his political leanings enter into things. And that goes back to the fact that he likes the law."

...cts Exxon deal

Criminal fine called too low; entire settlement in jeopardy

A

By MARILEE ENGE and DAVID POSTMAN
Daily News reporters

A federal judge on Wednesday rejected the criminal fine Exxon had agreed to pay for its huge 1989 oil spill, throwing a carefully negotiated settlement package into disarray.

U.S. District Court Judge Russel Holland said the proposed $100 million fine was insufficient to punish the giant oil company for the damage caused when the tanker Exxon Valdez ran aground and spilled nearly 11 million gallons of crude oil into Prince William Sound.

"I'm afraid these fines send the wrong message and suggest that spills are a cost of business that can be absorbed," he said.

"I feel very comfortable saying the fines that were proposed to me are simply not adequate.

"There is no question the Exxon Valdez oil spill was off the chart compared to other environmental disasters in this country," he said. "The damage was very great."

Last month, the state of Alaska, the U.S. Justice Department and Exxon agreed the company would plead guilty to four misdemeanor environmental crimes, pay $100 million in criminal penalties and $900 million in civil damages — a package deal that may now unravel.

"The court's action today ... threatens the ... civil settlement to which Exxon has separately agreed," the Justice Department said in a prepared statement.

Under the terms of the proposed settlement package, Holland's ruling frees Exxon to pull out of the civil settlement. The company has until May 4 to withdraw. The state and federal governments have until May 3 to pull out.

Holland told Exxon's lawyers that they are also now entitled to withdraw their guilty pleas in the criminal case and gave them until May 24 to decide.

Gov. Wally Hickel has said he will withdraw the state's support for the civil settlement if it is not approved by the legislature, something that becomes more likely with Holland's ruling.

But in a surprise about-face, Hickel said Wednesday he is not committed to that. He said the state might still agree to the civil settlement even if the legislature votes it down.

Hickel, who made the settlement a priority and claims it as a personal victory, said Wednesday he still thinks it's a good deal and the best that could be negotiated. The agreement calls for most of the Exxon

Please see Back Page, SETTLEMENT

■ LOCAL THOUGHTS: Alaskans are split over the court's rejection of the $100 million fine. A-12

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... / Anchorage Daily News

Exxon rejects guidelines

The Associated Press

ORLANDO, Fla. — A set of principles written as an environmental guide for corporations in response to the Exxon Valdez oil spill was rejected overwhelmingly Wednesday by Exxon Corp. shareholders.

Exxon considered the so-called Valdez principles at its annual meeting hours before a federal judge in Alaska rejected part of a $1 billion settlement for the Exxon Valdez grounding more than two years ago.

The resolution on the Valdez principles, introduced by the New York City Employees Retirement System and supported by the Interfaith Coalition for Corporate Responsibility, lost by 94 percent to 6 percent.

The principles, among other things, call for the disclosure of environmental, health and safety hazards and commitments to environmental restoration, compensation for environmental damage, energy efficiency and conservation.

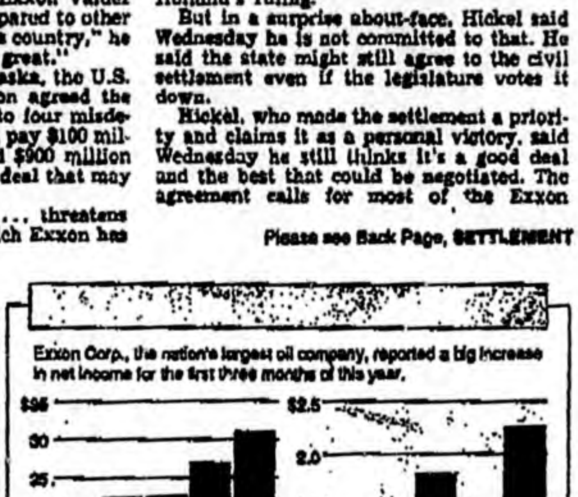
"You say you are already doing these things," said Kathryn Andersen of Alaskan Native Communities of Prince William Sound. "Then why not reaffirm what you say you are already doing?"

Exxon Chairman Lawrence Rawl said company officials think the principles would impose excessive reporting requirements and don't recognize the need to balance environmental protection with energy needs and economics.

Exxon, based in Irving,

Please see Back Page, SHAREHOLDERS

Exxon Corp., the nation's largest oil company, reported a big increase in net income for the first three months of this year.



Source: Company reports

ALAN BAKER / The Associated Press

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SETTLEMENT: U.S. judge rejects Exxon's $100 million fine

Continued from Page A-1

money to be spent cleaning up and restoring Prince William Sound.

Exxon had no comment on the judge's ruling.

Legislative critics of the settlement and environmentalists were thrilled by Holland's decision.

"If I had fireworks I'd let them off," said Rep. Dave Donley, D-Anchorage. "Nobody who loved Alaska and the land could have liked that unconscionable plea agreement."

Donley and other lawmakers said the Holland ruling makes it more likely the legislature will reject the civil settlement.

Said Rep. Cliff Davidson, "I believe the judge acted in the best interest of the environment, the American people and the residents of Alaska."

"I think it goes a long way toward killing the whole thing," said Riki Ott, an environmentalist who since the wreck of the Exxon Valdez has pushed for tougher spill laws.

"I'm hoping that what the judge did will give the legislature an adrenalin shot and they will do the same thing — say no."

Lawmakers saw a clear link between the $900 million civil settlement and Holland's decision that the $100 million federal criminal penalty was not enough.

"I think that tells us that the civil settlement isn't enough either," said Rep. Fran Ulmer, D-Juneau. Ulmer, Donley and Davidson are members of the House Special Committee on the Exxon Valdez Settlement.

Ulmer said the legislature may not even have to make up its mind about the settlement.

"There is a lot of speculation that Exxon will pull out," she said.

Some of that speculation is fueled by testimony given by top federal lawyers last week who said Exxon was

ERIK HILL / Anchorage Daily News file photo

An oil slick spreads south from the Exxon Valdez, which grounded itself on Bligh Reef in *Prince William Sound in March 1989.*

most interested in settling the criminal, not civil, case.

"The criminal case was the major motivation driving Exxon to the table," Thomas Campbell, general counsel of the National Oceanic and Atmospheric Administration, told senators last week.

Senate Majority Leader Rick Halford, R-Chugiak, said the state should not even consider approving the civil settlement unless there is some indication that Exxon wants to stay in the deal.

Halford and House Majority Leader Max Gruenberg, D-Anchorage, said Exxon should make its intentions known as soon as possible and not make the legislature wait 30 days to find out what will happen.

Senate President Dick Eliason, who has been supportive of the settlement, said the civil agreement should not be approved unless it is renegotiated to include the $50 million the state would have gotten from the criminal plea bargain.

"If that $50 million isn't in there, its a new ball game," he said.

Several lawmakers said they hoped the deal could now be renegotiated to address legislative concerns about the amount of the settlement, the disposition of secret scientific and economic studies and the legislature's authority to appropriate settlement money.

Hickel said that's not likely.

"You accept it or reject it," Hickel said. "That's the way we took it, and that's the way we passed it on to the legislature."

Alaska Attorney General Charlie Cole said the civil settlement should still be approved.

"I feel every reason which led to the agreement is as valid this afternoon as it was when we signed the agreement on March 12," he said. If it is rejected, "We'll go back to the legal trench warfare."

The criminal case began last year when U.S. Attorney General Dick Thornburgh announced he was indicting Exxon and said the government was "throwing the environmental book" at the giant oil company and would seek fines of more than $600 million.

Wednesday the Justice Department defended its decision to let Exxon settle the criminal case for $100 million.

"The Department continues to believe that the pleas and the fine provided for represent a just and reasonable settlement of the criminal case," the statement said.

EXXON SETTLEMENT TIMELINE

- MARCH 24, 1989: The Exxon Valdez runs aground on Bligh Reef, spilling nearly 11 million gallons of North Slope crude into Prince William Sound.
- MARCH 12, 1991: Exxon, the U.S. Justice Department and the state of Alaska reach an agreement calling for Exxon to plead guilty to four criminal misdemeanors and pay $100 million in criminal penalties. Exxon is to pay another $900 million, over 10 years, to settle state and federal civil lawsuits against the company.
- APRIL 24: U.S. District Court Judge Russel Holland rejects the proposed $100 million criminal fine, saying it does not adequately punish Exxon.
- MAY 3: Last day for state and federal governments to withdraw from settlement if they find it is "not in the public interest."
- MAY 4: Deadline for Exxon to pull out of the civil settlement because the criminal plea bargain was rejected.
- MAY 24: Deadline for Exxon to tell Holland if it will withdraw its guilty plea to criminal charges. Holland on Wednesday allowed Exxon 30 days to decide when he rejected $100 million fine as inadequate.

Erik Olson, an attorney with the National Wildlife Federation, said Holland's decision showed that the Justice Department was wrong.

"It sends a strong message to Exxon that punishment of $100 million didn't come close to fitting the crime and that the damage they did wouldn't be solved by Exxon's pocket change."

The first court test of the civil agreement will come Monday in U.S. District Court in Washington, D.C., where Judge Stanley Sporkin will hear complaints by Alaska Native villages that the deal undercuts their ability to collect from Exxon for ruining their traditional subsistence lifestyle.

One of the Natives' lawyers, Michael Hausfeld, said he thinks the settlement will fall apart because of Holland's ruling.

"What Judge Holland focused on was the sweetheart deal for Exxon," Hausfeld said. "He said it was not in the public interest. What we've been saying all along is that it clearly is contrary to Native interests."

Since the settlement was announced, Hickel and Cole have consistently said that if the legislature rejected the proposal, the state would pull out of the deal.

At an April 3 meeting, Cole told a special House committee reviewing the settlement that "the governor has clearly announced that if the legislature does not approve the consent decree, the state will not proceed, and will withdraw from the settlement," according to minutes of the meeting.

Wednesday, though, Hickel steered away from that commitment.

"I'm not going to comment on that until it's over," Hickel said.

Hadn't the administration said over and over again that it would?

"No, we might. We might," he said.

"I'm not going back on anything," said Hickel, who then refused to answer any more questions and ended the telephone press conference from Los Angeles. "That's enough. Got to go. See you when I get back."

Lawmakers were perplexed by Hickel's statement.

"I don't know what the governor means by what he says," said Rep. Cliff Davidson, D-Kodiak.

Daily News reporters Kim Fararo and David Whitney contributed to this story.

SHAREHOLDERS: Exxon rejects environmental plan

Continued from Page A-1

Texas, has spent $2.5 billion to clean up the spill, which fouled Prince William Sound on March 24, 1989, after the tanker Exxon Valdez ripped its hull open on a reef.

The company also offered to pay a $100 million criminal fine plus $900 million to settle state and federal civil damage claims, but the judge reviewing the settlement Wednesday concluded the criminal fine was inadequate.

Exxon set up a cleanup fund shortly after the spill. Rawl told the 1,000 shareholders that the spill should have no affect on future earnings.

But Andersen took the company to task for the condition of Alaskan coastal waterways and the spill's effect on the fishing industry.

"I am sorry to report that the oil is there. I don't know what else to say. The job is not completed," she said. "There has been much damage and little payback. Our people have been living in fear for the last two years."

"I am sorry to report that the oil is there. I don't know what else to say. The job is not completed. There has been much damage and little payback."

— Kathryn Andersen of Alaskan Native Communities of Prince William Sound

Brent Blackwelder, policy vice president for Friends of the Earth, said his organization isn't extremist and doesn't oppose Exxon's making a profit, but it wants the corporation to act responsibly to protect the environment.

Other resolutions calling on Exxon to reduce toxic chemical waste and carbon dioxide emissions lost on similar votes.

Exxon on Wednesday reported $2.24 billion in profits for the first quarter, up 75 percent from $1.28 billion in the same quarter last year. Profits last year totaled $5 billion.

A12 Anchorage Daily News Thursday, April 25, 1991

THE BACK PAGE

Alaskans split on whether Exxon should pay more

By GAIL RANDALL
Daily News reporter

At Paul's Barber Shop in Palmer, a radio blared the news of a federal judge's ruling Wednesday that the criminal settlement agreement with Exxon Corp. hadn't hurt the oil giant enough.

"Personally, I think the judge should have accepted it, if only to put it behind us," owner Paul Nichols said. "Now it's going to drag on forever. A lot of mistakes were made, but I'd like for it to be over and let us get on with life."

Others, however, cheered the news.

To approve the proposed settlement would have been "like letting someone off with a traffic fine after they've run through an apartment building and killed 10 people," Palmer resident Don Boleg said.

Opinions of Southcentral residents remained split like that all day after the announcement that U.S. District Court Judge Russel Holland rejected a $100 million criminal fine agreed to in a plea bargain between Exxon and government lawyers. Just as government and business leaders were trying to find meaning in the decision and evaluate what comes next, so were average folks.

Helen Tucker, co-owner of the Willow Trading Post, wished the settlement had been accepted, "even if we have to bite the bullet. I'd be happy just to be away from it.

"It was a terrible catastrophe, but everything has a silver lining, and in this case it was that $2 billion was dumped on this tiny state (the amount Exxon has spent on cleanup). Every one of my friends who worked on the spill saved their houses and salute (former Exxon Valdez captain Joseph) Hazelwood."

Others felt the $100 million fine was no more than a gnat slap; Exxon should pay even more cash.

"I think it's the best thing that's happened since the spill," said Gail Parsons, a Homer artist who works on the Oil Reform Alliance. "It shows that somebody out there is listening, that oil companies can't get away with a crime just because they're oil companies."

Anchorage resident Dick Morgan agreed with Holland's action, too.

"First off, I didn't consider what (Exxon) did a misdemeanor; I considered it a felony.

"We don't know what the long-term effects will be. If it results in the destruction of the fishing or tourism industries, (the settlement) is basically absolving Exxon of any further responsibility. And let's face it, tourists come to see the wildlife. That's what they want. If that was gone, they may come to see the mountains once, but they won't come again."

A larger fine might also send a signal to other oil companies that will "deter them from ignoring spill contingency plans," added Palmer nurse John Fairfield, out catching a quick bite with his daughters at the Pioneer Square food court and watching CNN Headline News on the large-screen television.

"I'm quite happy about the decision," Fairfield said. "I think Exxon should have to pay a significant amount."

Frank Narusch, shopping in the Sears Mall in Anchorage, agreed.

"It didn't sound like $100 million was going to mean anything to (Exxon)," Narusch said. "Sounded like it wasn't a big matter. With the kind of dollars oil makes, a fine like that isn't going to be a deterrent. It's just not big enough to be significant to them."

☐ Daily News reporters Larry Campbell and Tom Kizzia contributed to this story.

ALL NOW IN EXXON'S COURT 4.25.91

Holland's bombshell

U.S. DISTRICT Judge Russel Holland caught many people by surprise with Wednesday's rejection of the $100 million criminal fine, plea bargained between Exxon and the U.S. Attorney General's office. In the judge's opinion the amount of the fine insufficient punishment for causing the nation's worst spill.

Within the next 30 days, Exxon will have to decide whether to continue to pursue a settlement of the criminal charge and pay a larger fine — one that will meet the judge's approval — or proceed to a trial. A more immediate decision will be required on settlement of the civil claims with the state of Alaska. The company has 10 days to decide if it now wants to pull out of the $900 million settlement of civil claims, which would compensate the state for environmental damage to Prince William Sound and the Gulf.

Both criminal and civil settlements were combined in a billion-dollar agreement negotiated in March between the federal government, the state and the oil company. But the two agreements are not linked, and in fact the state had no part in the negotiation of the criminal fine. The state, however, would have received half of it, $50 million, under the agreement denied by Judge Holland.

The objectives of the two suits are distinctly different. The purpose of a criminal charge is to punish for an offense, and the purpose of civil litigation is to obtain compensation for damages. Judge Holland's opinion that the criminal fine is inadequate does not diminish the value of the civil suit settlement.

The $900 million payment into a restoration trust fund remains a solid resolution for Alaska. It means that the restoration, scientific study and protection of marine resources can begin immediately. It means the state can begin enhancing the valuable resources of the Sound rather than spending millions of dollars a year over the next decade in legal fees. And if there's one lesson to be learned about the surprise of Judge Holland's decision, it's that there is no way to predict what a final court decision will be.

While we understand the responsibility of Exxon's management to its shareholders and the concern about an unresolved criminal fine, we hope the company will see fit to make good on its offer to the people of Alaska to fund the -year restoration of the sound — without requiring the state to engage in lengthy litigation.

TWO FINAL thoughts. Exxon demonstrated its intent to fulfill an obligation to the people of Alaska by spending more than $2 billion in the cleanup effort, and offering to spend an additional $1 billion for the long-term restoration of the sound. The danger of a judgment that disregards this level of commitment is that if, God forbid, another environmental disaster should occur, the company involved may look at Exxon's experience this time and decide from the beginning to let the lawyers work it out over years or more, as has happened elsewhere.

The second point is that over the past few weeks, there have been some people criticizing Attorney General Charles Cole for not making public all the findings that the state had prepared for its suit against Exxon.

Now, with the possibility that the state actually may be required to take its case to court, the wisdom of our attorney general should be better understood and accepted.

Judge spurns Exxon deal but doesn't offer magic figure

4.25-91 Times

Today's Terry Carr column is in addition to his regular Tuesday, Friday and Sunday columns.

Terry Carr
TIMES COLUMNIST

How much is enough?

That's the question U.S. District Judge H. Russel Holland left unanswered Wednesday as he torpedoed the Exxon oil spill settlement deal.

It's clear the record $100 million Exxon had agreed to pay in fines to be done with criminal charges stemming from 1989's Exxon Valdez tanker spill wasn't the magic figure he was looking for.

He wants more. How much more, he didn't say.

The $100 million was more than three times the amount of money the government collected last year for all environmental crimes.

Almost everybody figured he would OK the deal. Not that everybody wanted the agreement approved, mind you. But I know few who, before Holland reached a decision, thought he would reject it.

He surprised them.

In snuffing the criminal deal, he may also have destroyed the $900 million civil settlement with the state. Exxon could well withdraw from that deal.

What we have here now is a veritable feast for lawyers. They'll get to jet across country to talk to one another. They'll start sending out the invoices. And they'll be putting more money in the bank.

It's nothing new, I suppose. Lawyers already have taken away a healthy sum from the oil spill.

Holland's decision just gives them another angle to make some more. Judges' decisions sometimes do that — set the stage for lawyers to do more work and, thus, make more money.

Nevertheless, I wouldn't say the judge had nothing but lawyers and their well-being in mind when he decided. No, I'll accept at face value the reasons he outlined in court for what he did.

Those were that the $100 million was not sufficient punishment and was not a sufficient deterrent to others. The amount did not make up for oil spill damage that was "off the chart" as he saw it.

OK.

But he could have given the world a little idea about how much is enough to satisfy him. He didn't even give a hint. He just said $100 million isn't the magic number and left it at that.

"The judge declines to be interviewed."

That's what a woman in the judge's office told me once, twice, then three times when I asked to talk to Holland. I wanted badly to ask him the big question.

And while I had him on the phone, I would have asked the judge why, if $100 million isn't enough, he couldn't suggest how to get to the right amount. I mean, couldn't he have provided some guidelines or criteria on how government and Exxon lawyers might come to an acceptable deal?

Couldn't he have pointed the way toward something he will deign to pass on?

But federal judges "decline to be interviewed" almost as routinely as they make work for lawyers. They answer to virtually no one.

I'm not saying it would be easy to determine the right amount. I tried to get it from others who, before Holland's decision, had criticized the plea bargain as not getting enough from Exxon.

Exxon wasn't saying much Wednesday. "No comment" was about the extent of it.

But Constance Quinley, of Anchorage, said $100 million won't make a dent in the oil giant's profits. "I want it to hurt," she said.

How much would hurt?

"I don't know. I'll have to give it more thought."

Mary Grisco, Alaska regional director of the National Parks and Conservation Association, said "good question" when asked how much is enough. She said the difficulty in determining damage stems from the lack of public information on the spill's precise effects.

"We don't know the damage," she said.

I yield to these uncertainties. I grant the difficulties of arriving at an amount adequate to the situation.

But I suggest that if Holland knew enough to reject $100 million, he knows enough to have an idea what amount he would accept. I suggest he must have some inclination what a fair and just settlement would be.

And I suggest he would do everybody a favor by sharing it.

Terry Carr's column normally appears Tuesday, Friday and Sunday.

EXXON DEAL ON THE ROCKS

Thumbs down on plea jolts lawmakers

'As Exxon moves away, then we have recourses in the courts. Let's see what happens. If Exxon walks away, we don't have any other choice' than to sue.

— Gov. Walter J. Hickel

By DIRK MILLER
and SCOTT REEVES

TIMES WRITERS

The rejection of Exxon's plea agreement for the Prince William Sound oil spill surprised legislators Wednesday and left many wondering about the state's part of the deal.

Federal Judge H. Russel Holland's decision triggers a clause allowing Exxon to withdraw the $900 million civil settlement it had negotiated with the state. Exxon had also agreed to pay a $100 million criminal penalty.

"I was surprised. I thought this was a done deal," said Rep. Gene Kubina, D-Valdez. Kubina's region includes most Prince William Sound communities affected by the March 24, 1989, oil spill.

Kubina and others said the Legislature should continue reviewing the $1 billion settlement and decide whether to approve or reject the civil portion of it by the May 3 deadline.

Most lawmakers said the judge's action makes their decision a little easier.

"It makes me feel justified in the position I'd taken that the settlement wasn't satisfactory," said Rep. David Finkelstein, D-Anchorage.

Sen. Sam Cotten, D-Eagle River, said he talked to state Attorney General Charles Cole about the decision on Wednesday. Cole has continually told legislators, reporters and others the state was not a player in the criminal plea agreement.

Cotten said Cole maintained that the criminal and civil parts of the settlement were separate, though the plea agreement contains a clause allowing Exxon to withdraw if it was rejected in court.

Sen. Pat Rodey, D-Anchorage, said lawmakers generally have considered the civil and criminal parts of the settlement to be linked.

He said the rejection does not let Exxon off the hook.

"It's not as though they can walk off in the sunset," Rodey said. "They have the same legal problems as they did before."

Rep. Dave Donley, D-Anchorage, sided with those who said $100 million was too little to pay for the thousands of animals

No deal?

IN THE BEGINNING
March 24, 1989:
The Exxon Valdez hits Bligh Reef, spilling almost 11 million gallons of oil into Prince William Sound. Three days later Exxon Shipping Co. announces it has $400 million in insurance to cover cleanup costs.

THE STATE TAKES ACTION
August 14, 1989:
Five months after the oil spill, the state of Alaska sues the Alyeska Pipeline Service Co. and Exxon.

EXXON RESPONDS
October 24, 1989:
Exxon files a counter-suit, saying the state hindered cleanup of Prince William Sound by blocking use of chemicals to disperse the oil. The next day Alyeska Pipeline Service Co. also files a counter-suit saying the state contributed to spill damage.

SETTLEMENT TALKS
January 15, 1991:
Newly elected Gov. Walter J. Hickel meets in Juneau with Exxon Corp. Chairman Lawrence Rawl. Hickel says publicly he wants to settle the lawsuit for about $1 billion, saying the money will be used to make Prince William Sound a "world-class recreation area."

SECRET SESSIONS
February 25, 1991:
Negotiations reportedly center around a $1 billion settlement paid over 11 years.

DEAL NEAR
February 27, 1991:
Alaska Attorney General Charles Cole says 'broad framework' in place for agreement with Exxon.

THE SIGNING
March 12, 1991:
The state and federal government sign a $1 billion settlement with Exxon officials at a secret Washington, D.C. meeting.

THE COST
March 13, 1991:
Exxon says it plans to deduct $900 million in civil penalties as tax write-offs. Exxon chairman Lawrence Rawl says the cost of the agreement will be passed to the customer. Analysts say the company, which has annual revenues exceeding $100 billion, will not be hurt.

IN COURT
March 22, 1991:
Exxon and its shipping subsidiary plead guilty to four misdemeanor counts of violating U.S. environmental law.

JUDGE SAYS NO
April 24, 1991:
U.S. District Court Judge H. Russel Holland says the $100 million fine reached under the plea agreement is insufficient punishment.

plete cleanup efforts or to purchase additional park land in the region.

Hickel said he has not talked with Exxon officials about Holland's ruling, and does not expect to. "I don't know if it torpedoes the whole thing or not," he said. "You'd have to ask Exxon that."

Meanwhile, in the nation's capitol, Republican Rep. Don Young said Holland's rejection could create years of litigation that would put restoration plans on hold for a generation.

Young said the possible delay could harm efforts to restore the area.

"If (Exxon) backs out altogether, which they can, you won't see a settlement for 35 years."

But Rep. George Miller, D-Calif., vice chairman of the House Interior and Insular Affairs Committee, praised the judge's action. He said the proposed $100 million fine "did not reflect the magnitude of the ecological crime" and was not "in the public interest."

"Judge Holland obviously agreed that the proposed settlement was nothing more than checkbook justice," Miller said. "The purpose of federal penalties is to deter further crimes and irresponsible behavior. A $100 million fine for a corporation that made more than $2 billion in profit the last quarter is not a deterrence."

Allen Smith, director of Alaska Programs for the Wilderness Society, said he was pleased with the judge's decision.

"The original settlement was inadequate," he said.

Rick Steiner, coordinator of the Coastal Coalition and a resident of Cordova, said the judge's decision could mean more money to clean up Prince William Sound and to purchase additional land for parks.

"It's a real opportunity to do more," he said. "I think there is an opportunity to get more money. The figure I hear batted around is $400 million."

However, rejection of the proposed agreement will further delay getting money to state and federal agencies charged with the cleanup. But the delay is offset by the prospect of a more extensive restoration project, he said.

"It's a clear message to polluters —

'The suggested $100 million fine sends the wrong message that 'spills are a cost of doing business.'

— H. Russel Holland
U.S. district judge

Exxon off the hook.

"It's not as though they can walk off in the sunset," Rodey said. "They have the same legal problems as they did before."

Rep. Dave Donley, D-Anchorage, sided with those who said $100 million was too little to pay for the thousands of animals killed and hundreds of beaches fouled by the spill.

"Nobody who loved the land or people of Alaska could have been happy with the criminal agreement," Donley said. "The agreement was clearly not enough to deter future actions. Now we can address what's wrong with the agreement."

'I think the civil settlement is in the best interest of the state and oil spill communities.'

— Charles Cole
attorney general

U.S. environmental law.

JUDGE SAYS NO

April 24, 1991:

U.S. District Court Judge H. Russel Holland says the $100 million fine reached under the plea agreement is insufficient punishment.

day. The House's settlement review committee faxed a letter to Exxon, Cole and the U.S. Department of Justice asking what their next move would be.

"Right now, the ball's in Exxon's court," Cotten said. "If they say no, it's over."

said she thought Exxon would withdraw after Holland's ruling.

Environmentalists praised Holland's decision. Many who had opposed the $100 million fine said it would not deter the oil conglomerate or other oil companies from irresponsible behavior in the future. Nor

money to state and federal agencies charged with the cleanup. But the delay is offset by the prospect of a more extensive restoration project, he said.

"It's a clear message to polluters — they will have to pay for their criminal negligence," Steiner said. "We have sent a clear message that the system does work. A hundred million dollars for a corporation the size of Exxon is simply not enough."

Eric Jorgensen, attorney for the Sierra Club Legal Defense Fund, said preliminary studies show that damage at Prince William Sound could total billions.

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EXXON DEAL ON THE ROCKS

Governor claims Exxon deal decision will be his to make

By DIRK MILLER

TIMES CAPITAL BUREAU

JUNEAU — Gov. Walter J. Hickel on Wednesday said if the state needs a decision on the Exxon Valdez spill settlement, he would make it — not the Legislature.

Hickel made his comments in a hastily arranged press conference called several hours after a federal judge rejected a criminal plea bargain with Exxon. The Legislature is now reviewing a proposed settlement of state civil claims against the oil company.

Hickel and state Attorney General Charles Cole have said on several occasions they would abide by the Legislature's recommendation on whether to reject or accept the settlement.

But when asked Wednesday if Hickel would abide by the Legislature's choice, he said, "Well, I'll make that decision."

"We made our first decision, that was that this was a settlement. Now they'll make their decision, we'll take a look."

Lawmakers have spent the past five weeks reviewing the agreement, in some cases line by line. The agreement does give the Legislature a say in its approval. Hickel said it would be a consideration when the state decides whether to accept the settlement.

"We might. We might if they vote it down, we might just say you'll have to negotiate it," said Hickel, in California Wednesday to talk about his proposed water pipeline to the drought-stricken state.

"I'm not going back on anything," Hickel said.

After his joint address March 14 to the Legislature explaining the settlement, Hickel told reporters in a press conference, "If they don't approve, we'll just toss it back."

Ignore mismanagement allegation, Fisher tells pan

4.25.91

By DAVE PATRICK

TIMES CAPITAL BUREAU

JUNEAU — Revenue Commissioner Lee Fisher said a lawsuit claiming he mismanaged assets of the now defunct Alaska Mutual Bank should not affect his appointment as the state's top financial officer.

"I have not had my day in court," Fisher told the Senate Finance Committee at his confirmation hearing Wednesday. Federal Deposit Insurance Corporation lawsuits name Fisher and two other officials of Gov. Walter J. Hickel's administration.

They are among 33 former directors and officers blamed by the federal regulatory agency for the failure of Alaska Mutual and United Bank of Alaska. As revenue commissioner, Fisher is responsible for tax collection and sits as board member on various state entities including the Alaska Permanent Fund Corporation.

"Would you hire an investing officer who is currently the subject of a lawsuit by the FDIC?" Sen. Al Adams asked Fisher at the committee hearing.

"We intend to defend very strongly against that," Fisher replied. "I hav for 25 years on that (Alaska Mutua with honor and distinction. And yes, bottom line, I would hire me."

Committee members said Fish meanor was more deferential than ir tive committee appearances.

Fisher earlier objected to a pro the bill that would charge compound on interest already accrued and ca provision an "immoral business pr The legislation was sponsored by Hic

Panel to consider abortion legislation

TIMES CAPITAL BUREAU

JUNEAU — A Senate and Houre panel will consider jointly today legislation protecting the rights of women to undergo abortions without governmental interference.

The Senate and House health education and social services committees were to meet at 8 a.m. to consider the bills, sponsored by Fairbanks Democrats Sen. Bettye Fahrenkamp and Rep. Niilo Koponen.

4.25.91

Meanwhile this afternoon, the House's Community and Regional Affairs Committee was scheduled to hold a confirmation hearing on Edgar Blatchford, Gov. Walter Hickel's nominee as commissioner of the Department of Community and Regional Affairs.

There are no floor sessions scheduled for either body of the legislature.

Thursday, April 25, 1991, The Anchorage Time

Hickel shows support for Kachemak buyou

/ DAVID FUTCH
AES WRITER

Gov. Walter J. Hickel said in a rd sent to constituents con- rned about timber cutting in chemak Bay State Park that will sign a bill to spend $22 llion to buy those lands.

That is of course if the Senate House passes a bill authorizing land deal.

Rep. Mike Navarre, D-Soldot- said he is pleased Hickel sup- ts his bill and a companion in the Senate both calling for state to buy 24,000 acres oss the bay from the Homer t.

However, Navarre said he is ry of Hickel's motives.

'He's using it to influence his nda which is to cut the oper- g budget," Navarre said.

About $7 million for the chemak Bay buyout would e from the general fund and balance from the Bradley

Rep. Mike Navarre

Lake Hydroelectric Project at the head of Kachemak Bay, he said.

The plant is under budget and the state may save up to $20 million on the project, Navarre said.

Navarre's bill is before the House Rules Committee after successfully passing out of the House Finance Committee on Monday.

Last year a similar bill failed 20-20. Navarre believes it has a better chance this year because not all of the money will come from the general fund.

The land is owned by the Seldovia Native Association, Cook Inlet Region Inc., a Native corporation, and Timber Trading Co., according to Seldovia Native Association president Frank Elvsaas.

Hickel deputy press secretary John Manly said the governor sent the 5-inch-by-8-inch cards with blue lettering and gold-embossed state seal to people who contacted Hickel's office.

Most of those who called or wrote Hickel said they were afraid there would be clear cutting in the park unless the state bought the land.

"What the governor is sa is that he supports the bills will approve one if it crosse desk," Manly said. "Of co it's on the legislators beca they are the ones who do the propriating. Where the mone going to come from is a g question."

Shelby Stastny, Office of M agement and Budget direc said the governor and his fir cial officers are expecting budget surplus this year. He s he expects most of the money the buyout to come from the s plus because Hickel consid the land "a good buy," Stast said.

Sen. Pat Pourchot, D-Anch age, said like Navarre he ceived one of the cards fr Hickel. He immediately fired a letter to OMB asking if t wording of the card represent a budget amendment to the go ernor's capital budget.

Spill deal shift leaves lawmakers quibbling

By DAVE PATRICK 4.25.9
TIMES CAPITAL BUREAU

JUNEAU — State lawmakers disagreed Wednesday about whether Gov. Walter J. Hickel's political momentum will be slowed by the failure of the criminal plea bargain in the Exxon Valdez oil spill.

"I don't think Hickel's stature in that regard is diminished at all. It wasn't his fault," said Sen. Sam Cotten, D-Eagle River.

Sen. Rick Halford, R-Chugiak, agreed. "This action isn't an affront to the Hickel administration, it's an affront to the Department of Justice," he said.

But Rep. Dave Donley, D-Anchorage, said the derailed settlement shows complex problems are not solved by quick fixes. "The governor's always been perceived as a dynamic leader who's moved quickly on these issues," Donley said.

Hickel said Wednesday that failure of the Exxon Valdez settlement would not hamstring his agenda to reshape state government.

"It didn't give us any momentum or take any away. It's just the way we do it. It doesn't deter (us)," Hickel said.

Legislators disagree with the accuracy of the poll ordered by Hickel, and say that public comment at legislative hearings has been overwhelmingly opposed to

Dear Judge: Riled writers pen sound, fury over deal

4.25.91

By SCOTT REEVES
TIMES WRITER

"Dear Judge Holland," the Anchorage resident wrote, "it seems the amount Exxon needs to pay should be larger."

Citizens from throughout Alaska sat down with pen and paper after Federal Judge H. Russel Holland asked for public comment on the proposed settlement with Exxon stemming from the 1989 oil spill in Prince William Sound.

"A billion dollars can't be enough money to assure quality restoration of Prince William Sound," Jan Straley of Anchorage said in a handwritten note to the judge. "In addition, there should be money enough for baseline (environmental) studies along Alaska's coast. There just isn't enough scientific information to adequately make sound judgments."

Holland received nearly 120 letters from Alaskans and people throughout the United States. All became part of the court file in the case and a matter of public record. On Wednesday Holland rejected Exxon's plea agreement with the federal government and the state, saying the fine imposed was not enough considering the seriousness of the Exxon Valdez oil spill.

Most of the people responding opposed the proposed settlement because it did not offer enough money. Others said further study of the potential environmental damage was needed before a rational decision on the settlement could be reached. Many called for tougher penalties and said a large amount of money was needed to punish Exxon and to assure that other oil companies took adequate precautions to avoid a similar spill in the future.

But a handful of people urged the judge to accept the settlement, arguing that a prolonged court battle would harm the state's economy.

"I feel that the current settlement proposed by Gov. Walter J. Hickel is the first positive step anyone in Alaskan state government has taken to resolve this matter and allow the citizens of this state to move forward," Anchorage resident Thomas W. McKay wrote.

McKay complained of "continued media harassment" surrounding the spill and said the oil industry was a vital part of the state's economy. He said that a punitive settlement against Exxon would drive jobs from the state and force many educated people out. The effect would be a prolonged downturn in the economy and diminish the future prospects of the younger generation, he wrote.

"There has been a great deal of anguish and distress expressed by the coastal communities affected by the spill," he wrote. "I believe part of this can be substantiated, but I believe more often than not, much of this 'noise' is politically motivated grandstanding."

Scott Sindelar of Anchorage said Exxon should not be punished harshly for the spill.

"The charges against Exxon are absurd and make no sense whatsoever," he wrote. "If anyone believes that Exxon intentionally grounded a multimillion-dollar vessel to intentionally lose a multimillion-dollar cargo, they should have their head examined."

The Alaska Attorney General's office also urged acceptance of the settlement.

"It provides the Alaska State Legislature immediate access to significant funds to commence the restoration of Prince William Sound," Craig J. Tillery wrote for the attorney general.

Jennifer Nelson of Anchorage said the judge should not be swayed by Exxon's public relations campaign.

"I have yet to see any evidence on (Exxon's) part of genuine concern for what they destroyed through their ignorance, incompetence and general disregard for the unique environmental treasure chest of the state," Nelson wrote. "The oil spill has forever destroyed the delicate balance of this environment. Exxon's proposed punishment for this travesty is so minute it is unbelievable."

Martina Strand, who described herself as "a concerned Alaskan," called the proposed settlement a "rip-off."

"Exxon will get off 'scott-free' if this 'bargain' is struck," she wrote. "Exxon is a multibillion-dollar profit-making company (that) has a lot of power and strength because of (its) wealth. Someone so strong could potentially have the power to replenish the now-ruined environment."

Jack Kimm, an Anchorage travel agent, said the perception of widespread environmental devastation from the oil spill in Japan caused many tourists to cancel their planned trips to Alaska. "(Exxon) must make restitution, fully," he wrote.

4-25-91

Prince William Sound agrees: It's not enough

By BEN ELLIS

TIMES KENAI BUREAU

Linden O'Toole, like many residents in the Prince William Sound area, is feeling a little better today.

"I'm real encouraged," said the 34-year-old Cordova salmon seiner after learning a federal judge in Anchorage rejected a criminal plea agreement among Exxon Corp., the state and the federal government regarding the Exxon Valdez oil spill.

O'Toole said she feels Exxon should not be allowed a settlement that covers criminal and civil charges unless her community is assured the Sound is restored. As a salmon seiner and a mother of two, she said the spill has cost her financially. As a Sound resident, she worries about possible lingering biological effects.

"I just think that it is their moral obligation to make us whole as they promised and not just settle with the government and think everything is fine," O'Toole said of Exxon.

O'Toole, her husband, Kevin, and a business partner purchased a salmon-seining permit two months before the Exxon Valdez tanker spilled about 11 million gallons of crude oil into Prince William Sound in March 1989.

"Permits were selling for $340,000 before the spill," she said. "They now are selling for $170,000. So, we have already lost $170,000 in equity.

"We don't even know about the biological impact yet. That will start to show up as the years go by.

"What we do know is that our market is collapsing due to various factors, many of which are related to the spill."

The closing of canneries after the spill reduced competitive prices for salmon and hit seiners hard, she said.

O'Toole said salmon seiners were getting 85 cents a pound for their catch the year before the spill. That dropped to about 35 cents in 1989.

"Now, we are down to 15 cents," she said. "At 15 cents a pound, a seiner catch-

Sound

Continued from page A1

ing an average catch may have difficulty even paying expenses."

"So then what are you going to do in the fall? You have the rest of the winter looking at you in a remote community in Prince William Sound where there is not a lot of work in the winter, and you have to feed your family."

Under the criminal plea agreement negotiated by the state, the Department of Justice and Exxon, the oil company would have paid $50 million to the state and $50 million to the federal government. A separate proposed settlement of civil claims before the state Legislature includes $900 million in restitution to clean up Alaska waters and shoreline.

Gail Evanoff, vice president for corporate affairs of the Chenega Corp. and village oil-spill coordinator, applauded Holland's decision.

"He's absolutely correct," Evanoff said. "We've been facing a myriad of concerns and issues as a private landholder down here and high subsistence user. Nothing in the settlement covered our concerns because

Sound resident Linden O'Toole said salmon-seining permits are selling for $170,000, down from $340,000 before the spill.

we were not consulted or involved."

Evanoff also criticized the state for withholding studies on the spill's environmental impact. The state has contended that releasing the information would fuel lawsuits against the state. Chenega Corp. and five other Native corporations have sued Exxon for more than $400 million.

"Not releasing that information borders on criminal treatment," Evanoff said. "To turn from total subsistence to cash reliance now has created a tremendous hardship on Chenega. We are dealing with it, and those studies would help us as a people."

"There was money set aside for restoration in the settlement — and restoration is an issue that we have always identified — but

We ...ady to restor[e] have had and are still experiencing vast amounts of recontamination. Things are still dying off out here."

Riki Ott, a leader of the Oil Reform Alliance, said Holland's ruling is an affirmation of what environmental groups and fisherman associations have been advocating all along.

With Holland's decision, state lawmakers considering the civil settlement will no longer have to be the first to "stick their necks out" and decide the compensation is too low, she said.

"I hope it's going to give (lawmakers) a good shot of adrenaline to get them through the next nine days," Ott said.

The Legislature has until May 3 to ratify the proposed civil settlement or go to court.

Kenai Borough Mayor Don Gilman, one of about 15 members of an ad-hoc group formed after the spill called the Oiled Mayors, agreed with Ott.

"My guess is the Legislature will really harden up now on the civil settlement and reject it," Gilman said. "They are going to take the clue from Holland and say, 'Well, if the feds want to go to trial on a criminal charge, we can't do anything less in a civil arena.'"

4.25.91

ASSOCIATED PRESS
Gov. Walter J. Hickel said Wednesday at Los Angeles International Airport that he hopes the Exxon decision will not derail civil settlement.

Seattle media nabs Hickel off guard

Judge's rejection of deal shocks governor

By JAY CROFT
TIMES WRITER

LOS ANGELES — They were waiting for him at Seattle-Tacoma International Airport, reporters wanting comments about news he had not yet heard.

And Gov. Walter J. Hickel was just a bit flustered.

He had been tipped off before leaving Juneau on Wednesday morning that U.S. District Judge H. Russel Holland might reject a deal that called for Exxon to pay $100 million stemming from criminal charges in the Exxon Valdez oil spill.

But Hickel was 30,000 feet in the air when Holland did so and did not know for sure until television reporters showed him a brief wire service story.

"I didn't expect it," Hickel said, clearly taken aback by the decision and the glare of television lights.

Hickel initially said the ruling would not affect the state-civil settlement with Exxon. Later, though, he admitted it could.

Hickel also said he had not decided what he would do if the Legislature rejects the $900 million civil settlement. Previously, he had said he would "toss it back." And if Exxon backs out now, the state will have no choice but to sue the oil giant.

Holland ruled Wednesday in Anchorage the $100 million in criminal fines Exxon agreed to pay was not enough for oil spill damage he called "off the

See Hickel, page A9

EXXON DEAL ON THE ROCKS

Hickel

Continued from page A1

scale."

"What is off the scale?" Hickel asked.

"Off the roof is the same kind of thing. Off the scale of what? Tell him what's on the scale.

"That's the judge's opinion. It has nothing to do with our civil settlement."

In a civil settlement with the state and federal governments, Exxon also agreed to pay $900 million, which Hickel has said he would like to spend on Sound restoration.

Hickel stuck by the deal Wednesday, calling it "an awful, awful good settlement."

He also said, "I am absolutely satisfied."

A reporter asked if the governor agreed with Holland that $100 million was too low a fine.

Hickel responded, "Well, do you think it's enough? You're asking me, I'm asking you."

After one brief television interview, Hickel asked another reporter if he had not already answered all the questions and said he did not like being confronted with something unprepared.

Under the hot lights, Hickel wiped sweat from his brow with a handkerchief.

"He was a little nervous," Hickel press secretary Eric Rehmann said later.

"We got caught a little off-guard in Seattle."

After the TV crews left, Hickel stopped to pose for a snapshot with a traveling Alaskan.

Hickel and his entourage, which includes two Cabinet members, then got back on a plane to Los Angeles.

[illegible]

An hour into the flight, Hickel acknowledged. Holland's ruling might jeopardize the settlement. Exxon could pull out, and Alaska lawmakers might view the deal as shaky and reject it, he said.

"They might," he said. "A lot of people are critical of it.

"If Exxon moves away, then we have the recourses in the courts. Let's see what happens. If Exxon walks away, we don't have any other choice. I hope they don't, but if they do, that's the way the ball bounces."

Hickel said he plans no immediate action, no calls to Exxon or federal officials while here. Hickel said he will talk to Attorney General Charles Cole when he returns to Juneau tonight.

Some lawmakers have criticized the deal. Many said Wednesday they had thought the $100 million criminal penalty was not enough money to punish Exxon for negligence.

Hickel has said he would go by lawmakers' votes and back out if they said to. But on the plane Wednesday, Hickel indicated his decision about how to respond was unformed.

"If they say no, I don't know what recourse we'd have," he said. "I haven't given it a thought. I'll have to think about what to do if the Legislature turns it around."

By the time the Delta 727 landed at Los Angeles International Airport, Hickel was ready for reporters he knew would be waiting. There were a handful from Cable News Network, The Associated Press, and local radio stations.

Hickel stood still and calmly, tossing out a joke and answering reporters' questions.

One woman said Justice Department officials in Washington, D.C., had said Holland's move endangers the entire deal.

"I don't think it throws the civil settlement into jeopardy, but it could," Hickel said.

Hickel would not say if he would renegotiate. "That's not my call," he said. "That's up to them (Justice)."

At his Century City hotel, Hickel then met a Los Angeles Times reporter who asked repeatedly about Hickel's fated "Ice Road" to Prudhoe Bay and the lingering scar from that failed big dream.

"The angle he came up with was, 'Maybe your big ideas are out of touch,'" Rehmann said.

"And the governor laughed and told him, 'If my ideas are out of touch, civilization's dead!'"

Hickel then went for a walk and planned to meet actor Eddie Albert, an old friend, later in the evening.

Today he is scheduled to meet Los Angeles County Supervisor Kenneth Hahn to talk about another big idea: building an underwater pipeline to send fresh Alaska water here.

Unlike other Hickel big plans, he is not stumping hard for this one. "Hey, we just tossed it out there," Hickel said. "We're not pressing it unless they're interested in the idea we'll work with them."

If a pipeline were ever built and functioning, it could bring millions of dollars to the state, Hickel said.

"It could, yup — you're talking about a lot of water," he said.

"That's what I do a lot of times: think about big problems."

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APR 25 '91 08:06 VISITING SENATORS OFFICE

4.25.91

Exxon deal on the rocks

Times photo by DOUGLAS VAN REETH

Alaska Attorney General Charles Cole answers reporters' questions in the Federal Building after Wednesday's decision by U.S. District Judge H. Russel Holland rejecting Exxon's plea deal.

Judge throws out spill fine as too little, 'wrong message'

By DESIREE HUMPHREY

TIMES WRITER

A federal judge Wednesday rejected a deal calling for Exxon Corp. to pay a record $100 million to settle criminal charges stemming from the nation's worst oil spill.

U.S. District Judge H. Russel Holland said the $100 million in fines and restitution for the 1989 Exxon Valdez oil spill would be inadequate.

"I'm afraid these fines send the wrong message, which suggest spills are a cost of business which can be absorbed," Holland told a courtroom packed with lawyers and reporters.

Holland's action threatens a $1 billion settlement involving the federal government, the state and Exxon, U.S. Department of Justice officials said.

Gov. Walter J. Hickel, who was on his way to Los Angeles for a two-day "promote Alaska" blitz, said he was "a little astonished by his (the judge's) decision."

"I don't think it throws the civil settlement into jeopardy, but it could," Hickel said.

Attorney General Charles Cole, who attended the hearing, said the court's ruling was "disappointing" but said he was hopeful it would not affect the overall settlement.

"I think the civil settlement is in the best interest of the state and oil spill communities," Cole said after the hearing. He urged the Legislature to approve the remainder of the billion-dollar settlement he and Hickel had hammered out in Washington, D.C., on March 12.

But in Juneau, Holland's ruling left lawmakers wondering whether the Legislature had a deal to consider.

In a letter to Exxon, the state and federal governments, Rep. Max Gruenberg, D-Anchorage, chairman of the House oil spill settlement review committee, asked the parties to notify the committee today of any plan to withdraw from the settlement.

There was no immediate reaction from Exxon.

Exxon Corp. Chairman Lawrence Rawl and Exxon Shipping Co. President Augustus Elmer did not return calls placed to their Texas headquarters. Exxon employees in Texas said Rawl and Elmer were at a shareholders meeting in Orlando, Fla., and were expected to fly back to Texas late Wednesday.

Exxon and its shipping subsidiary pleaded guilty March 22 to four criminal violations of U.S.

See Reject, back page

No plea agreement

- **Pristine has no price** Judge Holland has almost 120 letters commenting on the settlement – most urging him to reject it A6
- **Stealing Wally's thunder** Gov. Hickel takes a lot of pride in – and credit for – the Exxon settlement A10
- **Magic number eludes** Terry Carr's column asks for clues on what is 'enough' money B1
- **Oil profits leap** Exxon announces a 75 percent increase in first-quarter profits C1

Thx

Reject

Continued from page A1

environmental law as part of a plea agreement.

Under the settlement, Exxon would pay $900 million during an 11-year period. But a clause allowed Exxon or the state and federal governments to pull out of the deal if Holland did not accept the plea agreement.

The plea agreement said the companies would pay a $100 million fine, half of which would be dropped, and $50 million to the state for natural resources restoration in Prince William Sound.

Holland said the four charges "adequately reflect the seriousness of the underlying conduct." However, said Holland, $100 million is not enough punishment for a spill that was "off the chart" compared to other U.S. oil spills.

Holland also said the amount was not enough to serve as a deterrent to prevent other potential oil spills.

He said the suggested $100 million sends the wrong message that "spills are a cost of doing business." Exxon's Rawl has said customers will cover spill costs at the pump.

Exxon on Wednesday reported $2.24 billion in profits for the first quarter, up 75 percent from $1.28 billion in the same quarter last year. Profits in 1990 totaled $5 billion.

In his ruling, Holland also had a message for Congress. He said he did not understand why a company faces criminal charges for accidental environmental spills that kill animals while others do not face charges for accidental plane crashes that kill people.

"We're affording greater protection to birds and sea otters," Holland said. He said Congress needs to correct disparities in federal laws.

Holland did not say what would be an appropriate sentence for Exxon.

Several environmental groups, citing a Washington Post article, told the Legislature last week that natural resource damages may be $3 billion to $10 billion.

Times photo by DOUGLAS VAN REETH

Jim Neal, attorney for Exxon Shipping Co., says he cannot predict what happens next.

Jim Neal, attorney for Exxon Shipping Co. in the criminal case, said after the hearing he thought the plea agreement was fair. Neal said he could not predict what Exxon would do as a result of Holland's ruling or whether the oil giant would pull out of the settlement pact.

Exxon has 10 days to decide whether to cancel the $900 million civil settlement. Holland gave Exxon until May 24 to decide if it wants to withdrew its plea agreement in the criminal case.

Exxon has several options, according to lawyers involved in Exxon litigation.

The nation's largest oil company can decide to reject the plea agreement and go to trial before a jury or a judge. It can accept the plea and allow Holland to decide on the appropriate punishment. Or the government and Exxon can work out another plea agreement and submit it to Holland.

The Justice Department said it was disappointed with Holland's decision but is prepared to try the case against Exxon.

"I don't think they want to take this before an Alaska jury," said Jeff Parker, a lawyer representing about 90,000 plaintiffs involved in civil lawsuits against Exxon in state and federal court. "I think they're going to look seriously at renegotiating the whole thing."

Harold Spaeth, a U.S. Supreme Court expert and political science professor at Michigan State University, said Exxon ultimately may escape criminal punishment if the company chooses to go to trial and an unbiased jury cannot be found.

Despite Holland's ruling Wednesday, Exxon's agreement to plead guilty to criminal charges has been widely publicized, Spaeth said.

"That's going to make matters even more complicated," he said. "They can say, 'Hey, we can't get a fair trial in Alaska ... arguably there's no place in the United States.' "

Exxon Corp. had agreed to plead guilty to one count each of violating the Clean Water Act, the Refuse Act and the Migratory Bird Treaty Act. Exxon Shipping Co. had agreed to plead guilty to one count of violating the Migratory Bird Treaty Act. There was no probation requirement in the proposed plea agreement.

Besides any plea agreement, Holland must also approve the $900 million civil settlement before it becomes final. Hickel has said he will pull the state out of the deal if the Legislature does not approve it.

The Legislature has a May 3 deadline.

"This settlement has been under attack since the ink dried on the paper," said Lloyd Miller, an Anchorage lawyer representing thousands of Native villagers. "If the settlement is fair to all sides, the proof will be in its substantial support of victims of the spill and legislators and other interested parties."

Miller, who was at the hearing, said the government and Exxon probably see Holland's ruling in the criminal case as a defeat.

"It is my hope that all the parties have the courage to try to return to the bargaining table and negotiate a joint and global settlement," Miller said.

Exxon's plea

4.26.91 ADN

The punishment didn't fit the crime

In rejecting Exxon's $100 million criminal plea bargain, federal judge Russel Holland was right on all counts.

Among environmental crimes, Exxon's Alaska oil spill was, as the judge said, off the charts.

To a firm with $100 billion a year in revenues, paying a $100 million fine is, as the judge said, not much of a punishment. It amounts to less than one half day's worth of Exxon's revenues.

As a message to potential corporate lawbreakers, the $100 million fine is, as the judge said, not enough of a deterrent. Exxon's profits for the first quarter of this year were $2.24 billion. At that rate, Exxon's profits could cover the fine in just four days.

As the judge said, a fine of that magnitude sends the wrong message. It suggests that breaking the law is just another cost of doing business.

In spurning the plea bargain, Judge Holland delivered an unusual rebuke to President George Bush's Department of Justice. The federal government was willing to let the environmental criminal of the century off too easily.

Whatever the fine Judge Holland eventually imposes, though, it's a weak tool for influencing the behavior of a $100 billion-a-year corporation. The business decisions that led to the Exxon oil spill were made by specific human beings, but the law offers no way to hold them personally responsible. To get really tough with corporations that commit environmental crimes, Congress and the state need to put the fear of jail into the people who run the law-breaking businesses.

. . .the other deal

ADN 4.26.91

And if Exxon decides to bail out?

For Alaskans, Judge Holland's ruling has a powerful side effect. Under Exxon's deal with Gov. Hickel, the firm can drop its offer to pay $900 million over 10 years to restore the areas damaged by the spill. Exxon might like to pay the state less because it will have to pay the feds more than it expected.

If Exxon wants to try that trick, let it. Alaska's not getting such a great deal that we should beg and plead with Exxon to stand by its original offer.

Under federal laws, the criminal fine Exxon must pay has absolutely no bearing on how much it must pay to restore oiled areas. If Exxon wants Alaska to settle for less, the state should be prepared to fight for every possible penny in damages.

4.26.91

Exxon, Native squabble lands in D.C. courtroom

By DESIREE HUMPHREY
TIMES WRITER

A federal judge in Washington, D.C., is scheduled Monday to hear arguments from Alaska Native corporations seeking to block an already shaky $900 million civil settlement of the Exxon Valdez oil spill.

The corporations representing Chenega, Port Graham and English Bay claim Native interests were not considered when the Exxon Corp., and state and federal officials hammered out the deal.

The Natives want implementation of the agreement signed March 12 delayed for 90 days. They have asked U.S. District Judge Stanley Sporkin to order the parties back to the bargaining table, Lloyd Miller, an Anchorage lawyer, said Thursday. Miller is one of the lawyers representing the Native groups in lawsuits pending in Sporkin's court and in federal court in Anchorage.

The convoluted legal wrangles now involve two federal judges and at least one Alaska Superior Court judge.

Sporkin is hearing the Natives' two lawsuits in Washington. U.S. District Judge H. Russel Holland in Anchorage is presiding over criminal charges against Exxon and its shipping subsidiary, Exxon Shipping Co., and a host of civil cases, mostly involving damage claims from the spill.

Judge Brian Shortell in Anchorage is presiding over lawsuits in state court claiming damages from the spill.

Miller said there is no conflict between the federal judges because they are considering different issues. The Natives' lawsuits in Sporkin's court ask that Native land and subsistence rights be protected in the $900 million settlement of state and federal lawsuits against Exxon, he said.

Holland's cases involve damages from the spill and the Exxon criminal case, although he must sign off on the civil settlement before it can take effect.

Miller said the Native corporations have asked Sporkin to give them control of money earmarked in the agreement for restoration of natural resources in subsistence-use areas affected by the March 24, 1989, spill.

At the least, there needs to be changes in the proposed deal to protect Native interests, he said.

Monday's hearing is just another mine field for the civil settlement, which may be in trouble.

A federal judge in Anchorage on Wednesday scrapped a plea agreement from Exxon Corp. and its shipping subsidiary, the Exxon Shipping Co.

The companies had agreed to plead guilty to four counts of violating U.S. environmental laws in the spill and pay $100 million in fines and restitution. It would have been a record amount for environmental violations, but U.S. District Judge H. Russel Holland said the amount was not enough.

Holland, who must also approve the civil settlement, gave Exxon until May 24 to decide whether it would withdraw from the plea agreement.

Because the criminal case and the $900 million civil settlement are tightly linked, the civil settlement is up in the air. The proposed settlement allows any of the parties — the state, Exxon or the federal government — to pull out if the criminal plea agreement were rejected.

Exxon in a news release Thursday said it believed the civil agreement and criminal penalties had been appropriate. "While we are carefully considering the implications of the judge's decision, we are continuing our preparation for trial," it said.

State and federal officials said they have no intention of abandoning the civil deal. They said they are waiting to see what Exxon does.

"I don't see any conflict at all," Miller said. "No one has asked him (Sporkin) to approve the settlement."

The proposed billion-dollar settlement must be signed by Holland to become official and asks that only Holland make any changes. That is a wish, Miller said, and Sporkin is not bound by the request because the settlement is still pending.

Sporkin on Monday also is expected to consider transferring the Natives' lawsuits from his court to Holland, who is in charge of about 180 federal lawsuits against Exxon, in addition to the criminal case against the oil giant.

And he is scheduled to review the Natives' request to compel Interior Secretary Manuel Lujan to give a sworn statement.

The Alyeska Pipeline Service Co., a consortium of seven oil companies, had no comment about Holland's ruling. The plea bargain had shielded the operator of the trans-Alaska oil pipeline from criminal prosecution by the federal government.

Exxon owns about 20 percent of Alyeska.

Holland on Wednesday said he had received letters from the public protesting Alyeska's immunity in the proposed plea bargain. The most notable came from California Rep. George Miller, vice chairman of the House Committee on Interior and Insular Affairs.

Miller said in an April 8 letter to Holland and Sporkin that Alyeska secretly had agreed to ignore part of an oil spill contingency plan implemented a year before the Exxon Valdez ran aground on Bligh Reef.

Alyeska said Miller was wrong and that the company had reacted according to its contingency plans, which said it would take months to clean up a major spill.

"A certain congressman has written me on the subject," Holland said in an apparent reference to Miller. The judge said he received the letter a day and a half after he read about it in the newspaper.

"And it appears to me that he was more interested in getting some publicity than he was in informing me." Holland said. "Be that as it may, I do not have any role in the decision of whether Alyeska should or should not be prosecuted for anything."

A decision to prosecute Alyeska would be the option of the U.S. Justice Department, part of the executive branch, he said.

p. 27
P. 38 of Decree
10 days after the event
May 4 deadline for
~~Decree~~ State, Feds &
Exxon to pull out of
agreement due to Judges'
disapproval of Plea Agreement

(May 3 is deadline for
State & feds to pull
out based on Leg.
disapproval)

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^AP-AK--Holland-Exxon Plea(

URGENT FOR ALASKA

(ANCHORAGE) _ A federal judge in Anchorage today (Wednesday) rejected a criminal plea agreement that's part of a (b) billion dollar deal between Exxon, the state and federal governments.

Judge H. Russel Holland says the fines which were proposed to him simply are not (not) adequate. The judge says there is no (no) question that the Exxon Valdez oil spill was _ as he put it _ ''off the chart'' as far as American environmental disasters go.

Exxon did not (not) immediately withdraw its guilty pleas on criminal pollution charges. Holland gave the company 30 days to consider what actions it may take.

Under the plea agreement, Exxon was to pay a 1-hundred (m) million-dollar criminal fine and another 9-hundred (m) million dollars to settle state and federal civil claims for natural resource damages in the Prince William Sound area.

The tanker Exxon Valdez spilled nearly 11 (m) million gallons of North Slope crude oil on March 24th, 1989, when it slammed into a charted reef.

Lawmakers...

Continued from Page 1

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

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

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

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

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

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

The Legislature must end its 1991 session by May 21.

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

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

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

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

Gruenberg said he would like to see the deadline renegotiated.

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

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

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

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

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

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

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

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

Environmental activist Riki Ott of Cordova also cheered the ruling.

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

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

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

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

Judge...

Continued from Page 1

draw its guilty pleas following today's ruling. The judge gave the company until May 24 to decide.

The Exxon Valdez spilled nearly 11 million gallons of North Slope crude oil into Prince William Sound and the Gulf of Alaska after it ran aground at Bligh Reef. Hundreds of thousands of waterfowl and fish, and hundreds of seals, sea otters and bald eagles were killed. Fishing and tourism were interrupted, and the subsistence lifestyle of Native Alaskan villages were disrupted.

The proposed criminal settlement was connected with a proposed settlement of state civil cases against Exxon that includes payment of $900 million by Exxon to a state trust fund. The money was to be used to restore Prince William Sound.

An analysis done for The Associated Press in March showed the total cost to Exxon of the $1 billion settlement could have been as little as $486.3 million if the company had purchased an annuity to make the payments.

Exxon spokesman Joe Tucker in Anchorage said the company had no immediate comment on the ruling.

"It was one of the options the court had," said James Neal, lead attorney for Exxon Shipping Co. and former counsel for the Watergate special prosecutor. He appeared surprised by the decision.

"We thought it was a good plea agreement," Neal said.

Holland said he rejected the settlement because it sent the wrong message to industry and the American public.

"The fines do not adequately achieve deterrence. They send the wrong message – that spills are a cost of business to be absorbed," he said.

Exxon Chairman Lawrence Rawl said after the plea agreement was announced March 12 that the $1 billion agreement would not affect the company's profits. Ironically, Holland's ruling came the same day Exxon announced its first-quarter profits had jumped 75 percent.

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

Alaska Attorney General Charles Cole said today he hoped the rejection of the criminal plea would not derail the civil settlement. Under terms of that agreement, Exxon has 10 days to withdraw from the civil settlement, Cole said.

"The settlement remains fair and reasonable and in the best interests of the state," he said.

Lloyd Miller, an attorney representing five Native Alaska villages that sued in federal court in Washington, D.C., to halt the settlement until Native Alaskans' claims are included, said he was pleased with the ruling.

"Rejecting a $100 million sentence comports with the Native villagers' view of the gravity of the damage to the environment," Miller said.

In a statement issued in Washington, Justice Department officials said they were disappointed with the court's ruling and believe the pleas and fine are a "just and reasonable" settlement of the criminal case.

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

The statement added, "the government is prepared for the trial of the criminal charges as soon as a date is set by the court. It is regrettable that a trial of either the civil or criminal case promises to delay for a long period of time the availability of much needed resources to compensate for the harm done."

SCOMM

77:74

HOUSE CONCURRENT RESOLUTION NO. 38

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTEENTH LEGISLATURE - FIRST SESSION

BY THE HOUSE STATE AFFAIRS COMMITTEE

Introduced: 5/19/91
Referred: Rules

A RESOLUTION

Relating to negotiations on an Exxon Valdez oil spill claims settlement.

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

WHEREAS the Exxon Valdez oil spill of March 1989 had a tremendous impact on the State of Alaska, on the people of Alaska, and on the natural resources of Alaska; and

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 of 1989; and

WHEREAS the Governor and the Attorney General have expressed a willingness to again negotiate with Exxon Corporation over the terms of a settlement; and

WHEREAS negotiations relating to the Exxon Valdez oil spill have been established between the state, Exxon Corporation, and the federal government; and

WHEREAS the Alaska State Legislature recognizes that negotiations involve a series of exchanges and counteroffers between the affected parties; and

WHEREAS the Alaska State Legislature recognizes that it is in the best interests of the people of Alaska and the State of Alaska that a settlement between the Exxon Corporation, the state, and the federal government be resolved through negotiation and not in a lengthy judicial process; and

WHEREAS the Alaska State Legislature recognizes the significant work and effort put forth by Governor Walter J. Hickel and Attorney General Charles E. Cole in negotiating on behalf of the state and the people of Alaska with the Exxon Corporation;

BE IT RESOLVED that the Alaska State Legislature respectfully requests Governor Walter J. Hickel to resume negotiations with the Exxon Corporation and the United States for the settlement of the claims of the State of Alaska on the terms and conditions that are in the best interests of the State of Alaska; and be it

FURTHER RESOLVED that the Alaska State Legislature respectfully requests that the Governor in the negotiations address the views and concerns expressed by state citizens and the legislature regarding the March 12, 1991, settlement agreement.

WALTER J. HICKEL
GOVERNOR

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

May 17, 1991

The Honorable Richard Eliason
Senate President
Alaska State Legislature
P. O. Box V
Juneau, AK 99811

Dear President Eliason:

On Thursday, May 16, EXXON filed a lawsuit in federal court asking the court to rule on who has the right to sue for resource damages resulting from the Prince William Sound oil spill.

The potential loss to Alaska troubles me deeply.

From the very bottom of my heart, I ask that the Senate consider, and vote in favor of the EXXON settlement agreement, as is.

Once passed, I commit to you to do everything within my power to convince EXXON to again accept our earlier settlement agreement.

Sometimes politics seem so trivial. This is one of those times.

Respectfully yours,

Walter J. Hickel

Walter J. Hickel
Governor

DIVISION OF LEGAL SERVICES

LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

P.O. Box Y, Juneau, Alaska 99811
(907) 465-3867 or 465-2450
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Deliveries to: 240 Main Street
Court Plaza, Room 500
Mail Stop 3101

MEMORANDUM May 18, 1991

SUBJECT: Exxon Valdez Interpleader Action Filed May 16, 1991 by Exxon (Work Order No. 7-LS1053)

TO: Senator Dick Eliason

FROM: Pam Finley Pam Finley
Assistant Revisor

In regard to the Complaint in Interpleader and for Declaratory Judgment filed by Exxon Shipping and Exxon Corp. in federal district court in Anchorage on May 16, 1991, you have asked the following questions:

(1) What effect does the lawsuit have on (A) the state; (B) native corporations and native villages; (C) other third-party litigants;

(2) Does the lawsuit change the factors considered by the legislature in regard to the proposed settlement (which the House of Representatives disapproved and from which Exxon withdrew in early May); and

(3) If the parties agreed at this time to accept the previous settlement, how would that affect the interpleader action?

I. Effect of Interpleader Action. The main effect of the interpleader action is to ask the court to decide legal issues that have existed in the state, federal, and third-party lawsuits from the beginning. In the time allowed, I cannot give an opinion on the likelihood that the court will grant the relief Exxon has requested. Assuming that it does so, the court's decision concerning the legal rights of the parties should be the same whether they are determined in the interpleader action or another lawsuit. However, the interpleader may affect the tactical position of the parties.

A. The State. The state has been aware (1) that the federal government would maintain that it was the sole trustee of the damaged natural resources; and (2) that, in a case in which the federal government was not a party, Exxon would argue that the natural resources belonged to the federal government, not the state. The state hoped to avoid these problems by (1) settling the case jointly with the federal government, and jointly administering the recovery; or (2) suing Exxon jointly with the federal government, stipulating that the fact-finder should simply determine the total amount of the natural resource damages (without deciding who owned which resources), and leaving the division of the recovery for later litigation or settlement. In the interpleader action, the two governments may still argue that they will join in one lawsuit, and that therefore the ownership and management dispute between them does not need to be settled at this time. However, if they do not do so, or if the court nevertheless does decide which government has a right to recover for what, then the ownership and management question may be settled (probably after lengthy appeals) <u>before</u> recovery against Exxon, rather than after recovery. In short, the interpleader action forces an issue that the state probably would have preferred to have addressed after recovery against Exxon, or not at all.

<u>B. Native Corporations and Villages.</u> The interpleader action will probably determine the rights of the Native groups to sue as trustees under the Clean Water Act and under state law. Unless the Native groups, the state, and the federal government all agreed to sue Exxon jointly and reserve their ownership and management disputes for later (which to my knowledge has not been suggested), it is not obvious to me that the interpleader action will substantially change the Native groups' position. Before the interpleader was filed, the Native groups were going to have to establish their legal rights to recover from Exxon, and the interpleader does not change that. However, because it is likely that the state and federal governments will argue against the Native groups' rights, the interpleader may make their case more difficult because they will have more adversaries.

<u>C. Third-Party Litigants.</u> In the interpleader complaint, Exxon requests that the state be ordered to join all persons the state knows "to have a claim to recovery on account of natural resources damaged by the Spill." If this request covers people who have a claim that is not for "natural resource damage," but is nevertheless based on the damage to the resource (<u>e.g.,</u> economic losses by fishermen), and if the court grants the request, then the third-party plaintiffs could be pulled into federal court with the governments and Native groups. This could hurt the third-party litigants in some ways since state law would be more favorable to them concerning such things as attorney fee awards, and since it is possible that the governments and Exxon may argue jointly that only the governments are entitled to recover any damages resulting from the loss of natural resources. On the other hand, the third-party litigants would have the benefit of the governments' evidence against Exxon if they were all in the same case.

<u>II. Change of Conditions from time Settlement was Considered.</u> The interpleader action does not raise any issues that were not raised when the proposed settlement was considered. At that time, the Attorney General made it very clear that a major problem in the litigation was deciding which government (state or federal) has the

right to recover for which natural resource. The claims of Native groups were also known, as were their fears that the proposed settlement would injure their position. The Attorney General also pointed out that the state would be adverse to third parties who sued the state, whether the state settled with Exxon or not.

However, the interpleader action does exemplify certain problems the state faces without a settlement, including (1) the conflicting claims of the two governments, as well as the Native groups; (2) the uncertainty of the course of litigation and attendant litigation costs; and (3) the ability of Exxon to delay determination of the damage caused.

III. Effect on Interpleader of Accepting Settlement. If the state and federal governments and Exxon settled on terms identical or similar to those in the former proposed civil settlement, Exxon should dismiss the interpleader action against the state and federal governments, although it might continue to try to force the Native groups to join other third parties.

PF:lmb
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IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF ALASKA

EXXON SHIPPING COMPANY, a Delaware corporation, and EXXON CORPORATION, a New Jersey corporation, Plaintiffs, vs. MANUEL LUJAN, JR. as Secretary of the Interior, EDWARD MADIGAN, as Secretary of Agriculture, JOHN A. KNAUSS, as Undersecretary of Commerce for Oceans and Atmosphere, CHARLES COLE, as Attorney General of Alaska, CARL ROSIER, as Commissioner, Alaska Department of Fish & Game, JOHN SANDOR, as Commissioner,	CASE NO. COMPLAINT IN INTERPLEADER AND FOR DECLARATORY JUDGMENT

Alaska Department of Environmental Conservation, THE NATIVE VILLAGE OF CHENEGA BAY, THE NATIVE VILLAGE OF PORT GRAHAM, THE NATIVE VILLAGE OF ENGLISH BAY, THE NATIVE VILLAGE OF LARSEN BAY, THE NATIVE VILLAGE OF KARLUK, PORT GRAHAM CORPORATION, ENGLISH BAY CORPORATION, and CHENEGA CORPORATION,

Defendants.

First Claim for Relief -- Interpleader

1. This action is brought pursuant to Rule 22 F.R.Civ.P. and 28 U.S.C. §2201. The Court has jurisdiction of this action pursuant to 28 U.S.C. §§1331, 1333, 1343, 1346, and 1361. Venue is proper in this district under 28 U.S.C. §1391(c) and (e) because most defendants reside in this district, and because the acts, transactions and occurrences giving rise to the multiple, conflicting and overlapping claims asserted by defendants occurred in this district.

2. Plaintiff Exxon Shipping Company ("Shipping") is a Delaware corporation authorized to do, and doing, business in the State of Alaska. Among other things, Shipping is engaged in the business of transporting crude oil from the marine terminal of the Trans-Alaska Pipeline in Valdez to ports in the Lower 48 (for convenience, the "TAPS trade").

3. On and prior to March 24, 1989, Shipping owned and operated the tank vessel EXXON VALDEZ, and operated that vessel in the TAPS trade.

4. On or about March 24, 1989, the EXXON VALDEZ ran aground on Bligh Reef in Prince William Sound resulting in the discharge of approximately 258,000 barrels of crude oil (the "Spill").

5. Exxon Corporation ("Exxon") is a New Jersey corporation with its principal place of business at 225 East John W. Carpenter Freeway, Irving, Texas. Exxon's principal business is energy, involving exploration for, and production of, crude oil and natural gas, and refining and marketing of petroleum products. Exxon owns all of the issued and outstanding stock of Shipping.

6. Prior to March 23, 1989, Exxon contracted with Shipping for the transportation to ports in the United States of crude oil produced on the Alaska North Slope and owned by Exxon. Pursuant to that contract, approximately 1,263,000 barrels of crude oil owned by Exxon were loaded aboard the EXXON VALDEZ on March 23, 1989 destined to refineries in the State of California. The EXXON VALDEZ ran aground on the morning of March 24, 1989, releasing approximately 258,000 barrels of such oil.

7. Oil released from the EXXON VALDEZ was carried by winds, tides and currents onto various portions of the islands, beaches, and shoreline of Prince William Sound and the Gulf of Alaska. An unknown quantity of birds and animals were killed as a result of contact with oil. Following the Spill, plaintiffs expended in excess of $2 billion to clean up areas impacted by the Spill. As a result of plaintiffs' efforts and of natural recovery, the lands and waters affected by the Spill have essentially recovered, and fish and wildlife populations have recovered, or will soon recover, to their pre-Spill levels. Nevertheless, officials of the United States Government and of the State of Alaska have asserted that the Spill has caused serious and continuing injury to natural resources, including lands, water, birds, animals, fish, invertebrates, and other biota.

8. Section 311(f)(5) of the Clean Water Act ("CWA"), 33 U.S.C. §1321(f)(5), authorizes the President of the United States or the authorized representative of any State to act as trustee on behalf of the public to recover the costs of restoring or replacing natural resources damaged by an oil spill. Section 107(f)(2) of the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA"), 42 U.S.C. §9607(f)(2), authorizes and requires the President and the Governor of any State to designate individuals to act as trustees under §311(f)(5) of CWA. Pursuant to the provisions of §105(a) of CERCLA, 42 U.S.C. §9605(a), the President is required to

revise and republish the national contingency plan (NCP) to carry out his duties under CWA §311, 33 U.S.C. §1321. By §1(b)(1) of Executive Order No. 12580, the President delegated to the Administrator of the Environmental Protection Agency the President's responsibility for revising the NCP. 52 Fed.Reg. 2923 (Jan. 23, 1987). By §1(c) of that Executive Order, the President named the Secretary of Defense, the Secretary of the Interior, the Secretary of Agriculture, the Secretary of Commerce and the Secretary of Energy to be among those designated in the NCP as federal trustees for natural resources in accord with §311(f)(5) of CWA, 33 U.S.C. §1321(f)(5). Id.

9. Defendants Manual Lujan, Edward Madigan, and John A. Knauss are respectively the Secretary of the Interior, the Secretary of Agriculture, and the Undersecretary of Commerce for Oceans and Atmophere and Administrator of the National Oceanic and Atmospheric Administration. Each is sued in his official capacity. Defendants Lujan, Madigan, and Knauss have been designated, pursuant to regulations promulgated by the Administrator of the Environmental Protection Agency, to act as trustees under CWA §311(f)(5) to recover the costs of restoring or replacing natural resources damaged by the Spill. 40 C.F.R. §300.600(b). Said defendants are hereinafter referred to as the "federal trustees."

10. Defendants Charles Cole, Carl Rosier, and John Sandor are respectively the Attorney General of the State of Alaska, the Commissioner, Alaska Department of Fish & Game, and the Commissioner, Alaska Department of Environmental Conservation. Each is sued in his official capacity. Pursuant to 40 C.F.R. §300.605 and relevant Alaska law, defendants Cole, Rosier, and Sandor have been designated by the Governor of Alaska to act as trustees under CWA §311(f)(5) to recover the costs of restoring or replacing natural resources damaged by the Spill. Said defendants are hereinafter referred to as the "state trustees."

11. Defendants the Native Village of Chenega Bay, the Native Village of Port Graham, the Native Village of English Bay, the Native Village of Larsen Bay, the Native Village of Karluk, Port Graham Corporation, English Bay Corporation, and Chenega Corporation are native villages or native corporations. Each such defendant asserts the right to act as a trustee pursuant to §311(f)(5) of the Clean Water Act and to recover pursuant to said statute, on behalf of natives, native villages, native corporations, or native tribes, the costs of restoring or replacing natural resources damaged by the Spill. Said defendants are hereinafter referred to as the "native defendants." Plaintiffs deny that the native defendants have any right to act as trustees or to recover, pursuant to CWA §311(f)(5) or otherwise, any costs of restoring or replacing natural resources damaged by the Spill.

12. Each defendant claims that plaintiffs have liability to him or it, pursuant to §311(f)(5) of the Clean Water Act, for the cost of restoring or replacing natural resources damaged by the Spill. In addition, the state trustees claim that plaintiffs have liability to the State of Alaska for damages arising from injury to natural resources with respect to which the State claims to have proprietary, public trust, and/or sovereign rights; the native defendants claim that plaintiffs have liability to them for damages arising from injury to natural resources with respect to which the native defendants claim to have rights pursuant to the Alaska Native Claims Settlement Act, the Alaska National Interest Lands Conservation Act, or otherwise.

13. This Court is the most appropriate and convenient forum in which all persons or entities claiming rights to recover from plaintiffs on account of natural resources damaged by the Spill may be joined in a single proceeding in which the liability of plaintiffs, if any, may be determined.

14. Defendants assert that Shipping has strict civil liability, without fault, for the cost of restoring or replacing natural resources damaged by the Spill, as limited by the provisions of §311(f)(1)-(3) of the Clean Water Act, 33 U.S.C. §1321(f)(1)-(3). Shipping is uncertain whether it has such strict liability to the defendants named in this action, and, if

such liability exists, the amount and nature of such liability. Shipping denies that damages on account of natural resources damaged by the Spill may be recovered by anyone other than to the extent a right to such recovery may be created by §311(f) of the Clean Water Act.

15. Shipping denies that it has any liability to defendants, or to any of them, on the basis of intentional, willful, wanton or reckless conduct, willful negligence, or willful misconduct.

16. Exxon denies that it has liability to any of the defendants in this action for the costs of replacing or restoring natural resources, or otherwise on account of damage or injury to natural resources.

17. Plaintiffs, and each of them, are exposed to double or multiple liability because the several defendants in this action claim separate and duplicate rights to compensation for the same alleged losses, in that, without limitation of the foregoing:

17.1. The federal trustees claim the exclusive right to act as trustee of all natural resources damaged by the Spill, to the exclusion of the state trustees and the native defendants;

ACE 1287589

17.2. The state trustees claim the exclusive right to act as trustee of natural resources damaged by the Spill and located within the State of Alaska, to the exclusion of the federal trustees and the native defendants;

17.3. The native defendants claim the exclusive right to act as trustee of natural resources appertaining to native villages, to the exclusion of the federal trustees and the state trustees;

17.4. The state trustees and the native defendants assert rights, purportedly deriving from sources other than the Clean Water Act, to recover damages on account of natural resources injured by the spill of which the federal trustees claim to be exclusive trustee;

17.5. The federal trustees claim the right to recover for loss of use of natural resources damaged or injured by the Spill on behalf of all residents of the United States, including residents of Alaska and Alaska natives on whose behalf the state trustees and the native defendants respectively also claim the right to recover;

17.6. The state trustees claim the right to recover for loss of use of natural resources damaged or injured by the Spill not only on behalf of residents of Alaska, but also on behalf of non-residents of Alaska on whose behalf the federal trustees also claim the right to recover.

18. Plaintiffs, and each of them, are also subjected to the risk of inconsistent liability on account of natural resources damaged by the Spill because the several defendants' claims are based upon inconsistent theories. Scientific and economic studies carried out by the federal trustees are being conducted separate and apart from scientific and economic studies carried out by the state trustees. Work which the state trustees claim is necessary to restore natural resources is claimed by the federal trustees to be harmful to the natural environment. The factual and theoretical premises of the claims of the state trustees are different from the factual and theoretical premises of the claims of the federal trustees in situations where the state trustees and the federal trustees cannot both be correct, and where the inconsistency serves to increase the claims of both the state and the federal trustees.

19. Plaintiffs, and each of them, have no plain, speedy or adequate remedy at law by which to be relieved of the above-alleged risk of double, multiple and inconsistent liability except to interplead all defendants in this proceeding, and to

require such defendants, and each of them, to assert their respective claims in one proceeding binding on all defendants as well as all plaintiffs.

Second Claim for Relief -- Declaratory Relief

20. Plaintiffs reallege and incorporate herein by reference each and every allegation contained in paragraphs 1 through 19 hereof, as if set out in full.

21. There are now existing between the plaintiffs, and each of them, and defendants, and each of them, actual, existing and justiciable controversies concerning who is liable on account of natural resources damaged by the Spill, what damages are recoverable, and what persons are entitled to recover such damages as are recoverable. By way of illustration, and not by way of limitation, plaintiffs are informed and believe, and therefore allege, that such controversies include the following:

21.1. Shipping contends that if human error contributed to the grounding, such error, if any, was made by seagoing personnel and that such accidental mistakes were not within the privity or knowledge of Shipping's shoreside management, whereas defendants, or some of them, contend that the grounding was attributable to negligence within the privity and knowledge of Shipping's shoreside management;

21.2. Shipping contends that the grounding and Spill were not the result of willful negligence or willful misconduct within the privity and knowledge of Shipping, whereas defendants, or some of them, contend to the contrary;

21.3. Plaintiffs contend that any recovery on account of natural resources may be allowed only under the terms of §311(f) of the Clean Water Act, whereas defendants, or some of them, contend that such liability may be imposed otherwise than under the terms of §311(f) of the Clean Water Act;

21.4. Plaintiffs contend that only the federal or state trustees have rights to recover on account of natural resources damaged by the Spill, whereas the native defendants, or some of them, contend that private persons or Alaskan Native organizations may obtain such recoveries;

21.5. Plaintiffs contend that various means of calculating damages or injury to natural resources, and, in particular, contingent valuation, are so arbitrary, speculative and uncertain that a judgment calculated on the basis of such means would be an unconstitutional denial of due process of law, and would constitute an unreasonable and excessive fine, whereas defendants, or some of them, contend the contrary;

21.6. Plaintiffs contend that, as a matter of due process of law, defendants, and each of them, must join all other persons seeking to recover on account of natural resources damaged by the Spill, so that plaintiffs are not subjected to the risk of double, multiple or inconsistent liability, whereas defendants, or some of them, contend that this Court is powerless to protect plaintiffs from such risk.

22. There are at this time eleven actions pending in three different courts which involve parts of the foregoing controversies, but there is no action pending, and no other court or tribunal in which an action can be brought, in which the entire controversy alleged herein can be resolved in a single binding judgment.

23. Plaintiffs, and each of them, are entitled to a declaratory judgment establishing their rights and liabilities in the premises.

WHEREFORE, plaintiffs pray for judgment as follows:

1. For an order directing all defendants to submit their claims against plaintiffs, or any of them, for resolution in this interpleader action;

2. For an order directing joinder in this action of all persons known to defendants herein to have a claim to recovery on account of natural resources damaged by the Spill;

3. For judgment as the interests of the parties shall appear, based on the evidence;

4. For judgment in favor of Exxon Shipping Company and Exxon Corporation against all defendants herein;

5. For declaratory judgment in accordance with plaintiffs' contentions as set out herein;

6. For costs of suit incurred herein, including a reasonable attorneys' fee; and

MAY 16 '91 17:14 ATTY GEN

JS 44
(Rev. 07/86)

CIVIL COVER SHEET

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I (a) PLAINTIFFS	DEFENDANTS
Exxon Shipping Company Exxon Corporation	See Attachment A
(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF Harris, TX (EXCEPT IN U.S. PLAINTIFF CASES)	COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT District of Columbia (IN U.S. PLAINTIFF CASES ONLY) NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED
(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER) See Attachment B	ATTORNEYS (IF KNOWN) See Attachment B

II. BASIS OF JURISDICTION (PLACE AN x IN ONE BOX ONLY)

☐ 1 U.S. Government Plaintiff
☒ 2 U.S. Government Defendant
☐ 3 Federal Question (U.S. Government Not a Party)
☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (PLACE AN x IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT)

(For Diversity Cases Only)

	PTF	DEF		PTF	DEF
Citizen of This State	☐ 1	☐ 1	Incorporated or Principal Place of Business in This State	☐ 4	☐ 4
Citizen of Another State	☐ 2	☐ 2	Incorporated and Principal Place of Business in Another State	☐ 5	☐ 5
Citizen or Subject of a Foreign Country	☐ 3	☐ 3	Foreign Nation	☐ 6	☐ 6

IV. CAUSE OF ACTION (CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE. DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY)

Action for interpleader and declaratory judgment under the Clean Water Act, 33 U.S.C 1321(f).

V. NATURE OF SUIT (PLACE AN x IN ONE BOX ONLY)

CONTRACT
☐ 110 Insurance
☐ 120 Marine
☐ 130 Miller Act
☐ 140 Negotiable Instrument
☐ 150 Recovery of Overpayment & Enforcement of Judgment
☐ 151 Medicare Act
☐ 152 Recovery of Defaulted Student Loans (Excl. Veterans)
☐ 153 Recovery of Overpayment of Veteran's Benefits
☐ 160 Stockholders' Suits
☐ 190 Other Contract
☐ 195 Contract Product Liability

REAL PROPERTY
☐ 210 Land Condemnation
☐ 220 Foreclosure
☐ 230 Rent Lease & Ejectment
☐ 240 Torts to Land
☐ 245 Tort Product Liability
☐ 290 All Other Real Property

TORTS

PERSONAL INJURY
☐ 310 Airplane
☐ 315 Airplane Product Liability
☐ 320 Assault, Libel & Slander
☐ 330 Federal Employers' Liability
☐ 340 Marine
☐ 345 Marine Product Liability
☐ 350 Motor Vehicle
☐ 355 Motor Vehicle Product Liability
☐ 360 Other Personal Injury

PERSONAL INJURY
☐ 362 Personal Injury—Med Malpractice
☐ 365 Personal Injury—Product Liability
☐ 368 Asbestos Personal Injury Product Liability

PERSONAL PROPERTY
☐ 370 Other Fraud
☐ 371 Truth in Lending
☐ 380 Other Personal Property Damage
☐ 385 Property Damage Product Liability

CIVIL RIGHTS
☐ 441 Voting
☐ 442 Employment
☐ 443 Housing/Accommodations
☐ 444 Welfare
☐ 440 Other Civil Rights

PRISONER PETITIONS
☐ 510 Motions to Vacate Sentence
☐ 530 Habeas Corpus
☐ 540 Mandamus & Other
☐ 550 Civil Rights

FORFEITURE/PENALTY
☐ 610 Agriculture
☐ 620 Food & Drug
☐ 630 Liquor Laws
☐ 640 R.R. & Truck
☐ 650 Airline Regs
☐ 660 Occupational Safety/Health
☐ 690 Other

LABOR
☐ 710 Fair Labor Standards Act
☐ 720 Labor/Mgmt. Relations
☐ 730 Labor/Mgmt. Reporting & Disclosure Act
☐ 740 Railway Labor Act
☐ 790 Other Labor Litigation
☐ 791 Empl. Ret. Inc. Security Act

BANKRUPTCY
☐ 422 Appeal 28 USC 158
☐ 423 Withdrawal 28 USC 157

PROPERTY RIGHTS
☐ 820 Copyrights
☐ 830 Patent
☐ 840 Trademark

SOCIAL SECURITY
☐ 861 HIA (1395ff)
☐ 862 Black Lung (923)
☐ 863 DIWC (405(g))
☐ 863 DIWW (405(g))
☐ 864 SSID Title XVI
☐ 865 RSI (405(g))

FEDERAL TAX SUITS
☐ 870 Taxes (U.S. Plaintiff or Defendant)
☐ 871 IRS—Third Party 26 USC 7609

OTHER STATUTES
☐ 400 State Reapportionment
☐ 410 Antitrust
☐ 430 Banks and Banking
☐ 450 Commerce/ICC Rates/etc.
☐ 460 Deportation
☐ 470 Racketeer Influenced and Corrupt Organizations
☐ 810 Selective Service
☐ 850 Securities/Commodities/Exchange
☐ 875 Customer Challenge 12 USC 3410
☐ 891 Agricultural Acts
☐ 892 Economic Stabilization Act
☒ 893 Environmental Matters
☐ 894 Energy Allocation Act
☐ 895 Freedom of Information Act
☐ 900 Appeal of Fee Determination Under Equal Access to Justice
☐ 950 Constitutionality of State Statutes
☐ 890 Other Statutory Actions

VI. ORIGIN (PLACE AN x IN ONE BOX ONLY)

☒ 1 Original Proceeding
☐ 2 Removed from State Court
☐ 3 Remanded from Appellate Court
☐ 4 Reinstated or Reopened
☐ 5 Transferred from another district (specify)
☐ 6 Multidistrict Litigation
☐ 7 Appeal to District Judge from Magistrate Judgment

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION ☐ UNDER F.R.C.P. 23

DEMAND $ N/A

Check YES only if demanded in complaint: JURY DEMAND: ☐ YES ☒ NO

VIII. RELATED CASE(S) (See instructions): IF ANY

JUDGE Holland

DOCKET NUMBER A89-095, A91-081, A91-082, A91-083

DATE 5/16/91

SIGNATURE OF ATTORNEY OF RECORD Douglas [signature]

ACE 1287575

ATTACHMENT A

DEPARTMENT OF THE INTERIOR
Manuel Lujan, Jr.
Secretary of the Interior

DEPARTMENT OF AGRICULTURE
Edward Madigan
Secretary of Agriculture

DEPARTMENT OF COMMERCE
John A. Knauss
Undersecretary for Oceans and Atmosphere and Administrator

ATTORNEY GENERAL'S OFFICE
Charles Cole
Attorney General of Alaska

ALASKA DEPARTMENT OF FISH & GAME
Carl Rosier
Commissioner

ALASKA DEPARTMENT OF ENVIRONMENTAL CONSERVATION
John Sandor
Commissioner

THE NATIVE VILLAGE OF CHENEGA BAY
THE NATIVE VILLAGE OF PORT GRAHAM
THE NATIVE VILLAGE OF ENGLISH BAY
THE NATIVE VILLAGE OF LARSON BAY
THE NATIVE VILLAGE OF KARLUK
PORT GRAHAM CORPORATION
ENGLISH BAY CORPORATION
CHENEGA CORPORATION

ATTACHMENT B

ATTORNEYS FOR PLAINTIFFS

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ATTORNEYS FOR DEFENDANTS

DEPARTMENT OF THE INTERIOR
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Secretary of the Interior

DEPARTMENT OF AGRICULTURE
Edward Madigan
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DEPARTMENT OF COMMERCE
John A. Knauss, Undersecretary for
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Attorney General of Alaska

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Carl Rosier, Commissioner

ALASKA DEPARTMENT OF ENVIRONMENTAL CONSERVATION
John Sandor, Commissioner

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THE NATIVE VILLAGE OF CHENEGA BAY
THE NATIVE VILLAGE OF PORT GRAHAM
THE NATIVE VILLAGE OF ENGLISH BAY
THE NATIVE VILLAGE OF LARSON BAY
THE NATIVE VILLAGE OF KARLUK
PORT GRAHAM CORPORATION
ENGLISH BAY CORPORATION
CHENEGA CORPORATION

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and

Samuel J. Fortier
Fortier & Mikko
2550 Denali Street
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Jerry S. Cohen
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Kenneth F. McCallion
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and

Christopher B. Kende
Holtzman, Wise & Shepard
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(212) 573-4300

NEWS RELEASE

STATE OF ALASKA

OFFICE OF THE GOVERNOR
P.O. BOX A
JUNEAU, ALASKA 99811

WALTER J. HICKEL
GOVERNOR

FOR INFORMATION CONTACT

ERIC REHMANN
PRESS SECRETARY

JOHN MANLY
DEPUTY PRESS SECRETARY

(907) 465-3500
FAX (907) 586-8369

FOR RELEASE: May 21, 1991
No. 91-109

HICKEL THANKS LEGISLATURE FOR EXXON VALDEZ TURNABOUT

JUNEAU--Governor Walter J. Hickel today thanked state legislators for giving him their endorsement to go back to the bargaining table to obtain a new Exxon Valdez settlement.

The legislature unanimously passed a resolution, HCR 38, that gives the green light to the administration to renogiate another settlement "on the terms and conditions that are in the best interests of the State of Alaska."

"In the cold light of day, they had the opportunity to reconsider their decision," Hickel said. "When the house turned down the settlement, I was disappointed, but I didn't have a bad feeling about it. I felt inside that the settlement could be revisited this session. I could not turn my back on the settlement, because it was right for Alaska. I think Alaskans are united on this issue."

The Governor suggested that the settlement was viewed as unfinished business by the legislature. "They didn't want to adjourn with unfinished business still on their plate," he said.

-more-

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FOR RELEASE: May 17, 1991
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HICKEL SAYS EXXON LAWSUIT COULD HAVE BEEN AVOIDED

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"This is exactly the type of litigation we wanted to avoid. We were disappointed the Alaska House of Representatives disapproved the settlement," Hickel said. "Now, we will spend general fund dollars to respond to this lawsuit, rather than enhancing and rehabilitating Prince William Sound, Kodiak and other areas impacted by the spill."

The State of Alaska was named as a defendent in a complaint filed by Exxon and its shipping company and which was served on the state yesterday. It asks the court to sort out the various and overlapping resource damage claims and issue a declaratory judgment identifying the owners of the resources damaged by the oil spill.

"There is a lot at stake in this lawsuit," Hickel said. "The court could find, for example, that the state doesn't own the natural resources--that we have no claim. If that happens, we won't get anywhere near a billion dollars, if we get anything. This is just the type of nightmare the settlement would have allowed us to avoid."

Named as defendants are trustees of the federal and state governments, five Native villages and three Native corporations.

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CORRECTION

THIS DOCUMENT
HAS BEEN REPHOTOGRAPHED
TO ASSURE LEGIBILITY

NEWS RELEASE

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-more-

Hickel lauded the legislators for helping to bring forth a new atmosphere of cooperation with his administration. "I hope this new attitude lasts, and that we can build on it during the interim," he said. "By the time the legislature reconvenes in January, we should fully understand one another."

Hickel thanked Senators Rick Halford, Dick Eliason, Jay Kerttula and Pat Rodey, and Representatives Mike Navarre, Ben Grussendorf, Robin Taylor, Cliff Davidson and Gene Kubina for helping put the resolution together and shepherd it through the house and senate. He especially commended the house Republican minority members for their full support of the settlement.

####

NEWS RELEASE

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CAPITOL COUNTDOWN:
Hickel victory

Continued from Page B-1

measure. And although the governor didn't take a strong stand to bust it out of the Resources Committee, Hickel aides felt Coghill was overstepping his authority.

While waiting for the elevator outside the governor's office, Coghill was stopped by Hickel's special assistant for special projects, James Rockwell. Rockwell told Coghill the governor supported the bill.

Coghill said the administration would not support spending $22 million to buy trees. Rockwell grabbed the lieutenant governor's arm and told him the governor did support it.

Hickel press secretary Eric Rehmann said he had heard rumors of Coghill's trying to kill the Kachemak deal.

"If the lieutenant governor is doing this, he does not understand the governor's position," Rehmann said.

BOB HALLINEN / Anchorage Daily News

House Speaker Ben Grussendorf talks to Sen. Lloyd Jones in the House as Rep. Max Gruenberg and Rep. Loren Leman listen.

Hickel and the Little Man taste victory

5.22.91

By DAVID POSTMAN
Daily News reporter

JUNEAU — The Little Man declared a little victory on the final day of the legislative session when lawmakers approved a resolution asking Gov. Wally Hickel — in whose body the little guy lives — to negotiate a new Exxon Valdez settlement.

"The Little Man says, 'Keep going,'" Hickel said at a news conference shortly after the Senate unanimously approved the resolution. The House had approved it, also unanimously, Monday night.

The first settlement negotiated among the state, the federal government and Exxon fell apart early this month when the state House rejected the pact and Exxon exercised its option to pull out.

"When they turned it down, something inside of me said, "We're not going to quit,'" said Hickel, who calls that inner voice the Little Man.

Hickel said the resolution gives him carte blanche to cut a new deal with Exxon, and he said he would not bring it back for legislative approval. He also sa'd he would not consult with lawmakers during negotiations.

But Rep. Gene Kubina, D-Valdez, author of the resolution, said the resolution should not be seen as a sign that the House has changed its mind about the previous settlement. He said the legislature only wanted to give Hickel a push to reopen negotiations.

Lt. Gov. Jack Coghill got crossways with the official Hickel agenda on the last day of the session. Coghill had been trying to stop a bill — that finally died in the Senate — that would have spent $22 million to buy up a large timber tract around Kachemak Bay.

But Hickel supported the

Please see Page B-2, CAPITOL

more coming

Spill deal may arise from ashes

Legislators lobby to revive Hickel's Exxon settlement

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JUNEAU — Gov. Walter J. Hickel's $1 billion Exxon Valdez oil spill settlement may not be dead yet, House and Senate leaders said Sunday.

At Hickel's urging, key legislators are working behind the scenes to revive the deal or have negotiators come up with a better one.

"I think we're going to get Exxon Valdez," Hickel said Sunday. "We're pushing real hard."


Hickel

House Speaker Ben Grussendorf and Senate President Dick Eliason are drafting a resolution asking Hickel and Attorney General Charles Cole to go back to the bargaining table, where state, federal and Exxon officials struck the first deal in March.

The measure could come up for votes today. The Legislature faces a midnight Tuesday adjournment deadline.

The House earlier this month rejected the settlement of state and federal civil claims against Exxon after a U.S. District Court judge threw out the accompanying $100 million criminal fine.

Exxon and its shipping subsidiary have until Friday to withdraw four guilty pleas to environmental charges stemming from the March 24, 1989, oil spill of about 11 million gallons in Prince William Sound.

Hickel earlier said he would honor lawmakers' vote on the settlement, but he and Exxon pulled out of the deal the day after the House rejected it 27-13 along party coalition lines. All sides said they would focus on the coming trial, but Cole said he remained hopeful about reaching another deal.

Last week, Exxon sued the state, federal government and Native groups, seeking a court ruling

Exxon

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on who could sue the oil giant for civil claims.

"It sort of brought it back into focus," said Eliason, R-Sitka. "A lot of senators thought there was a chance to salvage an agreement."

Eliason and majority leader Rick Halford, R-Chugiak, two of Hickel's closest allies, are the prime Senate forces behind the new effort. They met Sunday with Grussendorf, D-Sitka, outside a committee room to talk about another attempt on the settlement.

The House and Senate will come up with a broadly worded joint measure asking Hickel and Cole to negotiate another deal "on as good or better terms" as the first one, Eliason said.

Grussendorf, a key player in the settlement's demise, agreed.

"I believe the senator may be right," he said. "We will get it. Exxon Two is like a phoenix rolling out of the ashes."

But first, Grussendorf and Eliason said, some deals are being made to ensure enough votes to win legislative approval.

That may include listing House members' objections to the settlement as suggestions in the resolution, Eliason said.

Rep. Gene Kubina, a Democrat who represents Prince William Sound, said, "I think there'll be a resolution asking the governor to continue negotiations. Not a revival of what was.

"What we want is to go forward with negotiations," he said. "Nobody ever said we wanted to litigate."

The settlement had called for Exxon to pay the state $900 million over 11 years, to be administered by a state and federal trust for Sound restoration.

House Democrats had said they did not like the extended payment period or lack of legislative control in spending the money. They also urged a higher criminal fine, a lower civil penalty and clarification and protection of third-party claims.

In addition, they wanted access to some state scientific studies, which Cole said he has kept secret to protect the state's case, and to drop the so-called "reopener" clause, which they called too narrow. The settlement would have allowed the state to seek another $100 million if additional environmental damage is found in later years.

Grussendorf would not say who else was pushing the efforts in the House.

Rep. Mike Navarre, D-Kenai and co-chairman of the House Finance Committee, said he and Hickel discussed the settlement in an argument they had in the governor's office Friday. Navarre voted against the deal.

"He made a reference to it," Navarre said about the House vote. "He made mention of it and obviously it was a disappointment to them."

Navarre said James Rockwell, Hickel's special assistant, and Don Tanner, Hickel's boards chief, later came to Navarre's office to discuss various issues. Navarre said he and Hickel had another "friendly" discussion.

Rockwell and Tanner would not discuss any administration efforts to lobby swing votes.

Cole also declined to comment Sunday. Last week he said Exxon's suit would not help negotiation efforts.

Exxon spokesman Bill Smith in Irving, Texas, said Sunday night, "Our comment is no comment."

A U.S. Justice Department spokeswoman in Washington, D.C., did not return phone calls Sunday.


Times photo by RUSS KENDALL

Attorney General Charles Cole listens to testimony during a meeting of the Finance Committee.

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(WASHINGTON) - A FEDERAL JUDGE IN WASHINGTON SAID TODAY (MONDAY) HE WAS CONCERNED THAT EXXON'S SETTLEMENT WITH THE GOVERNMENT OVER THE VALDEZ OIL SPILL COULD INTERFERE WITH THE RIGHTS OF ALASKA NATIVES TO PURSUE THEIR OWN DAMAGES.

A HEARING TODAY BEFORE U-S DISTRICT JUDGE STANLEY SPORKIN CAME LESS THAN A WEEK AFTER FEDERAL JUDGE RUSSEL HOLLAND THREW OUT THE CRIMINAL PORTION OF THE EXXON SETTLEMENT. HOLLAND SAID THE 100 (M) MILLION DOLLAR FINE WAS TOO LENIENT -- AND HIS RULING LEFT IN DOUBT THE FUTURE OF THE SETTLEMENT.

THE JUDGE DID NOT RULE ON A GOVERNMENT MOTION TO TRANSFER THE ALASKA NATIVES' LAWSUITS TO HOLLAND'S COURT.

SPORKIN HAD ISSUED A RULING BEFORE THE EXXON SETTLEMENT WAS ANNOUNCED IN MID-MARCH, SAYING IT SHOULD NOT INTERFERE WITH THE RIGHTS OF FIVE NATIVE VILLAGES TO SEEK THEIR OWN PAYMENT FOR.. DAMAGE.

TODAY -- VILLAGES' ATTORNEY MICHAEL HAUSFELD TOLD THE JUDGE THE AGREEMENT GIVES EXXON THE RIGHT TO ARGUE THE NATIVES HAVE NO RIGHTS TO SUE FOR PAYMENT FOR DAMAGES TO NATURAL RESOURCES.

SPORKIN TOLD HAUSFELD TO SEEK A STATEMENT FROM EXXON OFFICIALS ON WHETHER THEY BELIEVE THE SETTLEMENT AFFECTS THE NATIVES' CLAIMS. HAUSFELD TOLD REPORTERS HE WOULD DO SO NEXT WEEK.

GOVERNMENT ATTORNEY LETITIA GRISHAW -- MEANWHILE -- CONTENDED THAT THE SETTLEMENT DOCUMENT IS NEUTRAL.

GRISHAW ARGUED AGAINST ANY NEW COURT ORDER BARRING ANY GOVERNMENT ACTION THAT WOULD AFFECT THE VILLAGES' RIGHTS AND ALSO SAID SPORKIN DID NOT HAVE THE RIGHT TO ORDER REVISIONS IN THE SETTLEMENT.

JUDGE SPORKIN EXPRESSED FRUSTRATION -- SAYING HE IS VERY CONCERNED THAT PEOPLE'S RIGHTS ... MAY WELL BE INTERFERED WITH IN THE SETTLEMENT.

GOVERNMENT ATTORNEY DAVID CARSON NOTED THAT EXXON HAS UNTIL THE END OF THE WEEK TO DECIDE WHETHER TO BACK OUT OF THE AGREEMENT ON THE CIVIL CLAIMS. IF IT DOES, THE ISSUE IS MOOT.

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