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Exxon sues to settle claimants' rights

5.17.91

MAY 17 '91 07:49 VISITING SENATORS OFFICE P.13

By SCOTT REEVES
TIMES WRITER

The state and federal governments as well as Alaska Natives have filed conflicting and contradictory claims resulting from the Exxon Valdez spill, attorneys for the oil company charged Thursday.

In a lawsuit filed in U.S. District Court in Anchorage, attorneys for Exxon asked a judge to narrow the scope of the claims filed against the oil company and to determine which laws apply in the case.

Exxon's lawsuit also asks the court to decide who is entitled to file for any damages sustained from the oil spill. It sharply questions the right of the state and federal governments as well as Native groups to be paid pursuant to the federal Clean Water Act.

In Juneau, Alaska Attorney General Charles Cole said Exxon's lawsuit came as a "total surprise."

"Exxon wants to know which entity has the right to recover natural resource damages," Cole said.

Cole said he believed the issues raised by Exxon had been resolved when the state and federal governments joined their claims.

"That's one of the reasons we fashioned the settlement agreement in the manner in which we did," Cole said. "This would not have happened if the settlement had been accepted."

The proposed $1 billion settlement with Exxon died after the Alaska House rejected it earlier this month. The action followed Anchorage federal Judge H. Russel Holland's rejection of a criminal plea bargain intended to be part of the settlement. The out-of-court agreement would have settled state civil and federal criminal claims stemming from the spill.

Lloyd Miller, an attorney representing Native corporations and villages, called the lawsuit an attack against the Natives.

"Exxon is trying to get a clarification from the court sooner rather than later on its liabilities," he said.

Named as defendants in Exxon's lawsuit are state and federal officials in their governmental capacity as well as the Native villages Chenega Bay, Port Graham, English Bay, Larsen Bay, and Karluk. The Port Graham, English Bay and Chenega corporations are also named as defendants.

Exxon is forced to respond to "inconsistent theories" in civil claims stemming from the March 24, 1989, spill of nearly 11 million gallons of crude oil in Prince William Sound when the Exxon Valdez ran aground on Bligh Reef, the lawsuit said.

"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," the lawsuit said. "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 alleged inconsistency "serves to increase the claims of both the state and federal trustees," the lawsuit charged.

Times writer Jay Croft contributed to this report.

Exxon asks judge to rule on who can sue

5/17/91

By DAVID POSTMAN
Daily News reporter

Exxon Corp. went to federal court Thursday to ask a judge to rule on who has the right to sue the giant oil company for damages caused by the wreck of the Exxon Valdez.

In the complaint, filed in U.S. District Court, Exxon argues that the federal government, the state and Native villages have all filed lawsuits against the company offering contradictory theories. There are 11 suits in three different courts, the complaint says, and one court needs to sort out the various legal arguments.

For example, "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," according to Exxon.

Federal agencies, the state and the Natives each claim to have exclusive rights to act as trustees of the natural resources damaged in the massive 1989 oil spill, the complaint says. That exposes Exxon to "double or multiple liability."

Exxon argues that only the federal government or the state has the right to sue for natural resources damaged by the spill, not the Natives.

Attorney General Charlie Cole, who said he got the lawsuit late Thursday, said it could force an answer to the question about who owns the fish and wildlife damaged by the 1989 spill.

"The state and federal governments avoided this problem," Cole said, because their claims against Exxon were joined together.

But now that a proposed settlement of Exxon Valdez litigation has disintegrated, Exxon wants a ruling to determine who can sue for the damage done to Prince William Sound.

Cole said he didn't know how significant the suit was but it certainly would hurt chances to settle the state's suit against the oil giant.

"Further litigation, in my view, never makes settlement easier," he said.

If the settlement had been approved by the legislature, Exxon would have been prohibited from suing the state and federal governments.

☐ Daily News reporter Marilee Enge contributed to this story

Toxic pollution list includes six Alaska companies

5.17.91

By T.A. BADGER
ASSOCIATED PRESS

Nationwide pollution data shows six companies in Alaska released nearly 25 million pounds of toxic materials into the atmosphere in 1989, the Environmental Protection Agency reported Thursday.

The report was made public as part of the EPA's Toxic Release Inventory, which measures more than 300 chemicals. The inventory's release is required under federal right-to-know laws.

The report said 22,650 industrial sites across the nation emitted 5.7 billion pounds of toxic chemicals into the environment that year.

About 2.4 billion pounds was released into the air, 1.5 billion pounds transferred to treatment or disposal facilities, 1.2 billion injected into underground wells, 445 million pounds went into landfills and about 190 million pounds was dumped into water.

Alaska accounted for a little less than half a percent of the national total, the EPA said.

The vast majority of the state's toxic release was the 18.3 million pounds of ammonia that went into the air from Union Oil Co.'s chemicals plant in Kenai. Another 240,000 pounds of ammonia went into bodies of water from the plant.

Ketchikan Pulp Co.'s plant in Ketchikan released about 4 million pounds of methanol, hydrochloric acid and other chemicals into bodies of water and another 989 million pounds of hydrochloric acid, sulfuric acid and chloroform into the air.

Alaska Pulp Corp.'s facility in Sitka dumped about a million pounds of methanol, ammonia and other toxins into water and more than 108,000 pounds of various chemicals into the air.

Tesoro Alaska Petroleum Corp.'s operation in Kenai dumped about 100,000 pounds, and Chevron USA Inc.'s Kenai facility and Mapco Alaska Petroleum Inc.'s North Pole refinery each about 20,000 pounds.

Thursday, May 16, 1991, The Anchorage Times

Olds offers idea of moving villages to improve rural economy

ASSOCIATED PRESS

JUNEAU — Given that Alaska Natives have a nomadic past and rural economies are hurting, some villages could be moved to places where they make more economic sense, Commerce Commissioner Glenn Olds says.

Glenn Olds

Olds, who oversees several state programs aimed at boosting rural economies, said he discussed his idea during a Department of Commerce and Economic Development staff meeting last week.

He said he had hoped the radical proposal "wouldn't reach the press" because it "could be badly misinterpreted."

"I just threw out a suggestion," he told the Juneau Empire. "I'm not now suggesting that we start moving villages. I'd be run out of town. I'm not talking about anything that could be shoved down people's throats."

He said his comments on the idea were aimed at "enhancing the human and economic viability of rural Alaska."

Alaska's rampant drug- and alcohol-abuse problems can be blamed in part on dismal rural economies, he said.

Most villages were settled for economic or subsistence reasons, but times have changed, Olds said. Now the state is pouring millions of dollars into villages that have no revenue-generating economy.

Moving villages would build on the Native heritage, he said.

"They had to be where the land and resources would sustain their lives. I think that's a good philosophy. There is hardly any culture in the world that has survived with such tenacity."

When that nomadic past and modern technology are combined, moving villages becomes more than just a wild notion, Olds said.

"You can think about new cities, new towns, new villages," he said.

Rep. Ivan M. Ivan, D-Akiak, agrees with some of Olds' premises, but not his conclusions. "What is he saying? Move them to Anchorage or Fairbanks?" Ivan said Wednesday.

He agreed that many villages are in dire economic shape. But he also said Native people were forced by Western civilization to set up villages rather than continue the nomadic lifestyle.

Olds said the state should suggest places where new communities could be built around development projects.

Ivan agreed that people in impoverished villages would willingly relocate for good jobs. But he questioned the role of the state or a commissioner in determining who should move.

"He's not God," Ivan said of Olds. "He's looking at it from here, not from out there (in the villages).

"Out where I come from, villages are disenfranchised. They're saying to hell with the state."

Olds brought up his idea during a discussion of the state's Rural Economic Development Initiative, a program that uses state and federal money to assist various projects and studies

5.13.91

JUDICIOUS ACTION NEEDED

Don't quit settlement

A REFEREE is not supposed to be swayed by the roar of the crowd, nor a U.S. District Court judge by public opinion. But we hope Judge Russel Holland is paying attention to the reaction from all parties following the collapse of the proposed spill settlement between Exxon, the state and the federal government.

It remains in each party's best interest that the suits be settled short of a prolonged court proceeding.

Members of the State House responsible for the political opposition vote that derailed the settlement are now looking with apprehension at prospects that Exxon and the federal government may not come back to the negotiating table. The politicians know that their personal political ambitions go down the drain along with the settlement — if that should happen.

JUST MENTION Amoco Cadiz and you'll get a shudder from the lawmakers and others who advocated scuttling the proposal. Litigation over the Amoco Cadiz oil spill off the coast of France dragged on for more than 10 years. That spill was far greater than the Exxon Valdez, and the final court award for damage was a mere pittance of what Exxon was offering the state and federal government in an out-of-court settlement.

Exxon's legal staff reportedly is advocating that there be no more settlement talks. The lawyers believe they can win a much smaller fine and settlement than had been on the table. Company officials, on the other hand, realize that there is an advantage to the certainty of knowing now the extent of their liability, as well as there being a positive benefit for Exxon to make good on its commitment to Alaska to restore Prince William Sound.

IMMEDIATE restoration of the Sound is the principal reason why the state and federal government support a settlement similar to the one that was proposed. It would fund scientific research and programs to ensure environmental and economic recovery of the region.

Judge Holland, whose rejection of the criminal plea bargain provided the political cover for Rep. Max Gruenberg and his following to reject the civil claims settlement, now should act to put the proposal back together. A revised settlement package could accommodate the concerns of Natives seeking compensation for environmental losses. It should not, however, include the Legislature's desire to have access to a settlement fund's checkbook.

In fulfilling his obligation to enforce the law when he declared the proposed criminal fine insufficient, Judge Holland said the civil and criminal suits were not tied together. From a legal standpoint that may be the case, but the enormous consequence of that decision for the people of this state and for the nation should also be weighed. In that context it would be most appropriate for the judge to bring all parties together and facilitate a final resolution.

The Sound recovers

5.16.91

Tour underlines success of man, nature against oil spill

By DANIEL R. SADDLER and BERT TARRANT

TIMES WRITERS

SMITH ISLAND — Everyone was there Wednesday for a three-island tour of beaches devastated in the 1989 Exxon Valdez oil spill — Exxon, state and federal personnel and the media — but oil was a virtual no-show.

As preparations continue for the third and final summer of cleanup, officials led reporters on a triumphant tour of sites where man and nature had combined successfully to scour crude from Prince William Sound.

"On any of the shorelines I've been on, I don't see a potential for problems," said Andy Teal, an Exxon biologist. "Ninety-nine percent of the shorelines are clean. We're just taking care of isolated spots."

Ernie Piper, the state's on-scene spill coordinator, acknowledged success on the three sites, but added not all the oil is gone from the Sound's shores, and may never be.

"You can't generalize it as being all good, but you can't generalize it as being all bad, either," Piper said.

The tour visited Smith Island and LaTouche Island's Sleepy Bay, where winter waves helped flush out oil six inches above, and 20 inches below the rocky surface, said Teal.

New growth of black mussels and barnacles, combined with abundant algae, showed nature was recovering from the spill, even on the sheltered bay at Eleanor Island, Teal said.

"Black mussels are used in lab tests for toxicity because they are very sensitive to oil in their environment," said John Wilkinson, Exxon's technical spill response coordinator. "They're coming back well, and they taste good, too."

How much cleanup work re-

See Cleanup, back page

Cleanup

Continued from page C1

mains to be done on the 10.9 million gallon spill remains to be seen. Six 11-man crews are about halfway through a five-week spring assessment of 575 shore sites.

Based on their observations, a technical advisory group will recommend cleanup work this summer to Rear Admiral David Ciancaglini, federal on-scene coordinator, who will order work after consulting with land owners.

Workers may need to pick up oil on about 100 beaches, while heavy equipment may be needed to dig up subsurface oil on about six sites, he said. Exxon has ordered about 30 drums of Inipol, a liquid fertilizer used as a final treatment to help bacteria eat oil, Wilkinson said.

Ciancaglini said more intrusive efforts would interrupt natural cleaning, and could cost too much compared to the slight benefit of releasing inert, trapped oil. He anticipated cleanup ending in mid-July, he said.

"The question we must ask in our assessment is whether further cleansing will aid or harm nature's work, as well as decide if the cost of cleanup is excessive in view of the contribution it makes," he said.

"Can Exxon claim a success story?" asked Jim Gibeaut, Alaska Department of Environmental Conservation geologist. "I think some of the success of winter storms in cleansing the shoreline has been overstated, but, yes, they can."

Ciancaglini and Teal performed the familiar ritual of digging a hole, then watching as a tiny oil sheen formed on the surface of the water. The admiral said he doubted the oil was frightening wildlife, despite claims by Native residents of nearby Chenega Bay that even this subsurface oil was impeding their subsistence hunting and fishing.

One site where heavy equipment would be necessary is Point Helen, which was heavily oiled by the spill. The state will continue cleanup of areas where there is significant subsistence, recreational or other use, he said.

"We've got the problem down to a size and complexity that if everyone went home tomorrow, the little old state of Alaska could take care of it," he said.

Exxon's Otto Harrison said he was glad the intense media attention of earlier summers was gone.

"We don't need to be in the spotlight to get the job done," he said.

Anchorage Daily News Tuesday, May 14, 1991 B

FORUM / LETTERS

Spill settlement lacks a key element: fairness

By REP. MAX GRUENBERG

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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Hickel disputes claim on Sound oil cleanup

News 5.10.91

The Associated Press

JUNEAU — Gov. Wally Hickel on Wednesday disputed an Exxon Corp. official's contention that the Exxon Valdez oil spill had no long-term effect on Prince William Sound.

Speaking at an oil-technology conference in Houston, Otto Harrison, the Exxon official who oversaw the spill cleanup, said fish were returning to the waterway in large numbers.

"The waters of Prince William Sound are sparkling and clean," he said. "Wildlife is abundant, diverse and healthy, and there is no impediment to normal activities as a result of the oil spill."

But Hickel said environmental damage remains.

"There is still a great deal of natural resource damage restoration to be completed," he said in a statement. "That is why we were so eager to have the state's legislature favorably pass the Exxon Valdez settlement."

The Alaska House last week rejected the $1 billion settlement. The state and Exxon formally withdrew from the agreement Friday.

Harrison said Exxon's expensive cleanup boosted the Alaska economy, which Hickel did not dispute.

"Anytime you put over $2 billion into a state's economy, it is going to have a positive effect," the governor said.

Bill aims to boost bank-AIDEA activity

The Associated Press

5.10.91 News

JUNEAU — A measure aimed at increasing bank participation in the commercial loan program of the Alaska Industrial Development and Export Authority was endorsed by the House Tuesday.

The measure provides several incentives for bank participation in the program, including an increase in the loan cap from $10 million to $15 million. It also would allow AIDEA to increase its loan guarantee from 80 percent to 80 percent on loans under $50,000.

AIDEA is a public corporation that finances and develops industrial, manufacturing and other business enterprises within the state. Its activities are funded through a $535 million revolving fund.

House Bill 206 passed without opposition and was sent to

Alaska charities fear effects as pull-tab sales ban nears

5.10.91

By MATT KOHLMAN
The Associated Press

News

JUNEAU — Alaska charities said Thursday that lawmakers will hammer the last nail in their fund-raising coffin if they don't pass legislation this session to ease the state's pull-tab lottery regulations.

"There are many non-profits that are hanging on by a prayer and a promise," said Roger Cunningham, co-chairman of the Coalition for Non-Profit Gaming.

The state in January began prohibiting the sale of pull-tab lottery tickets in unlicensed outlets. State law requires operators to have licenses, but the law had never been enforced.

The ban was later revised to allow bars, restaurants and other third-party vendors to sell pull-tabs as long they received no compensation. The provision is set to expire Wednesday.

The Hickel administration may adopt the regulation as permanent or amend it, but it, too, is looking to lawmakers for a solution.

"We've been waiting for the legislature to act responsibly," said John Hansen, gaming manager for the Division of Occupational Licensing. "Until there's a change in the law we can't recognize vendor sales."

That has meant a loss of millions of dollars for the state's nearly 1,150 non-profit groups holding gambling permits.

Pull-tabs were being sold by as many as 2,500 vendors when the state began enforcing the ban, Hansen said.

Now, "they've just virtually locked it up," said Cunningham, whose group represents about 30 Alaska charities.

The lack of pull-tab revenue has caused the Alaska Mental Health Association to drop suicide-prevention and low-income housing plans and concentrate on existing programs, said Dan Alexander, interim director for the group.

Don Brandon, executive director of the Easter Seal Society of Alaska, said his group has had to scale down its plans to hold a summer camp. The group would have received $15,000 just from pull-tab games that were cut short by the ban, he said.

"That would have brought us in line with doing a camp ... that would look like a camp instead of a slumber party."

Two bills seek to resolve the issue, but both have been bottled up since early April in the judiciary committees.

Legislation sponsored by Sen. Fred Zharoff, D-Kodiak, would allow third-party vendors to sell pull-tabs under state regulation. It also would guarantee charities receive at least 70 percent of the money left over after paying prizes.

Senate bill 6 is supported by the Hickel administration, Hansen said. It is also acceptable to most non-profit groups.

House bill 168, introduced by Rep. Dave Choquette, R-Anchorage, is similar to the Senate bill.

State sets figure for Fairbanks flooding

Tim 5-10-91

ASSOCIATED PRESS

The state Division of Emergency Services has set a preliminary figure of \$1.5 million to \$2 million for the damage caused by flooding this week in Fairbanks North Star Borough.

Gen. Hugh Cox, emergency services commissioner, said Thursday that the figure was probably too low. He said more than 300 homes were damaged, as well as several roads and other public facilities. Some of the homes are still underwater.

"Until the water actually recedes, we're not going to know just what the actual damages are to individual homes," said Cox, who visited the borough Thursday.

Gov. Walter Hickel on Tuesday responded to the borough's flooding by declaring the flooded areas a disaster. His action qualifies homeowners and the borough for state money for flood repairs.

Cox said McGrath, which also sustained extensive damage when ice jams on the Kuskokwim River caused heavy flooding, has requested disaster status, which most likely will be granted. He said a state team has been sent to McGrath to assess damage.

The disaster declaration qualifies homeowners for up to \$5,000 in state money, Cox said.

WORLD INFORMATION SYSTEMS

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Notes: Dear Mary -

Thanks for taking the time a few days ago to fill me in on the Senator's view of the Exxon Valdez settlement. As promised, I'm sending a copy of the May 4th New York Times article that quotes Senator Eliason.

Thanks again - Eric Bruns

This transmittal consists of 2 pages (excluding cover sheet).

From: Eric Bruns
Executive Editor
Golob's Oil Pollution
Bulletin

Date: 5/9/91

Time: 6:55 pm

VOL. CXL . . . . No. [illegible]

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EXXON AND ALASKA DROP SETTLEMENT IN VALDEZ OIL SPILL

COURT BATTLE IS PLANNED

Pact to Resolve Civil Lawsuits Could Be Years Away — Governor Shows Anger

[redacted] 202-577-1900 Pam Addison

By KEITH SCHNEIDER
Special to The New York Times

WASHINGTON, May 3 — The $1 billion agreement to settle civil complaints against Exxon in the Exxon Valdez oil spill collapsed today, and state and Federal officials plan to go to court. The process is likely to take years.

The end of the seven-week-old agreement came this evening when Gov. Walter J. Hickel of Alaska and the Exxon Corporation formally withdrew. But the pact began to unravel last month under sharp criticism from Alaskan residents, a Federal judge, lawmakers and environmental groups.

The Bush Administration expressed disappointment and said it was not likely to try to negotiate a new pact with Exxon or the State of Alaska.

'Getting Ready for Trial'

"Exxon's backing out and the Governor's backing out and we're getting ready for trial," said Timothy A. Campbell, general counsel of the National Oceanic and Atmospheric Administration, who was an influential negotiator in the agreement. "I think it is unlikely further negotiations are feasible. It's too complicated a problem to solve. Sometimes there are things that need to be resolved in court."

In addition to Federal court hearings over civil damages sought by the state and the Federal Government, Exxon and its shipping subsidiary the Exxon Shipping Company, face a trial over eight criminal charges filed after its tanker, the Exxon Valdez, struck a reef in Prince William Sound in southeastern Alaska on March 24, 1989, dumping nearly 11 million gallons of oil into the sound.

Last month a Federal judge rejected the criminal plea agreement that Exxon reached with the Government, saying that the $100 million fine that was proposed was too small.

Governor Expresses Anger

At a news conference in Alaska, Governor Hickel said he was angry about the collapse of the agreement.

"We will now have to spend millions each year on lawyers to litigate with Exxon," he said. "The people of Alaska should be outraged."

Asked what would happen now, the Governor replied, "We haven't any real big game plan."

Like the environmental damage caused by the oil spill, the collapse of the $1 billion civil settlement means that the litigation stemming from the nation's worst oil spill is almost certain to last for years, Government lawyers said today.

Separate civil cases against Exxon have been filed by the state and the Federal Government, and if Exxon battles the claims vigorously they would

Continued on Page 2, Column 1

New York Times
5-4-91

NYT

Settlement on Exxon Spill Collapses

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Continued From Page 1

not reach the courts until 1994 or 1995. Trials would take months to complete, lawyers said, and appeals are likely no matter which side wins.

Charles E. Cole, Alaska's Attorney General, said that if Exxon eventually lost it might not be required to pay as much as the state and the Federal Government would have gained from the agreement.

Mr. Cole, along with officials in the Bush Administration, have noted that the political costs of the collapse could also be significant. The settlement agreement after 67 days of negotiations earlier this year by two Bush Cabinet members, the Administrator of the Environmental Protection Agency, Governor Hickel and Mr. Cole.

Aides in Alaska and deputies at several Federal agencies said the urgency of the negotiations was heightened by the interest of Mr. Bush and Mr. Hickel in opening the Arctic National Wildlife Refuge to oil exploration. The refuge's oil, if it is ever tapped, would flow to the West Coast of the United States through the Trans-Alaska Pipeline to Valdez, the southern terminus of the pipeline, and by oil tanker through Prince William Sound.

Quelling Public Anxiety

The Administration fears that the public links the Exxon Valdez disaster with the environmental hazards of new oil exploration in the 19-million-acre Arctic refuge. Penalizing Exxon and proving that the state and Federal governments are serious about restoring Prince William Sound would help quell public anxiety about exploring for oil in the Arctic, aides at several Federal agencies said.

When the $1.1 billion civil and criminal settlement was signed on March 12, the Administration and Governor Hickel believed they had gained some tough concessions from Exxon, including the largest penalty ever proposed for environmental crimes, and that the public would readily support the pact.

So confident was the Administration of the pact's ultimate approval that Attorney General Dick Thornburgh, in a news conference on March 13, called it the "strongest message" ever sent by the Government to prosecute a polluter.

Fine Called Too Small

The settlement agreement was divided into criminal and civil portions. Exxon agreed in the criminal portion of the settlement to plead guilty to four environmental crimes and to pay a fine of $100 million.

That agreement was rejected on April 24 by Federal District Judge H. Russel Holland in Anchorage, saying

Associated Press

Governor Walter J. Hickel of Alaska, who formally withdrew from a $1 billion settlement with Exxon Corporation.

he considered the fine too small. Judge Holland gave Exxon until May 24 to decide if it wants to withdraw from the criminal plea agreement and prepare for a trial, or to allow the court to decide the fine.

A company spokesman said today that Exxon had not decided what it wants to do in the criminal case.

A spokeswoman for the Justice Department said the Government was preparing for a criminal trial.

The civil agreement called for Exxon to pay $900 million over the next 10 years, most of it to be deposited into a fund managed by Federal and state agencies and to be used to complete environmental restoration work in Prince William Sound. In addition, the company could have been required to spend $100 million more after th year 2001 if more damage was found.

The immediate cause of the collapse of the civil agreement came on Thursday when the Alaska House of Representatives voted, 27 to 13, to reject the pact. The State Senate, which was scheduled to vote today, canceled plans to vote on the agreement because it considered the matter settled after the House vote.

"The State of Alaska lost an opportunity to put this issue behind us and to receive a considerable amount of money to enhance Prince William Sound," said Dick Eliason, the president of the State Senate. "Now it's going to cost us money. The Department of Law will need $20 million to continue the case in court, and we need to keep paying $500,000 a month to assess the damage in Prince William Sound. It's not a good day here."

Max Gruenberg, the majority leader of the Alaska House of Representatives, said House members believed they had no choice but to reject the proposed settlement. Mr. Gruenberg headed a special legislative panel that held public hearings around the state this year, and found that popular support for the agreement was weak in many regions.

He said Alaskans felt that Exxon was being required to pay too little for damage that would last years and cost billions to repair. Many Alaskans wanted a number of scientific and economic studies on the damage to Prince William Sound that were kept secret.

Alaskans also considered Exxon's response to the agreement irresponsible, Mr. Gruenberg said. Hours after the pact was signed, Lawrence G. Rawl, Exxon's chairman, told a news conference in Texas that the pact would have absolutely no effect on the company's profits and would not effect its busines.

In Washington, William K. Reilly, the Administrator of the Environmental Protection Agency, issued a statement today sayubg: "The fine we had negotiated is the highest by several orders of magnitude ever imposed for an oil spill. Fines, while they serve an important service and inflict pain, do nothing directly for the environment. They are deposited into the Treasury. It's the funds in the settlement for restoration than concern me. Should Exxon proceed to trial, it may be years before the Alaskan environment benefits from those funds."

Prison for Ex-Detroit Aide

DETROIT, May 3 (AP) — A former deputy police chief and business partner of Mayor Coleman A. Young was sentenced Thursday to 10 years in prison for his role in a precious-metals pyramid investment scheme. The 45-year-old defendant, Kenneth Weiner, was indicted in February 1990 on fraud and other charges stemming from the scheme.

Dead deal

5-9-91
News

Collapse of settlement alters landscape

The oil-spill settlement with Exxon is dead, but there shouldn't be too many tears at the wake. State and federal negotiators should use the deal's demise to drive a harder bargain — either in another agreement, or in court.

The argument for seeking a new deal remains the same. The terms will just have to be better. A settlement could speed up money for restoring areas hit by the spill. And it would save tens of millions of dollars that would be spent in an unproductive, decade-long legal battle.

Going into round two, though, Alaska shouldn't get too greedy. Opponents of this deal suggested the state might win as much as $5 or $10 billion in a fight to the finish. But that figure is at best highly speculative. The underlying legal theories are untested before the U.S. Supreme Court, which is growing ever more conservative. The court is unlikely to take bold legal steps that expose U.S. business to brand-new multibillion dollar liabilities.

That said, Alaska can't roll over and play dead just because it would prefer to put the spill case to rest. Paying for lawyers is never pleasant, but sometimes it's unavoidable. If Exxon won't up the ante, the state should be prepared to fight to the last sentence of the last court appeal.

A better deal would include a number of improvements:

A tougher criminal penalty. Judge Holland has properly demanded a much stiffer criminal fine. The simplest course would be to drop any link between the state's suit and the criminal case. If a criminal plea is part of a new overall deal, the state should make sure a bigger fine doesn't cut the sum Alaska stands to collect.

Keep Alyeska on the hook. There's no way federal prosecutors should let Exxon's plea bargain include criminal immunity for Alyeska Pipeline. Alyeska should be required to answer for its conduct before and during the spill and pay the price if its behavior is deemed criminal.

Faster payments. Gov. Hickel tried to pitch this deal as a billion-dollar boon to the state. The billion-dollar figure is in the right ballpark, but Exxon should be made to pay it up front, instead of dragging it out over a decade.

More public oversight: The process for spending restoration money can be improved. The House was right on with its call to include two legislators as non-voting spill trustees and to open the process to public scrutiny.

But Gov. Hickel should resist the legislature's demand for more say in how restoration money is spent. The fiasco of the mental health land trust shows how dangerous it is to give legislators any power to steer money away from a legally mandated purpose. If they can, they will.

Lawmakers say they're only watching out for their constitutional prerogatives. But pushing their point will only provoke another wasteful round of legal battles.

Official touts spill's economic ef

5.

By BERT TARRANT

TIMES BUSINESS WRITER

Exxon Co. USA's top official in Alaska said Wednesday Alaska received a major economic boost as a result of the Exxon Valdez oil spill cleanup.

In a speech to participants in the Offshore Technology Conference in Houston, Otto R. Harrison, Exxon's director of Alaska operations, also said the 1989 disaster would not wreak long-term damage on the environment.

"The $2.5 billion we have spent on the cleanup to date has been the largest single economic factor in the Alaskan economy for the past two years," Harrison said.

At a news conference earlier in the day, Harrison said people and industry in Alaska had profited from the spill and that "the state of Alaska has been impacted, but it's all been good," according to wire service reports.

An Exxon spokesman said Harrison was referring only to the economic repercussions of the spill, and that his remarks had been taken out of context.

Gov. Walter J. Hickel disagreed with the Exxon official, after hearing reports that Harrison said the spill had no long-term effect on Prince William Sound.

"There is still a great deal of natural resource damage restoration to be completed," Hickel said in a statement. "That is why we were so eager to have the state's Legislature favorably pass the Exxon Valdez settlement."

The Alaska House last week rejected the $1 billion settlement. The state and Exxon formally withdrew from the agreement on Friday.

Hickel did not dispute the economic boost to the state from the cleanup.

"Anytime you put over $2 billion into a state's economy, it is going to have a positive effect," the gov

In the speech, Harri
opinion — more than tw
Exxon Valdez ran agrou
— indicates misconc
about the spill.

He cited recent polls
that more than 50 percen
believe oil continues to
percent believe wildlife
killed and 80 percent thin
dustry would recover al
all.

"These beliefs are

facts," Harrison said. "My talk today is intended to help clear up the confusion over what is really occurring in Alaska."

He based his assessment on a summary of published studies performed by a number of scientists.

"The heart of
that the waters
sparkling and cle
oil remains on t
wildlife is diverse,
thriving, and ther
ment to normal a
area as a result o
Harrison said.

After an exten
of Exxon's 1989 c
he described 1990
planned $22 mill
1991.

... is a solid investment in our state's future.

effect

5.9.91

ect," the governor said.

peech, Harrison said public nore than two years after the lez ran aground on Bligh Reef es misconceptions remain pill.

l recent polls which showed han 50 percent of respondents continues to wash ashore, 70 lieve wildlife still is being 0 percent think the fishing in- ld recover slowly, or not at

beliefs are far from the

The heart of my update is the waters of Alaska are zling and clean, very little emains on the shorelines, ife is diverse, abundant and ing, and there is no impedi- : to normal activities in the as a result of the oil spill," ison said.

ter an extensive discussion xxon's 1989 cleanup efforts, scribed 1990 efforts and the ied $22 million effort for

ies face same dilemma

5.9.91

Friday decided to freeze the 20.93 per- xecutive Life portion of the SBS fund

state Legislature still must decide r or not to pay for any losses incurred sult of the Executive Life failure. The employees union maintains that the liable for the losses because the fund ministered negligently.

ility, whether moral or legal, also was is for corporate decisions made in the 48.

gia-Pacific Corp. of Atlanta, which i.4 million in Executive Life GICs, o buy back the investment contracts losses to the general corporate fund. ically, we offered different levels for ployee fund and the employee selects they want to put their money," said Veidman, manager of corporate com- tions.

Holiday Inn Worldwide in Memphis also decided to protect the $12.8 million in employee funds invested with Executive Life by guaranteeing the principal amount of each employee's investment in their Stable Income Fund if the insurer does not pay up.

However, until the value of Executive Life investments are determined, 14 percent of all investments have been frozen. That amount is proportionate to the amount of assets with the insurance company.

Xerox, of Stamford, Conn., has frozen the 7.5 percent Executive Life portion of its $885 million GIC fund.

Marathon Oil, based in Findlay, Ohio, also decided to freeze $20 million of their $1 billion "cash with interest thrift plan."

Honeywell Corp. of Minneapolis, Minn., has 16 percent, or $72 million, of its company savings plans with Executive Life, and has chosen to freeze that portion.

governor's office said Wednesday.

The Federal Energy Regulatory Commission ruled recently that the Kuparuk Transportation Co. must cut in half the 61 cents per barrel rate it charges three oil producers to move crude from the Kuparuk River oil field to the trans-Alaska pipeline.

The FERC rate cut is retroactive to when Kuparuk Transportation started operations in 1984.

Kuparuk Transportation is operated for ARCO Alaska Inc., BP (Exploration) Alaska Inc, and Unocal Inc., which produce oil at the Kuparuk River field.

The decision is a result of litigation brought by the state of Alaska in 1985, said John Manly, Gov. Walter J. Hickel's deputy press secretary.

The state claimed the companies avoided paying $28 million in taxes and royalties by overcharging themselves for oil transportation, Manly said.

The high oil transport rates were deducted from market prices, which determine wellhead value. The state assesses about 20 percent in taxes and royalties based on the wellhead value.

The FERC decision represents the first time the federal agency has ruled in a litigated Alaska oil pipeline case. The ruling will affect other North Slope pipelines, the state said.

Kuparuk Transportation is allowed to ask for reconsideration or a modification of the finding under FERC rules. The oil com-

state said.

Susan Andrews, a spokeswoman for ARCO Alaska, and Paul B. Laird, a spokesman for BP Exploration declined to com-

Natives offer spill deal, find no takers — so far

Plan suggests $3 billion fund to pay all damages

By DAVID WHITNEY
Daily News reporter

WASHINGTON — Last week, as the Alaska Legislature moved toward rejecting a $900 million civil settlement with Exxon Corp. over the 1989 oil spill, New York attorneys for Natives presented the federal government with a proposal to salvage a deal.

It came in two parts.

Either Exxon could set up a $3 billion "global fund" to pay off all those claiming damages from the massive spill and rid itself of any future litigation, or it could enter into a more limited agreement by paying $1.5 billion to satisfy natural resource damage claims of the Natives, the state and the federal governments and leave other claimants to go it alone in court.

So far, the offer has been met with an unsettling silence.

"All we can say is that we put forward alternatives that would lead to rational resolution of the litigation," said Mark Jaffe, one of the lawyers who offered up the proposal last week.

The old deal began collapsing when U.S. District Judge Russel Holland in Anchorage ruled last month that the $100 million in fines and restitution Exxon agreed to pay was not enough to resolve the criminal charges against it.

Collapse of the entire civil and criminal package was inevitable when the Alaska House decided there was not enough money up front in the $900 million civil claims settlement, to be stretched over 11 years.

After the House rejected the deal last week, Exxon and the state pulled out of the civil settlement. Exxon's criminal pleas are awaiting

Please see Back Page, DEAL

5-9-91

Comparing Exxon settlement proposals

DERAILED SETTLEMENT

TOTAL: $1 billion
- Criminal fine: **$100 million**
- Restoration fund: **$900 million**

GLOBAL FUND PLAN

TOTAL: $3.3 billion
- Criminal fine: **$300 million**
- Restoration fund: **$1 billion**
- Native and other damage claims: **$2 billio**

LAND FUND PLAN

TOTAL: $1.5 billion
- Criminal fine: **Not addressed**
- Restoration fund: **$1 billion**
- Native damage claims: **$500 million**

PAMELA DUNLAP-SHOHL / Anchorage Daily N

a May 24 deadline for withdrawal.

The dual-track offer of the Native corporations recognizes that Exxon will have to pay more money to get Holland to go along with a criminal plea bargain. It "assumes $300 million" might be enough.

It then proposes a "global" settlement in which Exxon pays $3 billion into a fund, overseen by a court-appointed master, to resolve all civil damage claims. The first $1 billion would be dedicated to environmental restoration of Prince William Sound, and the remainder would go to paying off claims.

Exxon would be out of the claims process. The master would rely on experts and other evidence in deciding what compensation was appropriate. The idea parallels a structured settlement process used in other big cases, like those involving Agent Orange claims by Vietnam war veterans or women alleging they were harmed by using the Dalkon Shield for birth control.

Exxon could make the payments over 10 years, with $500 million paid immediately and the remainder paid in $250 million installments over 10 years. Any money left over would go into an environmental trust fund.

An alternative plan would have Exxon paying $1.5 billion — $300 million now and $120 million a year for the next decade — to resolve only the claims of the state and federal government and Alaska Natives. The first $1 billion would again go to restoring the Sound. The balance would go toward meeting Native ...

... environmental trust."

Jaffe said he hasn't had any response to the proposal from anyone.

"It's up to all parties concerned to respond," Jaffe said.

But as Exxon moves toward the May 24 deadline on whether it will withdraw its guilty pleas to misdemeanor crimes, there is a slight indication a new deal could arise.

That indication comes from Exxon's willingness to allow its chairman, Lawrence Rawl, to give depositions to Natives trying to cut themselves into a deal.

U.S. District Judge Stanley Sporkin authorized the deposition in response to a Native lawsuit asking that their rights be fully protected in any settlement the state and federal government reach with the oil giant.

Exxon spokesman Bill Smith Tuesday the company will not resist the subpoenas compelling the deposition of Rawl and two other corporate executives.

But No one knows whether this means a new settlement is the works.

"We are preparing for trial," is all that Justice Department press aide Amy Casner was authorized to say Wednesday. She said no one has told her if there are any prospects for renewed negotiations.

Alaska Attorney General Charlie Cole said that while he said he knew nothing about the Native proposal, he also would not be surprised if negotiations were suddenly rekindled.

"I don't see any settlement talks on the near or distant horizon," Cole said. "But maybe I'll receive a call at 9 Friday evening and

Go ahead, you try to come up with a better oil spill deal

Times 5.7.91

I defy anyone to come up with an oil spill settlement deal that will survive. I flatly defy any of the interests directly involved — or anyone else — to create a deal that will clear the minefield it's been assigned.

Not only that, I defy them to get a deal as far along the process as Gov. Walter J. Hickel did.

Which admittedly, wasn't very far. But at least he won the acceptance of the administration, the federal government and Exxon for a $1 billion deal that would have settled both civil and criminal cases.

At least he stuck his neck out. At least he was willing to put something on the table and stand behind it.

I defy anyone to repeat that.

To all the legislators who voted against the settlement, to the federal judge who squashed the criminal deal, to all the environmental groups that nipped at the package from the

Terry Carr

TIMES COLUMNIST

sidelines, to the chorus of criticism from the general public, I say this: Let's see you make the deal.

I'll help. I'll give you an idea of the people you'll have to satisfy. Here's a list of some of them:

- The Hickel administration. The only easy one involved. It has made its position clear. If you're working on a deal, you know from the start about what it will accept and what it won't.
- The federal government. It has criminal charges and civil claims hanging against Exxon. It has two different agencies you'll have to satisfy, the Department of Justice and the Environmental Protection Agency. We're talking here about platoons of lawyers.
- Exxon. It's already spent more than $2 billion because of the oil spill. It is willing to spend about $500 million more (the portion of the $1 billion settlement it would have actually paid). It's anybody's guess how much higher the company is willing to go.
- The Legislature. There's 60 people here. There's also politics. There's partisanship. There's jealousies. There's envy. There's meanness. There's ignorance. Good luck with this one.
- U.S. District Judge H. Russel Holland. He killed the $100 million criminal part of the settlement, saying it didn't slam Exxon hard enough and wasn't enough of a deterrent to others. He said nothing about how much would be enough. Federal judges can do things like that — kick you in the teeth and walk away. You'll be working blind here.
- Native interests. They are insisting on a say in the settlement. They've already sued once to get involved. If you don't give them a prominent part, they'll sue again. And they will probably want any settlement penalties to be very high.
- That portion of the general public that's paying attention. Hundreds of them have already commented, and they were nearly all opposed to Hickel's deal. They had some influence on Holland. And they had some influence on the Legislature. You have to take them into account.

There they are.

A lot of people. A lot of interests. A lot of egos. A lot of political ambitions.

Go ahead. Try and sort it out. Try and get them to agree on a deal.

Remember, many of them have already pooh-poohed $1 billion. That's a bunch of money. It would have done a lot for Prince William Sound.

Without a settlement, we move on to trial. The criminal case and the civil complaints will go into court.

The lawyers will do well. It will take years to bring things to a close, and it will be a gold mine for them. They can be thankful.

And who knows how Alaska will make out.

Hickel took his shot at avoiding the delays and uncertainties. His deal failed.

I defy anyone to do any better.

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

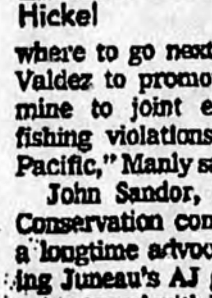
Hickel, EPA head to meet in Seattle

Dead Exxon deal could graze talks

By JAY CROFT 5/6/91
TIMES WRITER

Gov. Walter J. Hickel planned Sunday to meet the federal environmental chief today in Seattle and discuss, among other things, the dead Exxon Valdez settlement, a spokesman said.

Most of Hickel's talks with Environmental Protection Agency chief William Reilly will concern wetlands issues, deputy press secretary John Manly said.



Hickel

"Everything from where to go next on the Exxon Valdez to promoting of the AJ mine to joint enforcement of fishing violations in the North Pacific," Manly said.

John Sandor, Environmental Conservation commissioner and a longtime advocate of re-opening Juneau's AJ gold mine, was set to travel with Hickel.

Manly said Hickel did not have a "big game plan" about settling or pursuing the state's civil claims against Exxon for the March 24, 1989, oil spill in Prince William Sound. Exxon and the state pulled out of a $1 billion settlement proposal last week after the state House rejected the deal.

"I wouldn't be surprised if it comes up," Manly said. "These are two people who put a lot into it."

The EPA was restoration coordinator for the state-federal board that would have administered the settlement, Manly said. The proposed settlement had included $15 million for restoration out of the first, immediate payment; another $25 million was to continue science programs.

"They might decide to not do any restoration this year," Manly said.

Hickel and Sandor will discuss Alaska issues with Reilly. They will also meet with him and the governors of Washington, Oregon and Idaho to discuss President Bush's "no net loss" policy for federal wetlands.

Manly said Hickel received an encouraging letter from President Bush recently after Hickel urged the president to let Alaska retain more control of its wetlands than other states have.

Hickel was set to return to Juneau on Tuesday.

Senate scheduled to vote on state budget

5.6.91

TIMES CAPITAL BUREAU

JUNEAU — The Senate is scheduled to vote on its $2.4 billion version of the state's operating budget when it meets today at 11 a.m.

The Senate spending plan is about $100 million over Gov. Walter J. Hickel's budget and includes about $50 million more for education funding than the governor's proposal. It is about $2.7 million less than the House's spending plan.

The Senate's plan spends less ... mental health programs and state-funded loan programs than the House's version, which was passed March 27. After its passage, if the House does not agree with the Senate's changes, the two bodies will try to come to a compromise on state spending in a joint conference committee.

Senators also will consider bills relating to child-care worker training, extending a pilot project of state training and employment programs and a worker's compensation measure.

The House will take up one element of legislative ethics reform when it meets today: a commission authorized to set salaries of those at the top of state government.

Ethics reform measures the past two years have contained salary increases for lawmakers. Last year's bill died, and one of the sticking points was the salary increase. This year a House ethics bill contained a pay raise for lawmakers, but it was sliced away early in the session.

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28

(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 [illegible]TIVES TO PURSUE THEIR OWN DAMAGES.

[illegible] HEARING TODAY BEFORE U-S DISTRICT JUDGE STANLEY SPORKIN CAME [illegible] THAN A WEEK AFTER FEDERAL JUDGE RUSSEL HOLLAND THREW OUT THE [illegible]INAL PORTION OF THE EXXON SETTLEMENT. HOLLAND SAID THE 100 (M) [illegible]LLION 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.

AP-NP-04-29-91 1048PDT<-

Sporkin

Exxon chief faces lawyer for Natives

4.30.91

Move to halt deposition anticipated

By E. MICHAEL MYERS

TIMES WASHINGTON BUREAU

WASHINGTON — A federal judge gave a lawyer representing Alaska Natives permission Monday to question Exxon's chairman under oath concerning the proposed Exxon Valdez oil spill settlement.

U.S. District Judge Stanley Sporkin in Washington, D.C., said he could not get an answer in "simple English" from the federal government on whether the settlement would interfere with Natives' rights to sue for payment for damage from th[illegible] March 1989 spill.

"I have a responsibility [illegible] clear up the record as much [illegible] possible," Sporkin said.

Exxon is expected to move [illegible] block the deposition of chairman L.G. Rawl, although it had no immediate comment on Sporkin's decision.

The judge's order further muddles the already jeopardized $900 million settlement of state and federal civil claims related to the spill. The settlement was negotiated by the state of Alaska, federal government and Exxon without Native participation.

U.S. District Judge H. Russel Holland of Anchorage threw out the criminal portion of the settlement Wednesday, saying its $100 million fine was too lenient.

Attorney Michael Hausfeld is trying to persuade Sporkin to reopen settlement talks so Alaska Natives can directly negotiate for compensation for

L.G. Rawl

[illegible]ted damage to their sub[illegible]sources.

[illegible]d represents the [illegible]ages of Chenega Bay, [illegible]ham, English Bay, Lar[illegible]y and Karluk.

Sporkin was not satisfied Monday with federal government assurances that Natives' legal rights are not affected by the agreement. The government also argued Sporkin has no authority to revise the settlement.

Sporkin, in blunt exchanges with Justice Department attorney Letitia Grishaw, repeatedly asked for guarantees that the rights of the Natives to recover for damages to their lands, water and subsistence resources were not impaired by the agreement.

Grishaw said the question of the Natives' legal rights should be decided by Holland and that Sporkin has no jurisdiction in the matter.

"I am troubled that I cannot

See Exxon, back page

get an answer from the government," Sporkin said.

He asked Grishaw if she could accept a court order barring any government action that would affect the rights and claims of the Natives to recover damages.

"It's an injunction you have no jurisdiction to grant," Grishaw told Sporkin.

"This is disturbing," Sporkin said, asking for an answer in "clear, simple English."

Sporkin turned to Hausfeld and approved his request for a sworn deposition from Exxon officials.

"All I want to find out is what Exxon understands is the effect of this agreement" on the Natives' claims, Sporkin said.

Grishaw has requested that Sporkin transfer the Natives' lawsuits to Holland's court. Sporkin said he would act on that request once he gets a clear answer from Exxon.

Grishaw accused Hausfeld of asking the Washington, D.C., judge to rewrite a settlement contract that does not include Natives as a party.

"This court does not have the power to rewrite the contract," she said. "You don't have Exxon before you. You don't have jurisdiction."

She repeatedly said the agreement provides that Natives "are entitled to all rights under law."

Sporkin called that argument "lawyer's vocabulary." He told Grishaw, "You want to reserve the right to say they have no rights."

Hausfeld, who also has a motion pending to question Interior Secretary Manuel Lujan about the agreement, said he will seek to interview Rawl next week.

H THOMAS

: sharp criticisms released h by state resource agen- Hickel administration says il Bureau of Land Manage- a "sound" job on its draft ental impact statement for ; the Alaska-Juneau gold

state's long-awaited com- ere released Monday, in- many state-agency criti- the BLM report that some ared would be edited out by el administration.

a prepared statement re- day by the governor's office reflect all of the concerns

ernmental Coordination. "The state should not be a roadblock to it."

The governor's office today also released a letter Rusanowski wrote to David Dorris, who is in charge of BLM's impact statement. In the letter, Rusanowski said the state supports the project, and "the draft (impact statement) is sound."

The letter differs from a version released Monday by Rusanowski's office. The letter was apparently changed after a Cabinet-level meeting was held Tuesday in the governor's office.

In the first letter, which was never sent to the BLM, Rusanowski said the state supports the mine "in gen-

Please turn to Comments, Page 8

"Employment Through Economic Development" is the theme of this year's general assembly of the Tlingit and Haida Indian Tribes of Alaska.

The 56th annual gathering, taking place this week in Juneau, will involve about 120 delegates representing Tlingits and Haidas who live in Southeast Alaska, Anchorage, Seattle and San Francisco.

The theme will be carried through the election of an economic development commission, discussions of Native employment efforts by the state and sessions on tribal employment rights.

a.m. Thursday with opening ceremonies and addresses from politicians and organization leaders.

The assembly will adjourn about 4 p.m. Saturday.

All sessions will be held at the Andrew P. Hope Building, 320 W. Willoughby Ave., and are open to the public, said Judith George, assistant to central council president Edward Thomas. The building houses the Alaska Native Brotherhood hall.

"We welcome observers and like to have them there," George

Please turn to T-H, Page 8

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ıd.

ic, dance, speeches and a neeting will be featured at fternoon celebration. The neeting, opened by Deputy Errol Champion, is set for m., and will discuss the top 'hat is a Sustainable Future ıeau?"

s weekend's festivities will from 1 to 5 p.m. Friday with ic tree planting sponsored by aska Green Party. Trees wi

Please turn to Earth, Page 8

Villages sue to block oil spill settlement

By JULIA RUBIN

THE ASSOCIATED PRESS

ANCHORAGE – The proposed $1 billion Exxon Valdez oil-spill settlement is fair, despite overwhelming public comment to the contrary, Exxon Corp. and the federal government argued in papers filed in federal court here Tuesday.

Meanwhile, five Alaska Native villages sued in federal court in Washington, D.C., to block the settlement and amend it to include their claims for compensation in the nation's biggest oil spill.

Exxon Corp., its subsidiary Exxon Shipping, and the U.S. Justice Department urged U.S. District Court Judge H. Russel Holland in separate briefs to accept the settlement.

Its terms require Exxon to plead guilty to four misdemeanors and pay a record $100 million criminal fine. Half of that would go to the state as restitution. Felony charges against the oil giant would be dropped.

The agreement also would settle state and federal civil claims against Exxon for the 1989 oil spill in Prince William Sound. Exxon would pay $900 million over 11 years, with the money going into a trust to pay for the Sound's cleanup and restoration.

Holland has scheduled sentencing for April 24.

The tanker Exxon Valdez strayed off course in March 1989 and ran aground on a charted reef, tearing a hole in its bottom. It spewed nearly 11 million gallons of crude oil into the sound, tainting thousands of miles of shoreline, and poisoning untold numbers of marine animals and birds.

Of 87 public comments submitted to Holland about the criminal case, only 11 supported the plea agree-

Please turn to Exxon, Page 8

Dow closes over 3,000

THE ASSOCIATED PRESS

NEW YORK – A vigorous rally sent the Dow Jones industrial average soaring today, and the index appeared to set a record by closing above the 3,000 mark.

Traders said optimism of an improving economy drove the market to new heights. The rally is seen as a continuation of a bullish trend that has favored equities since January.

The Dow Jones average of 30 industrials crossed the record 3,000 mark for about two hours until 2:13 p.m. when it retreated.

The previous record of 3,010.60 was set July 17, 1990. The benchmark index has never closed above 3,000.

It was at 3,006.93, up 20.05, with five minutes left in trading.

WEATHER

Intermittent drizzle tonight and Thursday, high in upper 40s. Page 2

Juneau Empire
4/17/91

[redacted]

plans to build a r end of the valley. 100 million tons of he dam during the life of the mine. Valley is four miles and is the watershed area's most popular reams. Echo Bay's r proposal has gen- iblic criticism than of the mine plan.

tance, vocational training and home remodeling, George said.

dures within the tribes," George said.

zen of the year will be selected ... day.

Exxon...

Continued from Page 1

ment, according to the Justice Department brief.

Critics argued, among other things, that the fine was too small; that there isn't enough information on the spill's damage to set penalties; that Alyeska Pipeline Service Co., which operates the trans-Alaska oil pipeline, shouldn't be immune to possible criminal charges; that Exxon should be tried publicly; and that many plaintiffs, like the Alaska Native villages, are left out.

In arguments submitted Tuesday, the federal government argued that the fine – 20 times the previous record for a criminal environmental violation – "would reflect the seriousness of the conduct that caused the grounding of the Exxon Valdez ... and send a strong message that companies that violate environmental statutes face serious punishment."

SCOMM

77:76

Bkendall

dick saw

As to Exxon:

Office of the Secretary
Exxon Corporation
225 E. John W. Carpenter Fwy.
Irving, Texas 75062-2298

General Counsel
Exxon Corporation
225 E. John W. Carpenter Fwy.
Irving, Texas 75062-2298

Mr. A. Elmer, President
Exxon Shipping Company
P.O. Box 1512
Houston, Texas 77251-1512

As to Exxon Pipeline:

Mr. D. G. Warner
President
Exxon Pipeline Company
P.O. Box 2220
Houston, Texas 77252-2220

Process for Entry of Agreement

37. Notice of this Agreement shall be published in the Federal Register, and the Agreement shall be subject to public comment for a period of thirty (30) days after such publication. Each Government reserves the right to withdraw its consent to the Agreement, within fifteen (15) days following the close of the public comment period, if comments received disclose facts or considerations which show that the Agreement is inappropriate, improper or inadequate or if, before the end of that 15 day period, the Alaska State Legislature has not approved the Agreement as written. If the United States or the State withdraws its consent to the Agreement in accordance with this Paragraph, the Agreement shall be deemed terminated as of the date of the notice of withdrawal of consent.

FROM: EXXON CORPORATION
225 E. John W. Carpenter Freeway
Irving, Texas 75062-2298

Telephones: (214) 444-1107
444-1108
444-1109

FOR IMMEDIATE RELEASE
FRIDAY, MAY 3, 1991

EXXON TERMINATES CIVIL AGREEMENT WITH U.S. AND ALASKAN GOVERNMENTS

IRVING, TX, May 3 -- Exxon Corporation announced today that it had notified the Alaskan and the Federal Governments that it had exercised its right to terminate the March 1991 Civil Agreement settling damage claims of the Governments and Exxon relating to the 1989 oil spill in Prince William Sound.

###

SCOMM

77:77

So the AG is <u>not</u>
pursuing the fish tax on
behalf of the munis?
He said he is willing to
turn over state's quantification
of the lost fish tax to
the lawyer for the municipalities?

What sorts of things would trigger it?

Pam thinks it might take the discovery of a new species to qualify for "could not have been anticipated"

Note: If they refer to "CV studies" it means "contingent valuation studies" regarding resource damage assessments.

FOR DICK----

POSSIBLE QUESTIONS FOR THE FEDERAL ATTORNEYS

If the settlement Consent Decree is approved as is, but the MOA is unnacceptable to the Legislature, would they be willing to alter some provisions of that ?

Does the federal government plan to make ALL of their studies public? If so, when? If there are suits files against the federal government (Coast Guard, etc?) do they believe that release of the studies will harm their defense?

Regarding the "Re-opener" clause of the settlement, what specific types of things do they believe would trigger payment under that clause? Would it require discovery of a "new species" or something that remote to qualify as something that "could not have been anticipated?"

What rules will govern the meetings of the trustees -- that is, will they have to meet open meetings requirements of state law, etc.? What provisions will be made for public input into decision-making?

Could federal employees already working in Alaska (or elsewhere) and currently being paid out of the regualr federal budget, end up being paid instead out of this trust fund?

If assets are purchase to built with trust fund money, who will own them? How would these properties or facilities be administered, etc.?

Alaska State Legislature

SENATOR RICHARD I. ELIASON

President of the Senate

P.O. Box V
Juneau, Alaska 99811
(907) 465-3755

QUESTIONS FOR ATTORNEY GENERAL CHARLES COLE
FROM THE SENATE SPECIAL COMMITTEE ON THE EXXON SETTLEMENT

REVISED FOR APRIL 17, 1991 MEETING

1. Please provide the committee with a list of the claims the State currently has against Alyeska.

2. There has been some concern expressed over the State's filing of a claim against the oil spill liability fund established under the Trans-Alaska Pipeline Authorization Act, as our claim will reduce the amount that other claimants will be able to recieve under this fund. Evidently Judge Holland had asked that the state and federal governments not file TAPL fund claims since they had other recourse. The press reported that the federal government has agreed to withdraw its claim if the proposed Exxon settlement is approved and if the fund promises to drop its claims against the government.

Why did you choose to file this claim on behalf of the state, and would you withdraw the state's claim if the settlement is approved or under any other conditions?

3. Please comment on the status of the state's "dollars-per-gallon" claim (AS 46.03.758) against Exxon. (See Dept. of Law letter dated 4-25-89). Is this claim affected in any way by the settlement?

4. You mentioned in a House hearing that if the settlement is not approved and the state litigates under state law, the expenditure of money recovered might be dedicated to restoration work under the "public trust doctrine."

Would you please elaborate on that?

5. What affect, if any, do you believe the release of the scientific report by the federal government to the federal court will have? Does the release of that report make any difference in your willingness to release any of the state's data?

6. Please comment on Legislative Legal Services attorney Pam Finley's memo of 4-8-91 regarding the constitutionality of the Exxon settlement.

Alaska State Legislature

SENATOR RICHARD I. ELIASON

President of the Senate

P.O. Box V
Juneau, Alaska 99811
(907) 465-3755

QUESTIONS FOR ATTORNEY GENERAL CHARLES COLE
FROM THE SENATE SPECIAL COMMITTEE ON THE EXXON SETTLEMENT

APRIL 10, 1991

1. There has been some concern expressed over the State's filing of a claim against the oil spill liability fund established under the Trans-Alaska Pipeline Authorization Act, as our claim will reduce the amount that other claimants will be able to recieve under this fund. Evidently Judge Holland had asked that the state and federal governments not file TAPL fund claims since they had other recourse. The press reported that the federal government has agreed to withdraw its claim if the proposed Exxon settlement is approved and if the fund promises to drop its claims against the government.

Why did you choose to file this claim on behalf of the state, and would you withdraw the state's claim if the settlement is approved or under any other conditions?

2. You mentioned in a House hearing that if the settlement is not approved and the state litigates under state law, the expenditure of money recovered might be dedicated to restoration work under the "public trust doctrine."

Would you please elaborate on that?

3. What affect, if any, do you believe the release of the scientific report by the federal government to the federal court will have? Does the release of that report make any difference in your willingness to release any of the state's data?

4. What is your response to the letter from Congressman George Miller to the federal court which states that Alyeska is being "let off the hook" by the settlement? Governor Hickel has issued a press release which states that the State will still pursue civil charges against Alyeska, but Miller's letter speaks to the criminal charges that he feels should be pursued. Please explain why criminal charges will not be pursued against Alyeska.

(This revised version of the March 29 list has been prepared for the committee's April 11 meeting with the Attorney General. In this version, the questions to which the AG responded at the previous meeting have simply been deleted).

SENATE SPECIAL COMMITTEE ON THE EXXON SETTLEMENT

SECOND LIST OF QUESTIONS FOR THE ATTORNEY GENERAL
(Submitted March 29, 1991)

General Settlement Questions:

He said he'd discuss this is executive session

7. The State gives up its right in the settlement to ever go after Exxon for the State's lost revenue from lost oil and gas taxes and royalties, corporate taxes, State's portion of salmon enhancement taxes, etc. How much did the State figure those to be worth (as it had already sued for all of those under the State suit it now gives up), and what were our chances of proving and recovering those? Will these particular claims be pursued against Alyeska?

8. What was the State's potential recovery/claim under the "dollars per gallon" state law (AS 46.03.758-759)? Please provide a copy of the letter from the State to Exxon, dated approximately April of 1989, requesting early settlement of that claim.

will send

9. Please provide a copy of the reimbursement contract signed by Exxon with the State after the spill.

10. What will the Department of Law be seeking in appropriations to defend against third party lawsuits for FY 92 through FY 95? Please estimate and compare legal fees that will have to be paid by the State with and without the settlement.

11. What are specific examples of types of things that might be eligible for funding under the re-opener clause? How likely is it that anything would ever trigger the receipt of that money?

He will provide list

Questions regarding third party lawsuits:

He will bring the the down catalog of 17 suits

13. What third party suits have been filed? (Please provide list of them). What is the total estimated dollar amount of the third party claims against the State resulting from the oil spill and clean-up? Are any of the plaintiffs seeking punitive damages? Must at least exceed 1 billion $.

14. Since the $72 million is recovered under the CWA it can

only be reimbursement for funds already expended, and the $50 million must be spent for restoration. With the remainder of the settlement money going to the Trust, there is no money to help the State pay for any third party liability or legal fees. Won't there ultimately be a net loss of millions of dollars to the State treasury? Not necessarily — cases agnst state could be dropped. With or w/o settlement the 3rd party suits will cost $.

Under admiralty or maritime law

15. Paragraphs 29 and 30 on page 23 of the Decree, do not appear to be specifically limited to lawsuits related to the oil spill. Was this a drafting error? If not changed, how likely is a court to interpret these paragraphs as applying only to lawsuits related to this spill?

16. How are third party suits affected by this settlement? Does the State have a responsibility to protect interests of groups of Alaskan citizens? If third parties need the State's help wouldn't they be affected by the Decree, even though the Decree says it does not affect third parties?

17. The MOA also prevents any of the three parties involved from ever challenging the authority of the others to enter into this agreement. If the Legislature disapproved of the Decree, and the Governor chose to go ahead with it anyway, would the Legislature as a part of "the State" be precluded from ever challenging the authority of the parties to enter into the agreement? Are the claims of municipalities, which are political subdivisions of the State, barred by the State's release of its claims? All claims municipalities held before the settlement, they retain after the settlement

Questions about how money can be spent:

TRUST FUND PORTION:

24. Please provide a list of specific examples of the kinds of expenditures that would be possible and likely with the use of the Trust Fund.

25. Could federal employees already working in Alaska (or elsewhere) and currently being paid out of the regular federal budget, end up being paid instead out of this fund?

"recreational use" - tourism

Will bring info next time

26. What are "natural resource services"? (one of the things that fund money can be spent on). Please give specific examples of things that would qualify.

27. If assets are purchased or built with trust fund money, who will own them? How would those properties or facilities be administered, etc.?

28. Will all operating costs, travel, staff, per diem, etc. of the Trustees and the Trust come out of the Trust?

He just believes it will all happen

29. What mechanism will ensure public accountability? There appears to be no required budget review, annual oversight by elected officials, appropriation process, or audits of the trustees' expenditures.

30. Is there a limit on how much can be spent to reimburse Exxon for whatever clean-up work they do between the effective date of the Consent Decree and the date of final approval of the Consent Decree?

$72 MILLION PORTION:

31. If the $72 million to be paid to the State is over a five-year period, when does that start? Will the five payments be of equal amounts? Any interest charged on payments to bring the total up to a real level of $72 million in today's dollars?
Is there any requirement that the 470 Fund specifically be reimbursed?

Provided by Matt Jamin

QUESTIONS FOR MESSRS. STEWART AND CAMPBELL

Issues from House Testimony

1. What part, if any, did Mr. Cole have in the negotiations for the criminal plea agreement with Exxon?

2. Did Exxon request any consideration from the state (e.g., covenants not to sue for criminal lability) during any of the discussions you had with them?

3. Mr. Cole read a letter to the House Committee yesterday dated 3/12 to lee Raymond, counsel of Exxon: as part of the settlement covered by the plea agreement, state will not pursue criminal proceedings against exxon"

4. Do you have any reason to believe from this letter that mr. Cole can prosecute Exxon if the civil settlement is not approved?

5. Do you have any other information indicating that this arrangement is contingent upon the civil settlement?

6. If the legislature disapproves the civil settlement proposed, is there a substantial possibility that the criminal plea will be accepted anyway?

7. Has the state essentially given up the possibility of any case against Exxon as a result of this letter?

8. To Campbell, yesterday you indicated that there was a conflict between your role in NOAA wanting to distribute science, and with your concern about releasing date because you are being sued. Is that a common situation within the department when it is obligated to develop science, but is also looking over its shoulder about another agency's liability?

9a. If he acknowledges that it is common, get a list of the specific cases when this has happened before.

9b. If he says it is unusual, or that this is the first case, ask how he balances the two responsibilities he has as the trustee?

10. Yesterday you indicated that if this settlement is approved, you will make changes in the trustee science away from damage assessment, and more to restoration. What do you mean by that? What kinds of studies will be given up?

11. (Once you get the list of those studies which are to be compromised), "Aren't those the very studies on which private plaintiffs will be relying to show their damages? Isn't the effect of taking the state and federal government out of the case that the private cases are compromised because they will not have science regarding future damages -- long term effects on the

natural resources which they harvest, or on which they depend?

12. What is the present value of this settlement to the trustees? What more comes from the criminal side? What then is the total present value of the settlement?

13. What tax benefits does Exxon get from this settlement? What benefits were talked about during the negotiations? Is the effect of those tax benefits to reduce the real cost of this settlement to Exxon? have you made any attempt to calculate the real cost of this settlement to Exxon? What is it?

14. Is the effect of a tax break on this settlement to Exxon from the government to reduce monies -- taxes -- that would otherwise come into the coffers of the state or federal government? If the value of the settlement to the state and federal government is $600,000,000, but the cost, because of tax benefits to Exxon is $450,000,000, isn't the real effect of the tax benefits that the value to the government is $450,000,000 because though we get $600,000,000 in one hand, we give up $150,000,000 in the other in lost taxes?

Why didn't you try to get the $900,000,000 up front? To the extent he says (as he did yesterday) that we couldn't have used it, establish that lots more would have been available down the line if they had because the interest would have been available and could have accumulated? Isn't the real reason you didn't ask for more that Exxon was unwilling to pay any more than something with a real economic effect of $425 million to the company?

15. To Stewart: Yesterday you indicated that, as to private plaintiffs, Exxon would be free to argue that private plaintiffs might have their claims for future damages based on natural resources losses extinguished by this settlement. right

You also said that nothing in this settlement would change those substantive rights, one way of the other. Plaintiffs either had then or didn't have them. right

but isn't it trust that if this settlement goes through, and if the state is sued by a private party , the state will then be postured in such a way that it would want to join exxon in arguing that private plaintiffs' rights have been curtailed by the settlement? Wouldn't the state then be in a position that it would want to argue that private plaintiffs' damages are as low as possible.

Wouldn't the state be arguing with Exxon to try generally to diminish the private plaintiffs' cases?

16. Bring Stewart back to Section 13(c) discussion,and have him, Cole and Campbell confirm that section was placed in there only to deal with allotments or other property rights going to native americans where the federal government is currently holding title. Have them each confirm that Exxon explicitly understands

that as well from the course of dealing in the negotiations.

17. Ask Stewart what Section 13(b) is about. Why is it in the agreement? (To the extent he has a reason for it being there, try to limit its use, and establish that

<u>Issues from Campbell's Written testimony</u>

1. Mr. Campbell, in your written testimony, you characterize this hearing as an "oversight hearing." What is your understanding of what our role is, as it was explained to you? (Campbell wants no significant input from the committee).

<u>Issues from Mr. Stewart's written testimony</u>

1. Do you have independent verification that Exxon spent $2 Billion so far on the cleanup? What is that verification? How much was actually spent on which aspects of cleanup? If you have such information, pleas provide it to the committee, because it lets us gauge how much more needs to be done, and that impacts how much of the present value of the settlement we are going to have to give back to Exxon.

2. How much of the present value of this settlement would be recoverable in court?

a. do you think you can get back the $80 million you've spent on studies? Is that a slam dunk? Wouldn't you get interest on that?

b. Would you have a right to your out of pocket expenditures for cleanup so far? Would they be a slam dunk? How much are they?

c. Would the state have a right to its out of pocket expenditures for cleanup so far? Would that be a slam dunk? How much? (If he doesn't know how much these are, it is incredible, because it is what's left, after these expenses are considered which is the natural resources damage claim).

d. Would the state have a right to attorneys' fees under Alaska law on the amount for which it recovered? (Yes, Rule 82).

e. Do you think that the amount that Exxon will get paid back from the settlement -- for the work that it does this year -- would have been recoverable? Wouldn't that have been a slam dunk if the Coast Guard had ordered it? Do you have any way to quantify what that will be right now (note the agreement has two alternate clauses -- one under $35,000,000, and one over $35,000,000 -- why was that number employed)

What is the effect of the two different clauses regarding pay back to Exxon of monies expended this summer?

Are there any realistic guidelines on the amount Exxon can drain back from its own settlement this summer? (Note the expansive language in the agreement as to what costs can be billed - including "other professional services")

f. Did the federal government get anything back for its attorneys' fees on either the civil or criminal side, or is that just a cost you have eaten?

What is the total of all this? Isn't the true cost of the settlement minus all this what Exxon is paying for the natural resource damages? Isn't that the real number you should be using when you address this committee?

3. Regarding the "unprecedented win" for the government that this settlement reflects (page 5), have you been to Chenega Bay, or to Tatitlek in Prince William Sound? have you considered any of the effects of this spill on the people who live and depend on the sound? on the other areas in the gulf of Alaska affected by the spill?

How did you garner public comment to know whether the public supported your handling of the trust responsibility? Were your trustees out in the affected area, or is that something which is committed exclusively to the attorneys in Washington? You tell us that your scientists studied the animals, but did they study the people?

4. On the reopener clause, if your damage assessment has been extensive as Mr. Campbell has led us to believe, what is it for? What might be out there that you haven't found or had an opportunity to find? Isn't this clause almost worthless? And doesn't it just invite litigation and a piddling settlement from Exxon later even if it is invoked?

[I stopped on page 5; more tomorrow]

SCOMM

77:78

Couple completes Romanian adoption

By LIN GALE
Fairbanks Daily News-Miner

FAIRBANKS — It took $12,000, two months off work and a clash with United States immigration officials to bring little Mellie Williams to her new Alaska home, but her parents say she's worth every ounce of trouble.

"A lot of people look at her and say, 'What a lucky girl,'" Roger Williams said, clutching the hand of his newly adopted 2-year-old daughter from Romania. "I kind of think we're the lucky ones."

The Williamses found Mellie in a dirt-floor village shack on April 19 and signed adoption papers May 9. It took nearly a month after the adoption to get her home, however.

News reports in April about Romania's then-blossoming black market for babies led to tougher immigration restrictions, and on June 1 the Romanian government banned all foreign adoptions to halt the growing black market for babies.

The adoption ended 18 childless years for the Williamses. The couple married in 1973, and found they were unable to conceive children. They contacted American adoption agencies, but were frustrated by long waiting lists and daunted by the apparent risks of adopting a child damaged by drugs and alcohol, Jocylynn said.

Roger, 39, the production foreman for Commercial Printing Co. and Jocylynn, 37, had nearly resigned themselves to spending their lives without children. Then they saw a television special last summer about Romania's crowded orphanages, and the couple began pursuing a Romanian child for their own in October.

They completed what paperwork they could here, and lined up Romanian contacts. On April 4, they flew to Bucharest.

There, they found Romania had closed its orphanages to foreigners except by appointment. The next available appointment was in February 1992, Roger said.

Women approached them on the street and offered to sell their babies for $500, Jocylynn said.

"The gypsies will come up to you on the streets and say, 'You, you, baby, baby, baby,'" Jocylynn said, pointing to an imaginary baby cradled in her arms.

They found the child in a tiny farming village outside of Cluj. She was huddled on a bed inside a 10- by 10-foot shack with her 5-year-old sister, Roger said.

Her mother was in the hospital suffering from a terminal heart disorder, and her unemployed father had left the two children to mostly fend for themselves.

When the Williamses found Mellie, she was suffering from pneumonia and acting like a nervous animal. "We'd reach out to touch her and she'd jerk back her hand," Roger said. Mellie was admitted into a hospital for treatment of pneumonia.

The Williamses visited her for several hours each day and fell in love with her, Jocylynn said. She, in turn, responded to their attention with smiles and hugs.

On May 9, the Williamses went to court with Mellie's parents for the adoption hearing. Roger carried Mellie's 24-year-old mother into the courthouse for the proceeding, because she was so weak she could not walk, he said.

She died the next day.

The Williamses continued to search for a second child to adopt, but could not find one. They returned to Bucharest, and headed to the American Embassy for Mellie's visa.

When the Williamses arrived in Romania in early April, smiling embassy employees processed children's immigration visa's in 24 hours, Roger said. By mid-May, after a "60 Minutes" report about Romania's black market for babies that aired about a week after they arrived, the smiles had disappeared.

"That show ended up causing us considerable problems," Roger said. The couple was told they had to wait nine days for an appointment at the embassy. Following the wait, the embassy denied the visa application.

In Romania, false documents could easily be bought on the streets and embassy officials said the Immigration and Naturalization Service would have to investigate to make sure all the documents were authentic. They said that could take six weeks.

"It was devastating for us," Jocylynn said.

To prove the adoption was authentic, Roger traveled back to Mellie's mother's village for a copy of her death certificate. With receipt of the certificate, immigration officials cleared Mellie's entrance into the United States.

Air fares, legal fees and living expenses in Romania brought their expenses to about $12,000, they said.

The Associated Press

ANCHORAGE — The Alaska Native Claims Settlement Act will be the focus of the 25th annual meeting of the Alaska Federation of Natives when it meets here from Oct. 16-19, organizers say.

The act was signed into law by President Nixon on Dec. 18, 1971. A number of people who developed and helped get the measure through Congress will be at the convention, organizers said.

Much of the activity will focus on an accounting of what has transpired in the two decades since ANCSA was passed as well as an assessment of what may be in store for the next decade.

The law compensated Alaska Natives for the loss of lands historically used and occupied. It provided for establishing regional and village Native corporations with the right to select 44 million acres of land and appropriated $962.5 million to them.

October also marks the silver anniversary of the Alaska Federation of Natives and people instrumental in its formation and operation will be recognized, officials said.

The convention will be held at the Egan Convention Center in downtown Anchorage.

Daily News 6-11-91

Exxon trial set for October

Exxon is scheduled to stand trial Oct. 7 on five criminal pollution charges arising from its 1989 oil spill, according to papers filed in U.S. District Court last week.

Judge H. Russel Holland reinstated the misdemeanor counts to which Exxon Shipping and Exxon Corp. had pleaded guilty in March. They were withdrawn last month, after the judge rejected a plea agreement.

The two subsidiaries once again face the five charges outlined in a February 1990 indictment — two felonies and three misdemeanors each.

In April, Holland said a proposed $100 million criminal fine was not enough to punish Exxon for the nation's worst oil spill. In rejecting the plea bargain, he also set in motion the unraveling of a $900 million civil settlement.

The trial date was set at a closed hearing in the judge's chambers last Thursday. Holland's order, dated Friday, also scheduled a set of pretrial hearings, on July 19 and Sept. 5. The trial is expected to last six to seven weeks, including jury selection.

METRO

WEDNESDAY

SECTION B June 12, 1991

Daily News 6/12/91

Settlement questions go unanswered

Rawl won't talk of spill deal

By JOHN ENDERS
The Associated Press

Exxon Corp. Chairman Lawrence Rawl this week refused in a sworn deposition to answer dozens of questions by lawyers for several Native Alaska villages about the now-defunct $1 billion Exxon Valdez oil-spill settlement, the attorneys said.

■ QUICK WORK: Cleanup is going so well, work may end early this summer. B-3

Associated Press file photo

Lawrence Rawl

Lawyers for the villages announced Tuesday they had interviewed Rawl and another Exxon official for more than four hours, and that Rawl repeatedly declined to answer queries about the proposed settlement between Exxon, the state of Alaska and the federal government. The deal fell apart last month.

In a statement released at its Irving, Texas, corporate headquarters Tuesday, Exxon said it had "cooperated fully" in the Native lawsuit deposition. But the company said its officials did not answer questions about Native Alaskans' civil damage claims in Alaska state courts because "we did not think it appropriate."

"In due course, native Alaskans will have an opportunity to take depositions from witnesses in these pending Alaska court cases," the Exxon statement said.

Rawl's attorney, Patrick Lynch, instructed him not to answer most of the questions posed during the deposition, said Lloyd Miller of Anchorage, one of the attorneys for the Natives.

"Many reasons were given. Claims of attorney-client privilege, settlement privilege, relevancy, even an allegation that the questions being asked were beyond the scope of the litigation pending before Judge Sporkin," Miller said.

The attorneys interviewed Rawl and other officials in connection with a lawsuit by Native villages that is now pending before U.S. District Judge Stanley Sporkin in Washington, D.C.

The lawsuit claims the federal government illegally negotiated the proposed settlement stemming from the March 24, 1989 Exxon Valdez oil spill by ignoring Natives' claims. The Native groups also hope to force any future settlement talks to include consideration of their interests, Miller said.

Rawl gave his deposition in Dallas on Monday, and R.G. Warner, chairman of the subsidiary Exxon Pipeline Co., also submitted to questioning the same day. A. "Gus" Elmer, chairman of another subsidiary, Exxon Shipping Co., gave a similar deposition in Dallas on Tuesday.

The Native villages, located in Prince William Sound near the site of the oil spill, have filed lawsuits claiming hundreds of millions of dollars in damages to the area's natural resources and villagers' subsistence lifestyle. No trial dates have been set in those cases.

The tanker Exxon Valdez dumped nearly 11 million

Please see Page B-3, EXXON

GADFLY TIRES OF STANDING A

Alan Mitchell, the state's lone utility consumer advocate, is quitting his post after two yea

Consumers' advocate resi

By CHARLES WOHLFORTH
Daily News reporter

When a House committee held a debate this spring on whether to build electric interties, Alan Mitchell was outnumbered, as usual.

Mitchell, the state's lone independent advocate for utility consumers, is tired of standing alone. He's quitting the job he has held for two years.

This spring, Mitchell had been invited to the debate to present the consumers' point of view on a plan by electric utilities to spend state money on bigger power lines linking Alaska's cities.

Mitchell said it just didn't make sense, and he had numbers to back up his position. Consumers would be better off, he said, if the legislature just gave them the money directly. If the utilities still want the interties, they can always build them, he said.

"There were at least six people representing the utilities, and they were all against Alan Mitchell," said Rep. David Finkelstein, D-Anchorage, who called the debate. "Alan really held his own. He did a really good job of making his case and making it understandable.

"They attacked him personally. If you don't like the message, attack the messenger."

Michael Kelly, manager of Golden Valley Electric Association in Fairbanks, took the lead against Mitchell. Kelly said he respects Mitchell, but says the utilities, not Mitchell, represent consumers.

"I think he represents a few legislators who wo from the fund f said in the deba sent our consur

"What you're guy sitting in a low budget," K view.

That's why M the end of the

For two yea comply with hi tract with the s sumer represen tion disseminati Alaska." His much more speci it to Mitchell to public interest i

Please

;umers' advocate tires of standing alone

3ut he's quitting, and 'n if he weren't, Mitchell nks he would be fired. ꜫ money for his job is luded in next year's bud- , but Mitchell, a regis- ed Democrat, fears that v. Wally Hickel may veto because of the legislative :s his intertie stand pped on. Hickel's spokes- n, John Manly, would not 'eal the governor's posi- n on the funding.

Rep. Robin Taylor, R- angell, said he would like see Mitchell out of a job, i said he saw no reason the state to pay a utility ısumer advocate at all.

"I'm a consumer, and I s offended by what he s saying," Taylor said. ood grief, this is a guy ıo wanted to buy all poor ks' old refrigerators and 'e them new refrigera- s."

In fact, Mitchell said, a ogram to replace old re- gerators — for rich and or alike — would be more cost-effective use of state nefit than the interties.

Taylor, like the utility ınagers, said Mitchell is ·litically motivated, al- ough he said he has no ısis for the allegation other ıan "an assumption."

"I don't feel I'm in anybody's pocket," Mitchell said.

Mitchell said the charges bother him. He isn't a political idealist, but a logician who likes to analyze an issue, find the right answer and then fight for it. Mitchell prides himself on his objectivity and has interpreted his job as providing information to decision makers that they would not receive from anyone else.

"He's the best person for that job of anyone I could think of," said Joel Rothberg, a lawyer who did utility work for AKPIRG. "It's amazing he's stayed as long as he has."

"We're really sad to see him leave that position," said Stephen Conn, who now heads AKPIRG. "It was a very lonely position, and he did a really good job."

Mitchell said he isn't sorry he got involved in legislative issues, even though it led to the confrontations that made him want to quit. The legislature was where he was most effective. Finkelstein said Mitchell was a major factor in stopping funding of the interties.

Mitchell also worked on regulatory issues before the legislature. He said the Alaska Public Utilities Commission has a good staff to evaluate utility proposals, but when utilities don't get their way, they simply go to the legislature, where the staff is far less technically expert. Utilities pay hundreds of thousands of dollars each year for legislative lobbyists.

"There's stuff that gets said and gets tried at the legislature that wouldn't even walk through the door at the commission," Mitchell said. "It's not that the legislature does not represent consumers, but the information they get has the worst utility slant on it.

"I see my role as not incredibly extreme."

11,400 of its 15,750 shareholders, said spokesman Ross Soboleff. The claims act allows the payments to go to those who own stock only in Sealaska or who also own stock in an urban corporation, such as Juneau's Goldbelt Inc. A section of the claims act requires all regional Native corporations contribute 70 percent of earnings from resource development activities like timber harvesting into a fund. The fund is then split among all regional Native corporations based on shareholder population, Soboleff said. "Every year we pay into that pot, and every year everybody gets something back from it," he said earlier this week.

That's not a tangle, that's 10 grand

KETCHIKAN — What was thought to be a tangled line turned into a trophy fish and a $10,000 prize for a Ketchikan man. Chris Lervick, 28, won the prize with a 57.5-pound catch during the Ketchikan King Salmon Derby over the weekend. Lervick said he initially thought his line was tangled with his friend's line. But he learned otherwise as it took half an hour to reel his fish into the boat.

Coast Guard seizes boat

JUNEAU — The Coast Guard seized a pleasure boat Tuesday that was illegally chartered to ferry bear hunters in Ssutheast Alaska. The Skana, owned by Eric and Nancy Simpson of Juneau, is documented as a pleasure vessel only and cannot be used for coastal trade, the Coast Guard said in a news release. The operators of 46-foot boat also were not licensed to transport bear hunters, as required by the Coast Guard, Cmdr. Buzz Rome said. The boat was released to the federal marshal in Juneau. The case was referred to the U.S. attorney in Anchorage for prosecution.

Daily News wire reports

EXXON: Chairman has little to say about spill settlement

Continued from Page B-1

gallons of North Slope crude into the waters of the sound, killing thousands of sea birds, fish and marine mammals. Exxon has spent about $2.5 billion to clean up the spilled oil, and a third summer of cleanup work is now under way.

The villages filed suit in Washington before the proposed settlement fell apart. As part of the plea agreement that was to have been the basis for the settlement, Exxon agreed to pay about $1 billion in civil and criminal penalties and the federal government was to drop its criminal prosecution of Exxon on federal pollution charges.

But in April, U.S. District Judge H. Russel Holland in Anchorage refused to accept the plea bargain, and said Exxon was not being made to pay enough for the damage it had done. In May, the Alaska Legislature also turned down the settlement.

Exxon later withdrew its guilty pleas. A new trial on the federal criminal charges has been scheduled for Oct. 7 in federal court in Anchorage.

Amy Casner, a spokeswoman for the Justice Department in Washington, said there are no new settlement talks under way. But she said Justice Department officials would be happy to talk to Exxon.

"We keep the door open if they want to sit down and talk in good faith," Casner said.

Exxon Spokesman Bill Smith in Texas would not comment on the possibility of any future settlement.

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METRO
The Anchorage Times

SATURDAY
June 8, 1991

Saturday Sundry

William J. Tobin

WELCOME TO THE WORLD: Birth announcements come in different forms, including one that was broadcast the other day over McGrath public radio KSKO, called in to the station's bush message service by a proud father, placer miner Keith Tryck. "To the crew at Ophir Creek: La La delivered a 120-ounce nozzler, Charles Eric, at 4:12 p.m. today, May 30. Mother and baby are doing fine. I'll fly out the cigars. Cheers. Dad" .... La La, in this case, is Tryck's wife Laurie, and 10-pound Charles Erik is their first offspring. Their home is in Girdwood. But during the summer, when they're operating their mom and pop gold mine 60 miles southeast of Ruby, out by the Yukon, KSKO's hourly message service is a communication lifeline. Keith headed back to camp Thursday, carrying cigars for the half-dozen members of the crew. La La and baby Charlie will join them in three or four weeks.

• • •

ONWARD & UPWARD: The state's final report on the amount of money paid to lobbyists working the 1990 legislative session showed the folks hired to influence the lawmaking process last year collected fees totaling $7.2 million — exactly what Uncle Sam paid Czarist Russia for the whole bloomin' place 124 years ago. How about lobbying fees this year? The reports aren't yet in.

• • •

BIG TIME WITH MR. ZIP: It's all still a secret, you understand, but the word is out that Anchorage artist Byron Birdsall has been commissioned by the U.S. Postal Service to design a stamp commemorating the 50th anniversary of the building of the Alaska Highway. The stamp will be issued in 1992. "It will be a limited edition print of 440 million," he said.

• • •

BET A MILLION: A Monte Carlo night

Impossible, Cole says

Head lawman pans legislators' spill deal demands

By STEVE PILKINGTON
TIMES WRITER

FAIRBANKS — Attorney General Charles Cole told a group of fellow lawyers Friday the conditions set by state lawmakerr for a new Exxon Valdez oil spill settlement are unwieldy and impossible.

Cole said several settlement requests by Alaska legislators, made after the state and Exxon withdrew from a $900 million civil settlement proposal with the federal government, could lead to years of legal battles anyway.

"That's a formidable problem and one that, in my view, is insurmountable," Cole told members of the Alaska Bar Association meeting here this week.

The original civil agreement called for millions of dollars from Exxon to be placed in a joint federal-state trust fund for restoring resources in Prince William Sound.

U.S. District Court Judge H. Russel Holland in April discarded the accompanying criminal agreement, saying $100 million in criminal fines was inadequate.

The Legislature later then voted down the civil settlement, and the state and Exxon withdrew.

Lawmakers requested that they have more control in allocating how restoration funds would be used. Cole

See Spill deal, back page

Charles Cole

Natives denied special use of Copper River fishing site

By DESIREE HUMPHREY
TIMES WRITER

A federal judge denied a request by two elderly Native women Friday that would have thrown Alaska fisheries management into chaos by transferring control from the state to the federal government.

U.S. District Judge H. Ru[illegible]l Holland said Katie John, 74, of Mentasta village and Doris Charles, 81, of Dot Lake are not in danger of going hungry if they do not get special access to the Batzulnetas fishing site on the Copper River in the Wrangell-St. Elias National Park and Preserve.

Holland said he weighed the possible harm to the women against the upheaval of the complex fish

Children

Continued from page B1

dren's Services, said the state has not increased the amount paid to the organizations for almost eight years.

"We are depleting our resources in an effort to supplement inadequate payments made by the state," she said.

Alaska Children's Services runs the 50-bed Jesse Lee Home in Anchorage. Alaska Youth and Parent Foundation runs an 18-bed emergency shelter for children and the Salvation Army ... residential program.

Booher said the children are the state's responsibility, and Alaska is getting a break at the agencies' expense. She said the program cost Alaska Children's Services about $500,000 last year.

Michael Price, the division director, said the state should not increase the grants paid to the two groups without first determining what a reasonable rate would be. The three organizations are members of the Anchorage Consortium of Residential Treatment Providers For Children, which endorsed raising the state's payments in a press release.

Price said the state spends about $11 million on residential treatment for youths. The three Anchorage centers receive about $4 million of that. He said the state does not have funds for an increase.

"We either serve fewer children if we give the rate increase, or we close other facilities," he said.

Price said the division's staff will meet with the Anchorage groups on Monday to try to resolve the problem.

Price said the proposed increases would raise the most expensive treatment of a child to almost $88,000 a year. Currently that treatment costs the state more than $66,000. The state pays providers from $85 to $180 a bed a day for emergency and residential shelter.

The agencies said the flat fees do not reflect the different costs individual organizations must pay for the services.

"How do you recruit staff when you're still paying a wage rate five years behind the rest of the city?" said Robert Anderson of the Salvation Army.

Anderson said the groups were willing to compromise to resolve the dispute.

"There's been neglect and a sense of abandonment to these programs the last six years," he said. 'We serve a very troubled population."

The dispute began in February when the Anchorage consortium agreed to submit bids higher than the state limits for the child care grants.

Price said two bids were unresponsive, or too high. Sheila Gaddis, the executive director of the Alaska Youth and Parent Foundation, said her group submitted a bid within the state's guidelines but asked for more money to run the shelter program.

"We thought it was unresponsive," she said. The fourth member of the consortium, Alaska Baptist Home, submitted a bid that was within the state's limit.

The state is looking for alternatives to residential treatment, including expanding a test-program involving the state's foster care system, Price said.

A legislative audit of the child care program released Feb. 13, recommended that the state reevaluate its payment method, develop new accounting policies and keep better records to justify staffing levels the division requires.

Sen. Drue Pearce, R-Anchorage, said the Legislature had included $50,000 in the state's budget to conduct a rate survey for the children's residential care program. It also included 2.5 percent increases in grants as a cost of living allowance.

The survey is important to determine what the programs need in funds, she said.

Vincent

Continued from page B1

hood poverty.

Vincent is black and a member of the African-American sorority Alpha Kappa Alpha, but she does not emphasize race or ethnic distinctions in her role as Miss America.

"There are problems with race relations, but I think we can learn from the cultural differences that we have," Vincent said. "I think one thing that we're lacking is people understanding and appreciating the differences rather than looking at them as negatives."

Carla Timmerman, the pageant's state executive director, said platform issues replaced the 15-second on-stage speeches to emphasize that Miss America is a role model and not just a beauty queen.

Another change in the pageant has been switching the title of the swimsuit competition to what is now called "physical fitness in swimsuit."

"The judging looks for if this girl looks healthy, physically fit, does she have a pleasing shape for her bone structure, does she look comfortable in a swimsuit in front of 500,000 people," Timmerman said.

Vincent said her reign as Miss America has provided her with invaluable personal experience in meeting people, traveling and fielding on-the-spot questions.

Also, she won $35,000 in scholarship funds.

While touring other cities, Vincent was able to visit local shelters and speak with domestic violence victims. However, her schedule in Alaska was not expected to allow a visit to AWAIC or other shelters.

Spill deal

Continued from page B1

said that could cause years of court disputes between the state and U.S. governments because many of the resources are federally managed under plans such as the Marine Mammal Protection Act.

"It will take a number of years to slug it out with the United States government to determine who has the rights to those damages," Cole said.

Rep. Max Gruenberg, D-Anchorage, said lawmakers did consider potential problems. But he said the agreement could be drafted in a way allowing the state to manage the funds while complying with federal guidelines.

Another request by lawmakers is to open meetings of the yet-to-be-created joint federal-state trust fund to the public under the Alaska Open Meetings Act. Cole said that request could stifle efforts at more talks.

"I mean, it's difficult to go to the U.S. Department of Justice with that demand," Cole said.

Cole said the trashing of the first agreement has left the state in a difficult position.

"At the moment, we're sort of in a stalemate," he said.

But Hickel and others have not lost hope, he said.

"I'm satisfied that eventually, sooner or later, the negotiations for the settlement will resume," he said. The question now is whether the negotiations will reach a point where the outcome is acceptable by all three members.

Exxon has shown no interest in resuming talks, Cole said.

Fishing

Continued from page B1

John and Charles.

The women's lawsuit, filed in December, asserts the Copper River is federal "public land" rather than "navigable water." Alaska gained control of all navigable waters at statehood. The Alaska Federation of Natives joined the women and the state joined the federal government in the suit later.

In past cases decided by Holland, the women have successfully challenged limits by the state over the fishery. But since then, the federal government has retaken control of subsistence management.

The state Supreme Court declared in December 1989 that the state's pledge to give rural residents first access to fish and game was unconstitutional.

The federal government took ... waters that wind through state and federal lands have left a dual management system. Both governments are still coping with the bedeviling problems of regulations that will permanently comply with federal and state laws.

"No one knows for sure who owns the fish until they're reduced to possessions," Alaska Federation of Natives lawyer Donald Mitchell told Holland.

Although Mitchell asked Holland to correct federal regulations he sees as contradictory, a Justice Department lawyer said it is not the proper role of the court to rewrite congressional legislation when the court sees a problem.

Dean Dunsmore, who represents the federal government, said it is clear Congress put limits on federal rights. Title 8 of ANILCA only applies to hard land and not navigable waters, he told Holland.


Sen. Al Adams

"It's sort of like playing Russian roulette with our constitution — only every barrel is loaded."

• Sen. Al Adams, D-Kotzebue, on a resolution seeking a stricter constitutional definition of the individual's right to bear arms.

Capitol quotes — They said it

The Associated Press

"How do you know if a Hickel secretary has been using your computer? There's Whiteout on the screen."

• Joke told during the Juneau Democrats' annual legislative skits dinner.

□

"I have 60 clients, none of whom agree on much of anything."

• Legislative attorney Pam Finley.

□

"I don't think we want to pass a resolution that takes him off the hook and puts us on it."

• Senate President Dick Eliason, R-Sitka, on Attorney General Charlie Cole's offer to release oil-spill studies if the legislature passes a resolution asking him to do so.

□

"I feel like I'm in a bear trap, that there's all kinds of things that keep me from using my expertise to the fullest — stipulations, statutes, regulations."

• Corrections Commissioner Lloyd Hames on his effort to streamline management of his department.

□

"It should be noted that you have a unique opportunity to evaluate a probationary employee to ensure that they are committed to the philosophy of the administration."

• Administration Commissioner Millett Keller in a memo to fellow commissioners.

□

"You've picked at every gnat, worm and lice we can find and this is another example of that."

• Rep. Robin Taylor, R-Wrangell, on criticism of Keller's memo.

□

"This has reached the level of a holy war."

• House Speaker Ben Grussendorf, D-Sitka, after debate on Keller's memo.

□

"He's a good guy, but that's got nothing to do with government."

• Hickel legislative liaison Bruce Kendall on Keller.

□

Department of Hickelisms

On Keller's memo: "It's kind of nice to see Keller in the paper instead of me."

On being in the spotlight: "Hell, when I was in Washington I was under the heat for so long that I thought I was in the Sahara desert."

On reporters' access to Hickel: "From what I read in the press, you get to me quite a bit."

On when he will decide whether to change his mind about cutting the longevity bonus: "When the 'little guy' tells me, 'Go do it.' "

Lawmakers face thorny vote on spill

4.15.91

By DAVID FUTCH

TIMES WRITER

Gov. Walter J. Hickel's proposed $1 billion settlement with Exxon has legislators facing what may be a politically tough choice.

In a couple of weeks lawmakers will be expected to vote for or against the deal, a decision likely to either make them unpopular with voters or put the state in a position of having to spend years in court suing Exxon if the deal is rejected.

The majority of people who spoke at legislative public hearings Friday through Sunday in towns affected by the spill criticized the deal put together by Hickel and Alaska Attorney General Charles Cole.

"The easy way out would be to say no (to the settlement)," Senate President Richard Eliason said. "We are in a difficult spot because no matter what we do we're going to be criticized. We're damned if we do and damned if we don't."

Eliason, R-Sitka, said he tries to put the deal in practical terms. Alaskans may never know what they would have received if a lengthy court battle with Exxon occurred, he said.

> 'We are in a difficult spot because no matter what we do we're going to be criticized. We're damned if we do and damned if we don't.'
>
> — Richard Eliason
> Senate president

Eliason and House Speaker Ben Grussendorf, D-Sitka, say that if legislators reject the deal, it will be years before restoration of Prince William Sound begins.

"An accurate description of what is happening with this deal could be explained like an accident in which a truck hits a victim and everyone is standing around arguing about the accident while the victim is bleeding

See Spill, page B4

Spill

Continued from page B1

to death," Eliason said. "In this case the victim is Prince William Sound."

Grussendorf said the financial part of the settlement never thrilled him.

"The corporate tax attorneys did a wonderful job for Exxon because the terms allow for the deal to act as an annuity for the oil giant," Grussendorf said.

"What really matters is what the people affected by the spill think of the deal," he said.

How Grussendorf votes depends on what he hears from representatives Cliff Davidson, D-Kodiak; Gene Kubina, D-Valdez; and Mike Navarre, D-Soldotna. The three spent their weekend listening to people affected by the spill.

"I'm going to key off Kubina, Davidson and Navarre," Grussendorf said. "If they agree it's a good deal, then I will go for it — reluctantly."

Grussendorf, who helped organize the Prince William Sound public hearings, said the Hickel administration orchestrated a public relations show at the hearings to garner support for the settlement. The hearings in the Sound communities were before the House Special Committee on the Exxon Valdez Oil Spill Claims Settlement. The Senate has a similar panel.

He said that when Hickel found out legislators were going to Prince William Sound to get community reaction, the administration hastily put together a team to stave off criticism of the deal. The team included Cole, Department of Fish and Game Director Carl Rosier and Department of Environmental Conservation Director John Sandor, Grussendorf said.

"The administration did this to put on a dog-and-pony show," he said. "I told my people to make sure they (the administration) don't take over."

Cole said he, Rosier and Sandor were not sent to the hearings as part of a public relations ploy. The Hickel team went along because they are the state trustees who will administer the settlement funds, he said.

Cole also said he went to explain to people his role in negotiating the settlement.

Legislators are expected to act on either a Senate or House concurrent resolution by April 24, Grussendorf said.

James Rockwell, Hickel's special assistant for special projects, said the governor remains supportive of the settlement because he feels it is in the best interest of Alaska.

"The Legislature can accep or reject it, and they are in tough situation," Rockwell saic "The governor is not deterred b any of the negative reaction the settlement. A bird in the ha is worth two in the bush."

In communities affected the spill, the settlement has be a hard sell because most peop who suffered would like to hav seen Exxon pay more, Cole said

"I think the people are enti tled to question the state's chie negotiator," Cole said following Sunday's town meeting in Cordova. "They may not agree with the explanation I gave but they were entitled to it. It wasn't always easy to sit through these questions. But on the other hand that's what is expected of me and I recognize that.

"One could not help be impressed by the incisiveness by much of the commentary. Many of the people knew what they were talking about. Others were still angry at Exxon and Alyeska (Pipeline Service Co.)."

Unkept Exxon vows leave Cordovans mistrustful of pact

4.15.91

By DIRK MILLER

TIMES CAPITAL BUREAU

CORDOVA — People here have had too many broken promises the past two years to be impressed with the proposed Exxon Valdez oil spill settlement, says Mayor Bobby Van Brocklin.

Van Brocklin, testifying at Sunday's hearing of the House's settlement review committee, said the promises to Cordova began long before the Exxon Valdez tanker struck Bligh Reef on March 24, 1989. Cordovans were assured such a disaster would not happen when the trans-Alaska oil pipeline was built.

"We've had promises and promises starting 20 years before the disaster of the spill, and here we sit," Van Brocklin said at the hearing in Cordova's public library. "So our trust is at a very low level."

Many said they had been promised by Exxon representatives that the town would "be made whole again." They say it did not happen.

"Once again, it seems we're being told 'Trust us. It will happen,'" said City Council woman Nancy Bird.

State, federal and Exxon officials last month agreed to a $1 billion settlement of federal and state lawsuits stemming from the 11-million-gallon spill. The settlement includes a $100 million criminal fine for guilty pleas by Exxon to four federal charges and $900 million in natural resource damages. The $900 million is to be placed in a trust fund to be used for restoration of Prince William Sound and other oiled areas. Six trustees — three federal, three state — would decide

See Cordova, page B4

Cordova

Continued from page B1

how the money is spent.

A federal judge is expected to decide on Exxon's guilty pleas April 24. A decision by state and federal governments on whether to approve the rest of the settlement is to be made by May 3.

Fisherman Bill Black said the date is too soon, especially since federal studies of the spill's effects just recently were released.

"Some of these facts are just coming to light," Black said. "I would urge the Legislature to turn this down and let it digest a little."

Most of those testifying from the crowd of about 50 people urged lawmakers to try to change the $1 billion pact or reject it. People were concerned about the size of the settlement, its effect on private lawsuits, the uses of the trust fund, and the release of state damage studies.

Melissa Rice told the panel she had worked for the state with the confidential data and that the state was not getting enough for the disaster.

"From what I learned, the state has an excellent case against Alyeska and Exxon," she said. "We are selling ourselves short."

Attorney General Charles Cole told residents at the hearing that he was keeping state studies secret to keep others from using them against the state. He said lawmakers will be given a confidential briefing on the studies this week to help them decide on the settlement.

Cole and Fish and Game Commissioner Carl Rosier — two of the state's trustees — attended the hearing.

Native groups told lawmakers that the spill was still disrupting their subsistence lifestyle.

Mary Gordaoff, the president of the Tatitlek Corp., said villagers still could not trust the seafood they relied on for food. Tatitlek was less than five miles from the tanker accident. Gordaoff said she continues to hear horror stories from fishermen about diseased sea life.

"This isn't over yet and it isn't going to be for a long time," she said.

4.17.91

State backs off timber buyout

By DAVID POSTMAN
Daily News reporter

JUNEAU — State officials who will decide how to spend Exxon Valdez settlement money said Tuesday they do not support buying large tracts of timber land around Prince William Sound — a plan Gov. Wally Hickel pushed for months while trying to win support for the settlement.

"That was in the beginning. Things change," said Attorney General Charlie Cole, the state's chief negotiator on the settlement and one of three state officials who, along with an equal number of federal officials, will choose the projects to be funded from the proposed $1 billion settlement.

But a spokesman for Hickel said the governor hasn't changed his mind.

"The governor is neither no more or no less committed to buying that timber," said James Rockwell, Hickel's special assistant for special projects. "He envisioned insuring that those trees wouldn't be logged, but he didn't say that was exactly what he was going to do."

Also Tuesday, Rep. Gene Kubina, D-Valdez, suggested the settlement be postponed so Exxon could try to settle some of the hundreds of private suits filed against it. But top federal officials told

Please see Page C-2, TIMBER

■ BACK IN COURT: Native villagers seek to modify a $1 billion spill-damage settlement they say undermines their claims for compensation. C-4

■ FITTING PUNISHMENT: Federal prosecutors and Exxon attorneys countered criticism of a proposed plea bargain of criminal charges. C-4

TIMBER: State backs off

Continued from Page C-1

lawmakers that any delay or change in the agreement would likely kill it.

Environmentalists and Cordova residents say the administration used the timber buyout as a ploy to ease local opposition to dropping the state suit against Exxon.

"I feel betrayed," said environmentalist and fisheries biologist Rick Steiner, one of the earliest supporters of Hickel's proposed settlement. "I was operating under the premise that these people were honorable individuals with noble intentions and that they meant what they were saying.

"I hope I wasn't being used."

Steiner liked the timber buyout idea because it would protect lands around the Sound that have been marked for commercial harvest. He and other environmentalists say large-scale timber operations could hurt the Sound.

Word that the administration was backing off the plan first came Sunday at a legislative hearing on the proposed settlement in Cordova. In response to a question from Cordova Mayor Bob Van Brocklin on what the settlement money would be spent on, Cole said he would not "go out and buy wholesale tracts of timber."

Fish and Game Commissioner Carl Rosier also said he didn't think that was a good idea. "At this point I'm not willing to commit to any course of action," he said Tuesday.

Environmental Conservation Commissioner John Sandor said Tuesday that settlement money would be better spent on restoring land directly damaged by the spill. He said he supports designating the federal land around the Sound a recreation area, which would allow timber cutting "and protect as many jobs as possible" while still offering some protection.

Rockwell said the state trustees are not dispu what Hickel said earlier stead, they are just tryir move slowly.

"There has been so n pounding on these guys are weary and a li gun-shy about what they they are going to do what they are not goin do," Rockwell said. "V they are going to do is hance and restore Pr William Sound.

Van Brocklin said T day his constituents are happy with the adminis tion's shift. But he was surprised.

"I know from prev experience not to trust w they tell me," he said prefer it in writing wit letter of credit."

Steiner, who had ur the legislature to appr the settlement, said Tues he now thinks it should rejected.

"The only urgency taking care of the vict the environment," he s "Now the money is goin go to agencies to balloon bureaucracy, it is going t studies. Studying the sit tion does nothing for re ration."

Also Tuesday:

• An attorney repres ing cities suing Exxon c the spill said the st should release confiden scientific and economic d age studies. Matt Jamin puted Cole's argument t the state needs to keep information secret becaus could be used against state in court.

Jamin said Cole and ot state officials have a resp sibility to see that the So is restored and should no so concerned about state's financial position. accused state officials "self-dealing to cover backside a little bit."

• The House special c mittee asked Cole to forr ly invite Exxon execut to testify on the settlem So far, lawmakers h heard from state and fed officials and Alaskan r dents.

The Washington Post

Value of Intangible Losses From Exxon Valdez Spill Put at $3 Billion

By John Lancaster
Washington Post Staff Writer

Confidential government studies have estimated the "social cost" of the Exxon Valdez oil spill at $3 billion, nearly three times the $1.1 billion that Exxon has agreed to pay to settle criminal and civil charges arising from the accident.

The controversial economic studies, conducted for the state of Alaska and the federal government, are an attempt to assign a dollar value to intangible losses said to have been suffered by the American public as a result of damage to wildlife and natural habitat. Economists polled households nationwide to arrive at the estimate, which would have figured prominently in Exxon's trial had the case not been settled out of court.

There is no guarantee that a judge and jury would have accepted the $3 billion estimate, which was provided to The Washington Post by one of the economists involved in the studies. Federal officials defended the settlement as a landmark penalty that avoids a costly and uncertain trial while providing immediate cash for cleanup and restoration.

But critics noted that several recent court decisions have upheld the validity of social cost studies for valuing environmental catastrophes, suggesting that Exxon may have gotten off too lightly. "The federal government has a fiduciary responsibility to the citizens to look out for these resources, to provide a market signal that if you do damage, this is what it's going to cost you," said an economist familiar with the studies.

In affirming the method two years ago, a three-judge federal appeals court panel ruled that although "the extent of damage to natural resources from releases of oil and hazardous substances varies greatly . . . it is in the mission of [federal law] to assess the public loss."

Exxon declined to comment on the studies.

William K. Reilly, administrator of the Environmental Protection Agency, said in an interview that while such studies "have their place . . ., they're new, there's not a lot of litigation, and courts haven't awarded anything on the basis of how much somebody says they're willing to pay to save a river otter."

State and federal officials, citing unresolved claims from third parties such as fishermen and Native Alaskans, have refused to make any information from damage studies available to the public. "We won't do so unless we get a commitment from the plaintiffs that they won't sue us with the information," said a spokesman for Alaska Gov. Walter J. Hickel (I).

If nothing else, the debate over the economic studies illustrates the difficulty of assessing damage to natural resources from accidents such as the Exxon Valdez spill, the nation's worst. Some values, such as cleanup costs and measurable financial damage to tourism and commercial fishing, are relatively easy to calculate. But the question of intangible losses has proved harder to resolve.

What, for example, is the price of a dead sea otter or sea bird, both of which society presumably holds dear even though they have no commercial value?

In the past, the federal government has assigned market values to dead wildlife, such as $15 for a fur seal or $35.74 for a Canada goose. But the appeals court decision found that such methods did not adequately compensate the public, and ordered federal agencies to give more weight to intangible losses in figuring the bill for environmental catastrophes.

Norman Meade, chief economist of the damage assessment branch for the National Oceanic and Atmospheric Administration, declined to comment on the substance of the economic studies and said he feels "fine about the settlement."

But he also defended the methodology of so-called contingent value studies, describing them as "the only way to get at these kinds of values." He added, "When these [resources] are interfered with, there is a social cost, the public has lost some general welfare, and that's what we're trying to estimate."

In evaluating the losses, economists hired by the state of Alaska developed elaborate surveys aimed at calculating the public's "willingness to pay" for a clean Prince William Sound. Beginning in 1989, the economists met with "focus groups" in Seattle, San Diego and Baltimore with the aim of exploring "how people think about the oil spill and its consequences," one of the surveyors said. "You use these to find out the language and assumptions people use so you can frame your questions accordingly."

After pilot surveys in San Francisco, Toledo and rural Georgia—"They're sort of middle America," the economist explained—the contractors surveyed 1,000 households nationwide. Surveyors conducted face-to-face interviews in which they displayed photographs and other information about the spill, then asked respondents how much they would be willing to pay to protect Prince William Sound from future spills.

Preliminary results from the survey, conducted in January and February, showed a median amount of $30 for each household, or—figuring there are 100 million households in the country—$3 billion for the American public as a whole, according to one of the economists. Although the federal government had not progressed as far with its studies, a federal official said the $3 billion figure was "in the ballpark."

EXXON WILL ADMIT TO CRIMINAL WRONG IN '89 ALASKA SPILL

FINE OF $100 MILLION SET

Plea and Payment Included in $1.1 Billion Settlement in Valdez Disaster

By KEITH SCHNEIDER
Special to The New York Times

WASHINGTON, March 12 — The Exxon Corporation has agreed to plead guilty to a criminal charge arising from the 1989 Exxon Valdez oil spill and pay a $100 million fine, officials of the Environmental Protection Agency said tonight.

The $100 million would be part of the $1.1 billion Exxon is to pay over the next 10 years to settle civil and criminal cases arising from North America's largest oil spill, Alaskan and Federal authorities said today.

Final arrangements for the guilty plea were being worked out tonight, the E.P.A. officials said. The arrangements included a review of the agreement by the E.P.A. Administrator, William K. Reilly. It was not clear this evening what charge Exxon would plead to. The company had faced two felony charges and at least three misdemeanor counts stemming from the March 24, 1989, accident and could have been fined up to $600 million if convicted on all counts, Attorney General Dick Thornburgh said after the company was indicted a year ago.

As for the overall $1.1 billion settlement, Federal and state officials have agreed to the arrangement. Although a Federal District Court judge at first seemed to raise another hurdle today when he said he would review the settlement to insure that the rights of 5,000 Alaskan villagers were protected, a state official said early this evening that the final obstacles appeared to have been overcome.

Exxon would pay $100 million immediately to settle criminal charges brought by the Department of Justice. That would be one of the largest, if not the largest, criminal fine ever paid for pollution. A trial on the charges had been scheduled for April 10 in District Court in Alaska.

Effects Would be Studied

The villagers had filed suit last week, asserting that they had been locked out of negotiations between Exxon, the State of Alaska and the Federal Government. The villagers said they feared that a settlement would prevent them from recovering financial damages caused by the spill on March 24, 1989.

The settlement, which has been under negotiations for months, would not end Exxon's legal troubles in Alaska. At last count, 330 separate suits were pending against the company. But the settlement would end the major suits, brought by the State of Alaska and the United States.

In addition, the company would pay

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Exxon Penalty

$1.1 Billion For Valdez Oil Spill: A Bargain?

HOW do you put a price on an environmental disaster? Last week the Exxon Corporation and the Federal Government set a benchmark by agreeing that the Valdez oil spill, in which an Exxon tanker dumped 11 million gallons of petroleum into Alaska's Prince William Sound, was worth $1.1 billion. That is the amount the company could pay as a settlement for violating Federal environmental law.

After years of insisting that the disaster on March 24, 1989, was purely accidental, Exxon and its shipping subsidiary pleaded guilty to four misdemeanor criminal violations and agreed to pay a $100 million fine, the largest ever for environmental crimes. Exxon will also pay $900 million over the next 10 years to settle civil litigation that was being prepared by the state of Alaska and the Federal Government, and could be required to spend up to $100 million more if additional damage is discovered after the turn of the century.

Some of the money is to be used to reimburse the state and Federal governments for $135 million in expenses from the first year after the spill. The rest will be managed by three state and three Federal agencies and could be used to pay for scrubbing more miles of shoreline, building fish hatcheries, restoring bird populations, buying land, and conducting scientific studies and other restoration projects. The agreement is open to comment for 30 days and must be approved by a Federal district judge in Alaska and by the state legislature.

Environmental groups nervously commended the agreement for setting legal precedents and new standards for penalizing polluters. But they said they worried that the settlement might not provide enough money to finish the job of restoring the sound, and that it appeared to let Exxon, the world's largest oil corporation, off too cheaply. Except for the $100 million criminal penalty, Exxon will be able to write off the entire settlement as a business expense.

At a news conference on Wednesday, Lawrence G. Rawl, the chairman of Exxon, seemed to shrug off the cost of the settlement. "We're talking about stretching a bill out over 10 years," he said. "It will not curtail any of our plans." Hours later, Exxon stock closed at $57.25, up $1, on the New York Stock Exchange. *KEITH SCHNEIDER*

Natalie Fobes/National Geographic Society

Cleaning up the Exxon Valdez spill on Alaska's Green Island last year.

NY Times 3/17/91 E-5

Obstacles Cleared, Exxon Is Ready to Pay $1.1 Billion in Oil Spill

Continued From Page A1

$90 million this year into a fund administered by three Federal agencies and three state agencies. The money would be used for scientific studies of the Prince William Sound region, which suffered great damage, and for projects to continue scrubbing the shoreline of oil left when nearly 11 million gallons of crude oil spilled from the hull of the Exxon Valdez after the tanker ran aground in the sound.

The spill near Valdez fouled much of the Gulf of Alaska.

The tanker's skipper, Capt. Joseph J. Hazelwood, was convicted in April 1990 of the relatively minor charge of negligently discharging oil but acquitted of piloting the vessle while drunk and other charges. He was sentenced to spend 1,000 hours in the cleanup operation and was ordered to make $50,000 restitution.

Exxon said in April 1990 that is had spent $2 billion on the cleanup and had paid another $200 million to settle claims.

The agreement made final today also called for payments into the fund of $150 million in September 1992, $100 million in September 1993, and $70 million annually from 1994 until 2001. The proposed settlement also calls for Exxon to contribute $100 million more to the fund if additional damage from the oil spill is discovered.

Economists noted that Exxon would be able to claim tax deductions for every payment except for the $100 million criminal penalty, to be paid this year.

The agreement would not affect some 300 other lawsuits filed by environmentalists, fishermen and Aleuts asking Exxon to pay for damages these groups say they suffered after the spill.

The proposed settlement was applauded by Gov. Walter J. Hickel of Alaska but strongly criticized by environmental groups and some state officials who said, essentially, that Exxon would be paying too cheap a price in settling the case.

Bottom of the Pockets?

"It seems like a good deal for Exxon," said Eric Jorgenson, a lawyer for the Sierra Club Legal Defense Fund in Juneau, which has a separate suit pending against the company in the aftermath of the spill.

But Governor Hickel said: "I am very happy with the settlment. It allows us to get to the bottom of Exxon's pockets."

Lance Lamberton, a spokesman for Exxon in Irving, Tex., declined today to say whether Exxon would sign the agreement and said the company would make no comment about the situation for the time being.

"If and when things break and we have come together for a proposal to be signed, there will be extensive notification," said Mr. Lamberton.

The settlement contains provisions to make public a wealth of scientific studies conducted after the spill by the Department of the Interior, the Environmental Protection Agency and other Federal agencies. But studies sponsored by the State of Alaska and the United States Coast Guard are to remain private pending the outcome of court cases brought against the state and the Coast Guard.

"Keeping the data secret is a major problem," said Mr. Jorgenson. "All of the data available from the spill should be released. The public paid for it. It's public information."

Although the terms would make the settlement the most expensive ever for damages caused by an environmental disaster, the pact is certain to raise a stir in Alaska and in Washington. The negotiators will open the pact to public comment for 30 days after it is signed. Officials with the state and two Federal agencies said the pact could be altered as a result.

Economists who have studied the spill for the state and Federal governments said today that the $1.1 billion settlement represents only a portion of the actual value of the damage to fisheries, water, wildlife and land. The economists said the Exxon Valdez disaster will have caused $2.5 billion to $5 billion in damages from the time of the spill before midnight on March 24, 1989, through 1994.

Several state officials who asked not to be identified today said they had hoped that Exxon would be required to pay $1 billion in a one-time payment that could generate permanent income through annual interest payments. Thus, the annual payments, spread out over 10 years, are much less valuable to the state's efforts to clean up and study the effects of the spill.

Senator Frank Murkowski, a Republican from Alaska, said today that Alaska was fortunate to have gained a settlement. The alternative was years of litigation that would have cost Alaska millions of dollars in legal fees without any assurances of success.

"I think this agreement, if it is resolved, is going to have to stand the light of day by the Legislature, the Governor and Exxon shareholders," said Senator Murkowski. "The alternative is litigation. I certainly am inclined to think a bird in the hand is worth two in the bush. The cost of litigation would be very substantial."

The settlement also calls for an advisory group made up of members of the public to help oversee how money from the settlement is spent. The Department of Justice scheduled a news conference for Wednesday to explain provisions in the settlement.

The last obstacles to the settlement were crossed this afternoon when Judge Stanley Sporkin lifted an order here that prevented the pact from being signed, and a District Judge from Alaska, H. Russell Holland, approved the agreement. Judge Holland was to have presided over the criminal trial next month.

Last week, Judge Sporkin blocked the settlement from being signed until the state and Federal Government assured more than 5,000 Alaskan native villagers that their right to gain financial damages from Exxon would not be harmed by the pact.

Today, Judge Sporkin said he was satisfied that the rights of the native villagers to fully prosecute their suits had not been harmed by any settlement between Exxon, Alaska and the Federal Government and lifted his injunction.

"The court shall retain jurisdiction over this matter to ensure that the defendants' representations are carried out so the plaintiffs' rights are protected," Judge Sporkin wrote in the order.

Bush Digs In on Arctic Drilling Plan

WASHINGTON, March 12 (Reuters) — President Bush will veto any national energy strategy that does not include his proposal allowing drilling in part of the Arctic National Wildlife Refuge in Alaska, the Secretary of Energy told a Senate hearing today.

Both the White House energy plan and a Senate version propose opening a 1.5-million-acre coastal plain in the wildlife refuge to oil and gas drilling, a provision that environmentalists and some lawmakers oppose.

Testifying today before the Senate Energy and Natural Resources Committee, the Energy Secretary, James D. Watkins, said that any strategy that does not include drilling in part of the wildlife refuge "is a veto-able issue with the President."

Mr. Watkins also told the panel that if no new large oilfields were developed on Alaska's North Slope, where the refuge is situated, declining production would probably force the Trans-Alaska Pipeline to shut down within 18 years.

The two largest oilfields in North America are on the North Slope. One is the Prudhoe Bay field, the most prolific in the nation, and the other is the Kuparuck River field. These two fields and five smaller ones nearby produce from 1.8 million to 2 million barrels of crude oil a day, about 25 percent of American domestic production.

Decline in Oil Output Seen

But Mr. Watkins said today that there was already evidence of a decline in the oil flow from the North Slope. And an Energy Department study whose results were issued today predicted that by the year 2009, the use of the Trans-Alaska Pipeline, which carries oil from the North Slope down the 800-mile length of the state to ports on Alaska's southern coast, might no longer be technically or economically feasible if North Slope production drops, as expected, to less than 300,000 barrels a day.

Estimates of the amount of oil to be found on the Arctic coastal plain range from zero to between 500,000 and 2 million barrels a day. "It could be a small Middle East," Gov. Walter J. Hickel of Alaska, an enthusiastic advocate of the drilling provision, said at the hearing today.

Among the critics of the proposal is Senator Bill Bradley, Democrat of New Jersey, who is an Energy Committee member and favors a national energy strategy that places greater emphasis on conservation and less on production.

Mr. Bradley has proposed raising the price that Americans pay for their oil through higher taxes. Today he said the United States could either raise taxes or adopt a policy of "In Fahd We Trust" in which the nation would continue to be dependent on the Saudi king and the leaders of other major oil-producing nations.

Environmentalists today also reiterated their opposition to the Arctic refuge drilling. Brooks Yeager, vice president of the National Audubon Society, said the drilling would "destroy one of the earth's last great dynamic ecosystems."

But Mr. Hickel disagreed.

"We are tired of those who distort the arguments about A.N.W.R.'s coastal plain," he said. "It is a barren, marshy wilderness in the summer, infested with uncountable mosquitoes, and locked in temperatures of 60 and 70 degrees below zero for up to nine months of the year."

Washington at Work

New York Times / national 3/21/91 A15

In Exxon Deal, Transportation Chief Wins Another One for the President

By KEITH SCHNEIDER

Special to The New York Times

WASHINGTON, March 20 — A week ago Tuesday, Lawrence G. Rawl, the chairman of Exxon, flew to Washington. In an informal ceremony at the Justice Department just before midnight he signed a $1.1 billion settlement that he hoped would put the nation's worst oil spill, and the two years of civil and criminal cases that followed, behind him and his company.

Standing with Mr. Rawl, Gov. Walter J. Hickel of Alaska and the lawyers for the Department of Justice was Transportation Secretary Samuel K. Skinner.

Once again Mr. Skinner had pulled it out for the White House, bringing to a successful conclusion talks that by all accounts could easily have tipped the other way.

"I viewed my job as a facilitator," said Mr. Skinner, a former United States Attorney from Chicago. "You had a huge amount of egos and interests that had to be blended together.

"In my experience I've found that if the principals don't want to settle they look for an opportunity to get out. In this case everybody wanted a deal because they knew the alternatives didn't make sense."

A 52-year-old lawyer and protégé of James R. Thompson, the former Governor of Illinois who at one time was considered as a potential national Republican figure himself, Mr. Skinner has made his career in the capital handling domestic political issues without embarrassing the President. His background as a litigator has helped. So has his instinct for the spotlight and his good feel for the Washington social circuit.

Marty Katz for The New York Times

"I viewed my job as a facilitator," said Transportation Secretary Samuel K. Skinner of Exxon's Justice Department settlement. "You had a huge amount of egos and interests that had to be blended together."

In Response to Disasters

When the tanker Exxon Valdez struck a reef in Prince William Sound in Alaska on March 24, 1989, spilling 11 million gallons of Alaska crude into the sound and turning beaches into a chaos of oil-soaked birds and dying otters, it was Mr. Skinner who was dispatched to supervise the Government's response.

Earlier that month, when machinists at Eastern Airlines went on strike, President Bush tapped Mr. Skinner instead of Elizabeth Dole, then Secretary of Labor, to handle the strike. Mr. Skinner's advice to the President: stay out of the struggle.

In September 1989 Hurricane Hugo swept through the Caribbean and struck the mainland in South Carolina, killing 24 Americans and causing immense property damage. A month later a powerful earthquake hit the San Francisco Bay area, killing 59 people. In both disasters Mr. Skinner was called in.

Now there is the Exxon deal. With his company facing a criminal trial in April and civil litigation afterwards being prepared by the Justice Department, Mr. Rawl had been ready for months to talk. "It's been a burden to us," the Exxon chairman said in a news conference on March 13 in Irving, Tex.

Eager for a Settlement

Governor Hickel, an independent, wanted a consistent source of money to continue recovery work in Prince William Sound, the source of a prosperous fishing and tourism industry.

The Federal Government was eager to settle, too. The civil case against Exxon was expected to take at least five years to litigate, and in the criminal case, scheduled to begin April 10, the Justice Department was going to be testing new applications of environmental law. Nobody knew how a jury would respond.

"The cleanup efforts Exxon had made in the sound made a significant difference," Mr. Skinner said. "Nature had also done a tremendous job there. Scientists were telling everybody this was not a multibillion-dollar damage suit."

Mr. Rawl and Lee R. Raymond, Exxon's president, flew to Juneau, Alaska, on Jan. 15 at Governor Hickel's invitation. The state and the Federal Government had agreed three weeks earlier to work together, he told them. Mr. Raymond called Mr. Skinner and told him that the Governor was seeking an agreement.

An experienced litigator finds a way to satisfy everybody.

Mr. Skinner said he believed that a successful negotiation was possible, but only if it was conducted at the Cabinet level. "I said this case will not be settled by lawyers," Mr. Skinner said. "First of all, they don't know how to settle it. Second, they have a built-in conflict of interest. This could go on for years."

The Chairman Cools His Heels

On Feb. 5 Mr. Rawl and Mr. Raymond were asked to come to Washington for a meeting at the Commerce Department with the Federal and state negotiators: Mr. Skinner; Manuel Lujan Jr., Secretary of the Interior; William K. Reilly, Administrator of the Environmental Protection Agency; John Knauss, Administrator of the National Oceanic and Atmospheric Administration; Governor Hickel and Charles E. Cole, the Alaska Attorney General.

Mr. Rawl, a combative executive whose four-year tenure as Exxon's chairman had been marred by the oil spill, was in a dour mood, several negotiators recalled. After being asked to wait outside a conference room for 30 minutes while the government officials finished a meeting, Mr. Rawl became furious.

"I went out twice and asked them to please be patient," said Thomas A. Campbell, general counsel of the National Oceanic and Atmospheric Administration, who organized the meeting. "Rawl said: 'Just tell them they don't need to take much time. What I'm going to say is short and sweet.' He was going to tell them he's had it, he'll see them in court."

Mr. Skinner said that when the Exxon chairman entered the room he lashed out at the negotiators, saying he was sick and tired of how the company had been treated by the Government, the news media and the people of Alaska. Exxon had spent $2 billion to help clean up Prince William Sound, Mr. Rawl said, more than had ever been spent by any company for an environmental restoration project, and had received no credit.

Nobody responded until Mr. Skinner disarmed Mr. Rawl, according to participants.

"Look, Larry," said Mr. Skinner, whose department includes the Coast Guard and who has developed a personal relationship with Mr. Rawl in the two years since the spill. "Let's not relive it. If we do, we'll never get past it."

'Reopener Clause' Is a Snag

Over the next 90 minutes, participants say, the broad outline of a settlement of the civil claims was established. Following Mr. Hickel's lead, the state and the Federal Government said they were looking for at least $1 billion. Mr. Reilly insisted that the settlement include $300 million more to be put into a special fund if more damage was found, a provision that came to be known as the "reopener clause."

Mr. Rawl and Mr. Raymond said that they wanted the settlement to make Exxon immune to any more state and Federal claims, that they did not want to pay the money in a lump sum and that they hated the reopener clause.

Three more meetings were held in Washington in February and early March before lawyers were dispatched on March 3 to put the agreement into legal language. With Washington gripped by the Persian Gulf war, the group was able to work undistracted by reporters or environmental groups or other interests.

"This had to be handled by the principals only, and it had to be handled in a short period," Mr. Skinner said.

Through February, the talks were never far from collapse. "We knew the longer the discussions went on the harder it would be to put it together," the Secretary said.

Justice Department lawyers and other participants credit Mr. Skinner with keeping Exxon and government officials at the table.

When Mr. Rawl and Mr. Raymond almost walked out because of Mr. Reilly's insistence that the agreement should have a reopener clause, Mr. Skinner told them the E.P.A. administrator's signature on the agreement was vital politically. Without it, the Secretary said, the Bush Administration and Exxon would have a hard time justifying the settlement to environmental groups.

And when Exxon insisted that Mr. Reilly be barred from attending a meeting on Feb. 24, Mr. Skinner assured Mr. Reilly that the Government would not negotiate something the E.P.A. administrator was unable to accept. In the end, Exxon and Mr. Reilly accepted a provision that called for the company to spend up to $100 million after the year 2001 if more work in the sound was needed.

Mr. Skinner also kept the White House informed. During a meeting at the White House, John H. Sununu, the President's chief of staff, remarked that the $1.1 billion deal sounded "like an awful lot of money," Mr. Skinner said. But he assured Mr. Sununu that the agreement between the Government, Alaska and Exxon would be a good deal for everybody.

Samuel [illegible] Skinner

Born [illegible]

Hometown [illegible]

Education [illegible]

Career [illegible]

Exxon and its shipping subsidiary pleaded guilty to four criminal misdemeanor violations of environmental law and agreed to pay a $100 million fine. It was the largest penalty ever assessed in a pollution case, more than three times higher than the $29.7 million that the Government collected in 1990 for all environmental crimes. Even more, from the White House point of view, it makes good on Mr. Bush's campaign promise to penalize polluters.

From the state's point of view, the cost of the settlement, $1.1 billion, will keep Exxon involved in the restoration of Prince William Sound for at least a decade.

Exxon, like any corporation (or person, for that matter), would have preferred not to spend any money. But Mr. Rawl said last week that he thought the settlement was good for the company. Paid out annually over 10 years, the payments reach a maximum of $190 million this year, and then drop to $70 million each year from 1994 to 2001.

To a corporation with an annual revenue of $100 billion, the cost of the settlement each year is roughly the same as drilling two difficult offshore wells. "It will not curtail any of our plans," Mr. Rawl said.

Information believed to be in spill studies

By CHARLES WOHLFORTH
Daily News reporter

Studies commissioned by the state and federal government on the Exxon Valdez oil spill reportedly suggest serious, long-term damage to Alaska's coastal environment and an astronomical price tag for that damage.

The governments have spent more than $70 million on the studies, but their results remain secret. But some information has leaked out, including these points:

- Seaweed beds in Prince William Sound that provide the basic fuel for the ecosystem of sheltered bays were badly damaged;
- Recovery is in doubt for colonies of murres on islands south of the Kenai Peninsula hit hard by the spill because the oil caused long-term disruption to their reproductive process;
- And economic surveys designed to show the cost of the spill to society as a whole placed the price Exxon could be made to pay at $3 billion to $8 billion.

The economic studies used a method called contingent valuation to survey a cross-section of Americans on the value they place on natural resources. A federal court validated the method.

Workers on the studies anonymously told The Washington Post that one of the studies set a damage figure of $3 billion, the newspaper reported March 20. That figure was partly confirmed when Tom Campbell, general counsel for the National Oceanic and Atmospheric Administration, told a U.S. House committee the study's $3 billion to $5 billion finding might be hard to prove in court, said National Wildlife Federation attorney Doug Wolf.

A source working on the case told the Daily News Friday those numbers were low. More recent data indicate damages of $3 billion to $8 billion would be defensible in court, the source said.

The information on murre colonies first was reported in a Post article Feb. 21. It cited leaked documents that said murre colonies had suffered a total reproductive failure and might not recover for 70 years. The cause of the failure was said to be a lack of adult birds to defend eggs.

David Nysewander, investigator of the colonies for the U.S. Fish and Wildlife Service, appeared inadvertently to confirm that conclusion when he explained murre reproduction to a reporter last week.

Nysewander said murres' reproductive success depends on synchronized egg laying, which allows them to band together to defend nesting birds. Laying usually takes place all in one month. But his group has had to change plans, extending its visits to the colonies across several months — and that suggests the egg laying is no longer well-synchronized.

"If there were changes, you have to look at it different," he said. "But I can't tell you about that."

The information on seaweed in Prince William Sound comes from environmental attorneys.

"It's only just very vaguely being leaked out by the concerned scientists involved," said Bill Rossbach, an attorney representing environmental plaintiffs against Exxon. "There are a number of scientists who are concerned.

"They're finding what the inside people say is very substantial deterioration of that crucial part of the food webb," Rossbach said.

Spill lessons stay secret

Suits keep studies — and answers — under wraps

By CHARLES WOHLFORTH
Daily News reporter

The secrecy of government studies on the Exxon Valdez oil spill has led to a warped view of the spill's damage, hampered makers of public policy and an adviser on the Persian Gulf spill, and made it more difficult to evaluate a proposed agreement to settle suits against Exxon, say legal, scientific and government officials.

Federal lawyers have said they would release their scientists' da [illegible] Alaska Attorney General Charlie Cole said the state's studies will remain secret as long as the state stands to lose money in court over the spill. That could be years.

People hurt by the spill are suing the state as well as Exxon because the state's lax regulation of tankers in Prince William Sound may have helped lead to the spill. The suits and settlement have made unwilling allies of Exxon and the state against the state's own citizens because a court could find them jointly liable for the damage.

The studies were set up to measure the damage caused by Exxon's spill on March 24, 1989, of 11 million gallons of crude oil, which killed 100,000 to 300,000 birds and oiled more than 1,000 miles of Alaska coast. The two governments together have spent about $35 million on each of the three years of study — the third year just began — and Exxon is thought to have spent about as much.

Please see Page B-2, SECRETS

SECRETS: Lessons of Exxon Valdez oil spill kept under wraps by lawsuits

Continued from Page B-1

The studies reportedly show reproductive failure of damaged seabird colonies in the Gulf of Alaska, damage to kelp forests in Prince William Sound that are important food for other life forms, and social costs of the damaged resources totaling $3 billion to $8 billion.

But those findings are impossible to confirm because the studies are secret.

The information has been denied to legislators evaluating Gov. Wally Hickel's $900 million Exxon settlement and to federal scientists developing long-term environmental policy for outer continental shelf oil and gas leases.

John Farrington, chairman of a committee to review the federal leasing program, and one of the nation's leading oil spill scientists, said the secrecy has meant the Exxon Valdez spill has so far taught few scientific lessons.

"I was asked, how would I bring the lessons of Prince William Sound to the recent oil spill in the Persian Gulf," Farrington said. "And the answer I had to give was that there are so many lessons from the Prince William Sound oil spill that I don't know, that I can't really give advice."

The report on the environmental impact of federal offshore oil development was also limited by the lack of information on the nation's biggest oil spill. Farrington said he wanted to know about the extent of wildlife damage and the accuracy of models scientists used to predict the breakdown of oil in the ocean.

"Those are very important questions," he said.

The legislature also needs the information to judge the settlement, said Rep. Gene Kubina, D-Valdez, a member of a settlement review committee.

"I don't know what it says, so I don't know if it is going to indicate that the damage is far worse than we think it is," Kubina said. "They lose votes in the legislature by keeping it secret. I'm more likely to vote no without the information."

But without Cole's agreement, most of the data will remain secret. The state controls about half the 60 studies now in progress, and about a dozen more were conducted jointly.

Tom Campbell, general counsel for the National Oceanic and Atmospheric Administration, told congressional staffers recently that the federal government would let the state veto release of the joint studies. Federal officials also said the studies will require scientific review before they are released, which could delay some by a year.

Richard Stewart, lead spill litigation attorney for the U.S. Department of Justice, had told a U.S. House committee summaries of the studies would be released by late last week. But it never happened, and a justice spokeswoman said late Friday only that it was "under discussion."

Federal, state and Exxon officials already promised to release their data last summer, then entered into talks that never came to any conclusion on how to accomplish the release. A federal lawyer said in October that federal scientists immediately would begin unilateral release of all their information. That didn't happen, either.

Cole said it may be a long time before he can release the state's studies. He said he is acting in the interest of all the state's taxpayers by protecting them from having to pay damages to a minority who were hurt by the spill.

"My view is that the information should not be released as long as the lawsuits pending against the state remain unresolved, and I just don't intend to change my mind about it, notwithstanding the pressure that's been placed on me."

He said that pressure is coming from plaintiffs and legislators because the studies would not be of much interest to the public.

"I don't think it's of great consequence to the store owner in Galena how many eagles were killed as a result of the spill," Cole said.

But David Nysewander, who is studying murre colonies for the U.S. Fish and Wildlife Service, expects interest in his work.

"We have some findings that will be interesting to the public, but I can't tell you about them," he said.

Environmentalists also said the data would be interesting to the public. They say Exxon's selective release of information, such as a water quality study that Exxon scientists said showed the spill did no long-term damage, has given the public a warped view of the spill as doing little harm. With Exxon and the state now facing joint liability for the spill, they are in danger of becoming allies in supporting that distorted view, said Macon Cowles, an attorney for environmental organizations suing Exxon.

"If you take Cole's argument you can flip it around and say, look, the state's taxpayers paid for these studies, and if their state government screwed up and was at fault, then the taxpayers ought to know about it," said National Wildlife Federation attorney Doug Wolf.

Lloyd Miller, one of the attorneys suing the state, said Cole could easily settle the suits with the plaintiffs, making the secrecy unnecessary.

"That's the answer to all of this," Miller said. "To hold the litigation as a reason not to release the information is a false issue. There must be some other agenda that we don't know about.

"The real reason may be that the studies would show the state isn't getting a very good deal (from Exxon)."

Spill Pact Deepens Natives' Isolation

By RICHARD MAUER
Special to The New York Times

PORT GRAHAM, Alaska — Here and in other small isolated native villages, the Exxon Corporation's $1 billion settlement of government suits over the Exxon Valdez oil spill has not brought relief, only a further sense of being left out.

The Aleuts and Eskimos living in these villages had sued to prevent settlement of the government criminal and civil cases. After the settlement announced March 13, they find themselves virtually alone as they continue pressing Exxon to pay for damages they suffered from North America's worst oil spill.

"We felt extremely abandoned by the state and Federal Government," said Port Graham's village chief, Elenore McMullen, explaining that the residents would have no voice in how the $1 billion would be spent. Two years after the spill, their fishing remains disrupted and their ancient burial sites and settlements disturbed.

The settlement can still be rejected by Alaska's Legislature. Judge Stanley Sporkin of Federal District Court, who heard the suit by the Alaskan natives said he would block the settlement only if he was persuaded that native rights were jeopardized.

Terms of Settlement

In the settlement, Exxon agreed to plead guilty to four misdemeanor charges and pay $1 billion over 10 years in fines, restitution and civil claims. The money will reimburse the state and Federal governments for their costs in the cleanup, the loss of resources, and scientific and economic studies. It will also be used to restore the area damaged by the spill in Prince William Sound.

In Port Graham, the agreement has only fueled mistrust.

"It didn't involve us as a native people," Mrs. McMullen said.

Eskimos and Aleuts fear for the little they have left.

Pat Norman, president of the local village corporation, expressed suspicion about Gov. Walter J. Hickel's motives in the settlement.

"He's got his own agenda regarding oil," Mr. Norman said, citing Mr. Hickel's personal project to build a gas pipeline from the North Slope to the port of Valdez, and his efforts on behalf of the state to open the Arctic National Wildlife Refuge to drilling. "If A.N.W.R. is going to be opened up, they can't be reminded about Prince William Sound."

Port Graham, with a population of about 170, sits among the spruce trees beside a bay on the sheltered side of the stormy Gulf of Alaska, 150 miles southwest of Anchorage. It is accessible only by air or water, and its people have used that isolation to preserve the village's Eskimo character. But distance did not protect it from the oil spill.

The village is over 200 miles west by sea from Bligh Reef, where the Exxon Valdez ran aground on March 24, 1989.

Oil Spreads to Port Graham

But then the oil rounded out of Prince William Sound, spread into the Gulf of Alaska, passed Kennedy Entrance to Cook Inlet and lapped up on the shores of Port Graham.

"It was like slow torture every morning," Mrs. McMullen said. "At first it was pain and tears for my friends in the sound, and then it was for us."

The oil is mostly gone now, but the damage remains. The other day, Mrs. McMullen said, she went to the beach for mussels, but there were none.

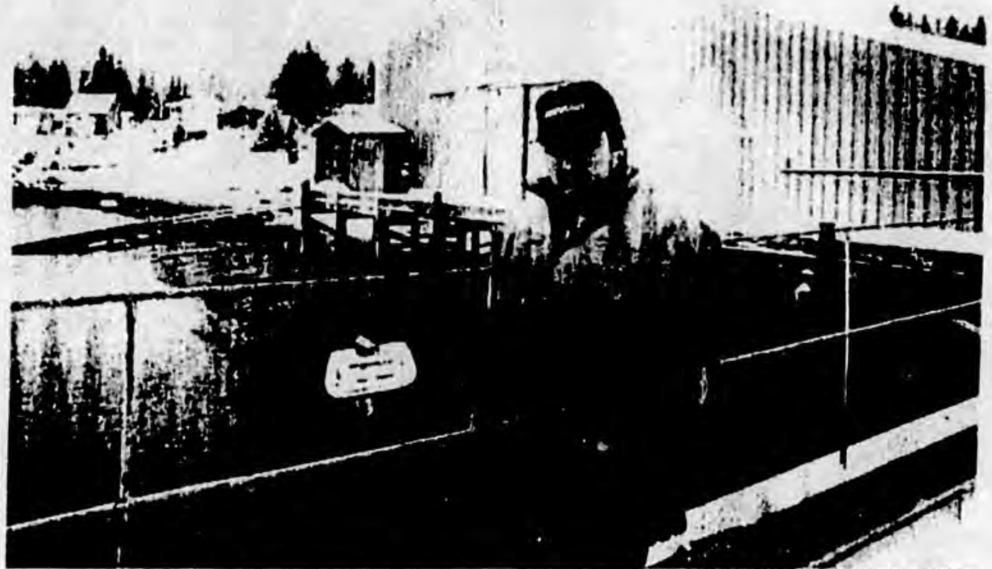
"I don't know what caused them to die and not be there," she said.

Studies done by the state might have some answers. But the Attorney General, Charles Cole, said he would not disclose the results because it could hurt the state in other litigation.

With the loss of most other facets of their culture, Alaska's natives view the hunting and gathering of traditional foods as one of their last links to their past and the tie that binds them together. In places like Port Graham, where jobs are scarce, subsistence is also a means for survival.

Salmon fishing was mostly abandoned the year of the spill when fish showed up with oil on their scales and in their gills. Though fishing returned last year, the company that operated the Port Graham cannery, uncertain closed again this year, costing the community 70 seasonal jobs and the most important source of cash for its economy.

More infuriating to Mr. Norman, though, was the public disclosure of previously unknown antiquity sites on the 50,000 acres of land owned or claimed by the village corporation



Photographs by Richard Mauer for The New York Times

"Governor Hickel said we're getting a settlement on behalf of all Alaska," said Pat Norman, president of the local village corporation in Port Graham, Alaska, "but all Alaska didn't have an impact like our people and our corporation did." Mr. Norman expressed suspicion about Gov. Walter J. Hickel's motives for settling with the Exxon Corporation for damages from the Exxon Valdez oil spill.

Elenore McMullen, the village chief. "We felt extremely abandoned by the state and Federal government," she said, referring to the $1 billion

The New York Times

Native villages like Port Graham are still seeking oil spill damages.

Will Exxon, having placated Alaska, stop there?

neries came and people left their scattered homes along the coast, were discovered by archeologists sent out before cleanup crews and were put on maps used by officials assessing spill damage. Mr. Norman and others fear that the antiquities will be looted.

"They're our people's sites," he said. "They need to be protected."

He is also angry that Exxon's chairman, Lawrence Rawl, has shrugged off the settlement cost. Exxon has hurt his people, Mr. Norman argued, and now the settlement should hurt the company.

Pleas by Native Groups

In December, when Governor Hickel, an independent, began talking about settling the state's lawsuit, the native groups wrote to him, seeking to wrap their claims in with the state's. They also wrote to the Federal Justice Department.

The letters were never answered.

and then canceled at the last minute.

Attorney General Cole said there was no reason to involve the natives in the agreement because their claims were not being discussed in it.

But Mr. Norman said the state had more obligation than that.

"Governor Hickel said we're getting a settlement on behalf of all Alaska," he said. "But all Alaska didn't have an impact like our people and our corporation did. We didn't want Exxon to come in and say we paid that money to the state and Federal Government, so why the heck are you coming to us now?"

Though a decision has not yet been made on whether the natives will try to block the settlement, one of their lawyers, Lloyd Miller, of Anchorage, said the agreement falls far short of protecting their interests.

"They could have fashioned a remedy in that consent decree that would have provided for native participation in directing restoration efforts," Mr. Miller said.

With limited money, he said, what would happen if a proposal to restore clams and mollusks near Port Graham had to compete against a plan to rebuild the population of bald eagles in Prince William Sound? With no one

Spill suits jam court system

More than 200 filed

By DESIREE HUMPHREY
and STEVE PILKINGTON

TIMES WRITERS

State court officials said a run of last-minute lawsuits over the 1989 Exxon Valdez oil spill brought the clerk's office to a crawl this week.

Hundreds of people are included in more than 200 civil lawsuits in state courts against Exxon Corp., Alyeska Pipeline Service Co. and the state.

■ Villagers want Sound claims settled A14

"It took me four hours to do four cases," said Diane Alford, a legal technician with the Alaska Court System.

There were 53 lawsuits filed between March 21 and Tuesday, the final day for the two-year deadline on lawsuits, court officials said. Despite the deadline, more are expected.

Nine lawsuits representing nearly 900 individuals and businesses also were filed in U.S. District Court in Anchorage on Monday. The clerk's office usually averages one to two new cases a day.

See Lawsuits, back page

Saturday, March 30, 1991, The Anchorage Times

Lawsuits

Continued from page A1

The federal cases will be added to the nearly 170 Exxon suits still active. About 300 suits have been filed since the March 24, 1989 spill, with about 120 no longer on the court's work list.

"This is kind of a quirk they're going to have to deal with," said Don Miller, professor of justice and law science at the University of Alaska Anchorage Justice Center. "There's generally not that much activity in the federal court."

While no new personnel have been added to handle the influx of cases at both courts, taxpayers and consumers can expect to foot part of the bill in other ways.

Exxon agreed to pay $1 billion to the state and federal governments in a March 12 settlement. But Lawrence Rawl, chairman of the board of Exxon Corp., has said the cost will be passed along to customers at the gas pump. Also, some of the settlement money is expected to be used by Exxon as a tax write-off.

Meanwhile, court officials say the cost of the massive number of lawsuits to the court system — and taxpayers — is still unknown. But a look at budgets and average times it takes for cases to go through the system shows Exxon is not the only one that will be paying.

The state had paid a Seattle-based law firm $9 million in February to help the staff of the Department of Law with its case against Exxon. The Department of Law will not release additional figures, but more funds are expected to be paid to Preston, Thorgrimson, Shidler, Gates & Ellis, which has an office in Anchorage.

The federal suits filed Monday represent at least three times as many people already on the court's register suing Exxon and others. For 1990, there was a total of 550 civil cases, including the Exxon suits filed that year.

The courts may need to add staff and another judge to help with the cases, especially if the cases go to trial, Miller said. The new cases will join the other Exxon paperwork that already fills a five-drawer cabinet in the clerk's office.

The average time it takes a federal court case to be processed and finished is one year. For state superior court, where the Exxon suits are, it takes about two years, court officials said.

U.S. District Judge H. Russel Holland said in a Sept. 13 hearing some people said he would probably retire before the Exxon matter is completed.

"I am 11 years away from retirement," Holland said. "I have no intention of allowing the payment of claims to take that long."

Some people have chosen to settle with Exxon rather than continue a protracted court battle. Lawyers say the facts of the spill are established, but it will be difficult and time-consuming to prove the individual damage for each of the thousands of people who were affected by the spill.

And with the state of Alaska also being sued, the fight promises to stretch out.

Some lawyers are complaining the state refuses to release environmental studies funded with public money. Alaska Attorney General Charles Cole said he is worried the information will be used against the state in court.

And other lawyers say they are doing some of their own research. But, they said, they need the state's data to fight the oil giant and its team of lawyers.

Eight of the nine suits filed in federal court were also filed in state court and the same number of claims were filed with the Trans-Alaska Pipeline Liability Fund, said Richard Jameson, a lawyer with one of the two Pennsylvania law firms representing plaintiffs.

Charlie Coe, an Anchorage lawyer, said he is involved with only five civil suits stemming from the Exxon Valdez oil spill. But there are nearly 800 people represented in the five suits, he said.

Coe said the two-year anniversary of the spill may have passed, but lawyers are still filing suits and the state courts are still processing them.

The two-year anniversary of the spill was Sunday. Since it fell on the weekend, state legal officials said the deadline would not pass until Tuesday since Monday was a state holiday.

Alford said the court system was swamped Tuesday.

She said extra court personnel were pulled away from their normal jobs to help process the load of Exxon civil suits. She said the courts may see more lawsuits in the next few weeks despite the passed deadline for filing.

Villagers want deal to settle Sound claims

By DIRK MILLER

TIMES CAPITAL BUREAU

JUNEAU — Rural Alaska villagers are asking lawmakers to reject Gov. Walter J. Hickel's proposed $1 billion Exxon Valdez settlement unless it resolves damages to Prince William Sound communities.

The state and federal government announced a proposed $1 billion settlement with Exxon Corp. earlier this month, resolving criminal and civil claims against the oil giant. There is also a clause that could reopen the settlement to pay as much as $100 million for unforseen future damages.

The Village Participation Conference, an annual gathering of villages across the state, passed a resolution this week urging lawmakers to reject the settlement "unless it addresses the multiplicity of continuing losses and damages to the Native villages."

Both the House and Senate have formed special committees to review the settlement. The agreement gives the Legislature a say in whether it is approved or rejected by Hickel.

Lawsuits were filed recently against the state of Alaska on behalf of Prince William Sound Native and village corporations over the March 24, 1989 oil spill, which killed thousands of sea birds and marine mammals. It fouled hundreds of miles of beaches stretching from the Sound to Kodiak Island and Katmai National Park.

"If 11 million gallons was dumped say five miles from where you lived,"said Martha Vlasoff of Tatitlek, "wouldn't you want to be involved in the processing of solving that problem and also of the litigation that's going to ensue from the damages?"

Eric Rehmann, Hickel's spokesman, said the settlement was never intended to resolve all claims.

"It was meant to resolve and provide for the restoration of Prince William Sound," he said. "It was never intended to resolve third-party complaints."

The 18th annual village conference is organized by Rural CAP, a private, nonprofit organization that provides training, education and information to rural residents.

On Thursday, Attorney General Charles Cole told a Senate committee the settlement would not impair third party lawsuits in any way. He did say economic and resource damage data gathered by the state would remain confidential until the state is released from all claims.

Vlasoff said Native people are historically ignored by government.

"They're going to get what serves them best, but the Native peoples are traditionally almost always left out of the picture," she said. "And that seems to be the problem right there is recognizing we're the people who live there. We're the people who will live there long after they've already spent the $1.1 billion dollars."

The resolution says villagers lost much of the traditional subsistence harvest the year of the spill and are worried oil has contaminated their food.

"Any settlement that disregards the concerns of Native villages and-or its effects without consultation of representatives of these villages evidences an attitude of arrogance that is contrary to the call of unity as expressed by Gov. Hickel," the resolution said.

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ADN

Alaskans rush to file spill suits as deadline nears

Commercial fishermen, Native villagers, fishing guides, business owners and hundreds of other Alaskans filed dozens of lawsuits in the Anchorage courts to meet this week's statute of limitations deadline for claims arising from the Exxon Valdez oil spill.

More than 50 new suits were filed in Anchorage Superior Court from March 19 to March 26, the state court's deadline. They include a claim by the Afognak Native Corporation that historical and archaeological sites were damaged by the tide of oil that washed through Prince William Sound and the Gulf of Alaska two years ago.

In addition, eight lawsuits filed in U.S. District Court Monday name more than 900 plaintiffs, residents of communities in the Sound and Cook Inlet who claim they lost income or subsistence food as a result of the spill.

"It was pretty frantic around here the last few days," said Mark Bledsoe an Anchorage lawyer who represents those 900 clients. One of his suits includes about 50 people who contacted his office about suing Exxon at the '11th hour,'' he said.

Some of his clients' suits were also filed in state court to take advantage of different laws and judicial rulings.

Times

Native, village corporations sue state over spill damage

TIMES STAFF

A Native corporation, five village corporations and their subsidiaries filed suit against the state Tuesday, claiming its actions during the cleanup of the Exxon Valdez oil spill made a bad situation worse.

"The State of Alaska's oil spill clean-up efforts, and its supervision of oil spill clean-up efforts, were performed negligently, carelessly and in an unreasonable manner," the suit said.

The suit, which seeks unspecified damages, also said the state failed to take precautions that could have prevented the spill.

The suit was filed in Anchorage Superior Court by Chugach Alaska Corp., five of its subsidiaries, Chenega Corp., Port Graham Corp., English Bay Corp., Tatitlek Corp., Eyak Corp. and four subsidiaries of the village corporations.

Chugach filed for protection under federal bankruptcy laws two weeks ago, claiming the oil spill contributed to the economic problems of several of its holdings.

Scientists charge results of oil spill studies are skewed

By JOSE LAMBIET
Fairbanks Daily News-Miner

FAIRBANKS — Some scientists who have been conducting studies on the effects of the 1989 Exxon Valdez oil spill say the work is not being done properly — and results are skewed to fit the sponsors' biases.

"Applying good science to spill-related research has been impossible," University of Alaska Fairbanks ecologist Glenn Juday said. "Most of us have not been able to apply proven and accepted scientific principles in our studies."

As a result, he and others say, some of the findings about the nation's largest oil spill will be flawed, and the multi-million dollar research may not yield the kind of comprehensive information expected.

A few months ago, when he asked for a U.S. Forest Service grant to pursue his Exxon Valdez spill-related research, Juday said he was told to "pick a side."

Juday has told the Forest Service that he also had sought funds from Exxon. Eventually, both Exxon and the Forest Service rejected his grant application.

However, Juday scraped together funds from various sources, including some of his own money, and went ahead with the study of effects of the oil spill on Green Island, 80 miles south of Valdez in Prince William Sound.

Now that his study is complete he can talk in detail about his findings, but most scientists cannot. Lawyers on all sides have fought to keep spill studies secret to prevent court opponents from gaining knowledge that might help them win lawsuits.

Juday said the silence orders are preventing him from sharing notes with colleagues on the UAF campus and elsewhere.

"Not only was I asked to pick a side, but I haven't been able to verify if others have found the same things as I have. The accepted scientific procedure, which should be unbiased, has been perverted by these types of attitudes."

Meanwhile, spill-related research continues at UAF and mostly involves damage assessment among the fish, mammal and plant populations in the ocean and on Prince William Sound islands.

Usually samples are picked up on-site every few months and are examined in UAF labs. Funding for such studies seemed limitless at first for 18 UAF scientists asked to conduct damage assessment research.

In the past two years, they received about $15 million distributed by federal and state agencies and Exxon, according to UAF Sea Grant communications officer Doug Schneider.

"We were just stunned to receive all that money. It is very hard in this country to get a $100,000 grant for any type of research," said UAF biologist Joshua Schimle, who received about $1 million from the Forest Service to study the impact of the spill on coastal vegetation.

"All of sudden, shortly after the spill, researchers were getting millions of dollars in grants."

"The thing is . . . they didn't get much science for their money."

The legal battle pitting state and federal agencies against the oil giant Exxon for the payment of the damages is generally cited as the cause for the scientists' recent grumbling.

The state, federal government and Exxon reached a tentative $1 billion settlement earlier this month.

Secrecy covering the result of scientific studies has been particularly disturbing to some scientists, however.

Juday was able to publish the results of his observations because he acted independently. But the two dozen UAF professors who accepted grants from either government agencies or Exxon are legally forbidden to reveal their findings to parties outside the litigation.

"The way science works is through scrutiny," said Ron Dearborn, the director of Sea Grant at UAF. Sea Grant is a program created by the U.S. Congress in 1966 that funds research on marine resources.

"A scientist gathers data, writes a paper about his discovery and presents it in a meeting where it is critiqued by other scientists. The more exchange and arguments, the better the results. None of this has been done in spill-related research," Dearborn said.

Craig Tiller, an assistant state's attorney general involved with oil spill litigation, said it was in the interest of all parties to keep the results of their research secret.

"Whichever side gets the other side's information early gets the advantage," he said. "We just want to protect our case."

The proposed 60-page settlement does not deal with question of research secrecy, according to state House Majority press secretary Terrence O'Malley.

Some scientists who accepted government or Exxon grants to conduct damage assessment research also say they quickly found out that their benefactors' sole interest was to build up their cases, and not to learn as much as possible about the effects of the spill on the environment.

Biologist Schimle early this year recommended that his $1 million coastal habitat study be discontinued. His wish was granted.

"The lack of scientific flexibility is partly why I recommended that my study be stopped," he said.

"I was told when I accepted the grant that this was not about science but strictly about damage assessment. In other words, when I noticed something really interesting in my studies, I couldn't pursue it.

"I'd rather concentrate on the three federal grants I received to do more interesting research."

Not all UAF scientists involved in spill-related research agreed with the criticisms, however.

"I understand that the people who pay us have to develop their legal positions," said Raymond Highsmith, an assistant professor at UAF's Institute of Marine Science.

Highsmith is conducting two Forest Service studies costing more than $6 million on the spill's impact on intertidal animals, according to UAF documents.

"But that doesn't mean research will be flawed. My research is going extremely well. I think most of the research has been top-notch."

Accord Won't End Finger-Pointing

By TIMOTHY EGAN

Special to The New York Times

SEATTLE, March 13 — From the very start of the Exxon Valdez accident, when Capt. Jospeph J. Hazelwood reported just after midnight on March 24, 1989, that his fractured tanker was "leaking some oil," the nation's worst oil spill has been viewed as an indictment of things well beyond Alaska and Prince William Sound.

News Analysis

It was considered a failure in technology, an ecological catastrophe, a consequence of a society hooked on oil and a demonstration of nature's resilience. No single point of view has ever prevailed.

With today's settlement of criminal and civil claims against the Exxon Company, the "Valdez as metaphor" business is without the trial that was to be its centerpiece. Finger-pointing will go on for years, as will studies of the sound. But the settlement avoids a definitive legal conclusion of what caused the spill.

Exxon officials were scheduled to face a trial, on five Federal criminal charges, beginning April 10 in Anchorage. By pleading guilty today to four misdemeanor charges under three environmental laws and agreeing to pay a $100 million fine in addition to $1 billion in a civil settlement, Exxon and its shipping subsidiary will end the Government's investigation of how the world's largest private oil company transports its cargo.

Three Technical Violations

The guilty pleas say nothing about staffing levels of tankers or drinking alcohol on such ships; both issues figured prominently in the National Transportation Safety Board inquiry into the spill. Instead, Exxon pleaded guilty to three technical violations of Federal statutes, including an admission that the company killed migratory birds without a permit.

Attorney General Dick Thornburg and leading environmental groups hailed the settlement as the strongest message ever sent by the Government to corporate polluters. But a trial, the historic format for determining blame, before a jury of Alaskans, might have sent an equally strong message.

"I don't think people are after revenge against Exxon," said former Mayor John Devens of Valdez, now president of Prince William Sound Community College. "But people would like to see an exclamation point at the end of all this, and a trial was considered the best way to do it."

Of course, as Government prosecutors noted, Exxon could have been vindicated in a trial. Then the Government would still have been left with many unanswered questions about the spill, in addition to very little Exxon money to continue cleanup efforts.

The Skipper Stood His Ground

Captain Hazelwood, who began his career with Exxon more than 12 years ago as the youngest captain in the company's fleet, was convicted last March 22 of the misdemeanor charge of negligently discharging oil. He was acquitted of piloting the vessel while drunk, and other charges.

A definitive legal conclusion of what caused the spill is lacking.

At the end of the trial Captain Hazelwood was urged by the judge to make an apology, but he refused. Even though many Alaskans had ridiculed the skipper, they agreed with his standing his ground, and spoke of bringing Exxon's board members before the judge, rather than Captain Hazelwood.

"Here was Joe Hazelwood, the very image of what went wrong, and a jury had a hard time pinning the blame on him," said Ernie Piper, the oil spill coordinator for the State of Alaska.

By contrast, when Captain Hazelwood was first arrested and arraigned in New York, his bond was set at $1 million by Justice Kenneth Rohl of the State Supreme Court, who likened the spill to dropping the atomic bomb on Hiroshima.

Casualties on Both Sides

Well before today's settlement, the exaggerated claims made by both Exxon and the environmentalists became casualties.

Mr. Piper said Prince William Sound never became a dead sea, as some had predicted. The salmon runs this year are expected to be of record proportions. But neither did the sound instantly bounce back, as if blinking off a bad night in geologic time.

"We were lucky, because Prince William Sound is an enormously dynamic body of water," Mr. Piper said. "It was in good shape, ecologically, to absorb this great insult."

But he also noted that more wildlife had been killed in the Exxon Valdez spill than in any other known industrial accident. It will take years for the bald eagle to reach the population levels it had attained before the spill. And some colonies of seabirds have shown dangerously high mortality rates.

60% of the Oil Remains

Despite a cleanup program that Exxon said had cost the company $2 billion by April 1990, less than 10 percent of the oil was recovered. Mr. Piper said 30 percent of the oil evaporated and 60 percent of it remained in Prince William Sound.

Mr. Piper, who has spent nearly every day of the last two years studying and talking about the spill, said a recent conference on the effect of the oil showed him how far apart the two sides remain. Exxon presented an upbeat picture, while environmentalists spoke of disaster.

"Most of the people I deal with have little use for these kinds of institutional observations," he said. "They want to know if they can hunt seals next year."

With more than 300 civil suits by fishermen, environmentalists, Alaska natives and others pending against Exxon, the legal fights will continue for years, each carving up small pieces of the picture. But with today's settlement the significant blame-making has probably shifted from the courts to the historians.

As John Keeble wrote in "Out of the Channel," a book on the spill published this month by HarperCollins, "the story of the spill is a parable for the future eventualities we must face."

Chairman Calls Exxon Strong After Valdez Pact

By KEITH SCHNEIDER
Special to The New York Times

WASHINGTON, March 13 — Lawrence G. Rawl, the chairman of the Exxon Corporation, said today that the $1.1 billion settlement reached Tuesday night with Alaska and the Federal Government in the Exxon Valdez oil spill would not have any effect on Exxon's finances or its plans.

In a news conference at the company's headquarters in Irving, Tex., that was also shown on closed-circuit television at the National Press Club here, Mr. Rawl added that he did not believe the settlement would affect the company's image, which he described as good.

Combative at times and not at all chastened, Mr. Rawl nevertheless said the spill, the bad publicity that followed, the expense of cleaning up Prince William Sound in Alaska, and the civil and criminal cases brought by the Government against Exxon had been an ordeal.

"I feel this a heck of a lot," said Mr. Rawl. "I've been disappointed and angry since March 24, 1989. It's been a burden to us."

58 Days of Negotiations

He insisted, however, that the settlement "will not have a significant effect on our earnings." In fact, investors saw it as good news: Exxon stock closed at 57¼, up $1, on the New York Stock Exchange today.

The settlement, reached late Tuesday night after 58 days of negotiation in Juneau and Washington, resolved civil and criminal cases against the world's largest oil company as a result of the nation's biggest oil spill.

As a part of the agreement, Exxon and its shipping subsidiary pleaded guilty to four misdemeanor violations under three Federal environmental laws and agreed to pay a penalty of $100 million, the largest ever for a criminal violation of environmental statutes. As part of the agreement, two felony charges under the Federal Maritime Law were dropped.

More than 300 civil suits filed against Exxon by private parties are not affected by the accord.

At a news conference in Washington today, Attorney General Dick Thornburgh hailed the agreement as the "strongest message" ever sent by the Government that pollution violations would be thoroughly investigated and prosecuted.

Environmentalists Happy

Several influential national environmental groups commended the agreement and said it set new standards for penalizing polluters, among them that full payment would be required to cover environmental damage from a disaster.

But the chairman of Exxon, the nation's third-largest industrial corporation, today seemed exasperated at times and testy at other moments. It was clear that Mr. Rawl's intention this afternoon was to assure sharehold-

Agence France-Presse

The $1.1 billion settlement for the Exxon Valdez oil spill is the "strongest message" ever sent that the Government is prepared to prosecute polluters, said Attorney General Dick Thornburgh, right. He and Gov. Walter Hickel of Alaska spoke yesterday at a news conference.

> The oil giant agrees to pay $1.1 billion and looks ahead.

ers that the settlement would not alter the company's day-to-day operations.

"The settlement encompasses issues we were prepared to contest," Mr. Rawl said. "However, we have agreed to the settlements because they are in the best interests of Exxon shareholders and all other parties involved."

He said Exxon had been preparing for more than a year for the criminal trial that was scheduled for April 10 in Alaska. The agreement made the trial unnecessary. "We felt pretty good about our chances," Mr. Rawl said.

'We Learned a Lot'

But he added that he had agreed to fly to Washington, where he signed the settlement just before midnight Tuesday, because "looking forward to years of litigation, maybe decades, wasn't in anybody's interest."

Asked whether he or Exxon had learned anything from the accident and the cleanup, whose cost the company puts at more than $2 billion, Mr. Rawl said: "We learned a lot. Actually, all of us knew some of these things before. We learned a lot about cleanup."

Near the end of his remarks today, Mr. Rawl indicated that the Exxon Valdez disaster had heightened awareness within Exxon about the environment.

"You can't let your guard down," he said. "We all have to be more diligent, I guess. In the future, we have to be a lot more sensitive."

'You Change Your Priorities'

Moments later, he concluded with these remarks: "The day it happened, we said it was our oil, our ship, and we would clean it up. It has distracted us. When you spill oil like that, a disaster like that, you change your priorities pretty quick."

The settlement was reached after weeks of negotiation by Mr. Rawl, Gov. Walter J. Hickel, Charles Cole, the Alaska Attorney General, and top lawyers from five Federal agencies. The talks started in Juneau on Jan. 15, when Mr. Rawl flew to Alaska's state capital to meet with Mr. Hickel and Mr. Cole.

One of the toughest issues, participants said today, was gaining Exxon's agreement to plead guilty and pay a $100 million penalty for misdemeanor violations of the Clean Water Act, the Refuse Act, and the Migratory Bird Treaty Act.

A year ago, Doug Baily, then Alaska's Attorney General, was unable to obtain the conviction of the captain of the Exxon Valdez, Joseph J. Hazelwood, on charges of piloting the tanker while under the influence of alcohol.

Mr. Hazelwood was convicted of a relatively minor charge, negligently discharging oil, but acquitted of criminal mischief, operating a vessel while intoxicated and reckless endangerment.

Much Is Tax-Deductible

The Federal Government had initiated talks with Exxon before Mr. Hazelwood's acquittal on the alcohol charge after one of the most widely followed trials in state history. The Government was seeking $150 million in criminal penalties and guilty pleas to felony violations of environmental laws. But the negotiations fell apart in 1990.

Along with the $100 million criminal penalty, Exxon will pay $90 million this year into a fund overseen by officials from three Federal and three state agencies. In September 1992, the company will pay $150 million more to the fund, followed by a $100 million payment in September 1993, and $70 million annual payments from 1994 through 2001. The agreement also could require Exxon to pay as much as $100 million more after 2001 if additional environmental damage is discovered.

Except for the criminal penalty, all payments by Exxon will be tax-deductible. One economist who studied the effects of the spill estimated that Exxon's ability to write off most of the settlement could cost the taxpayers $300 million in lost revenues.

Quick Reimbursements Specified

The agreement also calls for the state and the Federal Government to be reimbursed for many expenses incurred to determine the environmental damage from the spill. Alaska spent more than $72 million and the Federal Government $62 million. These reimbursements are to be among the earliest payments from Exxon.

"The size of the settlement and the criminal pleas represents a clear and unmistakable signal that those involved in environmental crimes will not go unnoticed and unpenalized," said Mr. Thornburgh.

In Alaska, the settlement was greeted today with widespread approval.

"I think it's great there is money to protect Prince William Sound," said Tom Masolini, a 34-year-old fisherman from Cordova, a prosperous fishing near the mouth of the Sound. "You know, along with the oil, one of our concerns here is that there is too much clear-cutting of the forests around the sound. Maybe they can use some of this money to buy up timber rights and preserve forests here."

National environmental groups, including the Natural Resources Defense Council, the National Audubon Society and the National Wildlife Federation, also applauded the agreement.

From Oil Spill to Settlement

1989

MARCH 24: The 987-foot tanker Exxon Valdez runs aground on Bligh Reef 25 miles south of Valdez, [illegible] spilling nearly 11 million gallons of crude oil into Prince William Sound, making this the largest tanker spill in United States [illegible].

MARCH 25: Exxon Shipping Company, owner of the tanker, [illegible] "full responsibility" for the spill.

MARCH 26: Gov. Steve Cowper, a Democrat, declares a disaster emergency. Alaskan fishermen seek full compensation. Eventually 330 lawsuits will be filed in state and Federal courts against the Exxon Corporation. The litigants will include fishermen, [illegible] processors and distributors, Alaska natives, area businesses, Exxon shareholders, environmental groups, municipalities and the State of Alaska. The suits will involve a variety of maritime and [illegible] environmental statutes.

MARCH 30: Exxon dismisses Joseph J. Hazelwood, the captain of the Exxon Valdez, after an investigation by the National Transportation Safety Board shows that the captain's blood-alcohol content was above permissible Federal levels for [illegible] commercial vessel.

APRIL 8: Despite containment efforts, the spill now covers an estimated 3,100 square miles, leaking out of the sound to [illegible] beaches along the Gulf of Alaska.

MAY 22: A grand jury indicts Captain Hazelwood on three felony counts, holding him responsible for the destruction.

SEPT. 15: After spending $1 billion, Exxon suspends its beach cleanup for the winter, asserting that it has left 1,100 miles of [illegible] beaches "environmentally stable." Alaskan officials disagree and announce their own $21 million winter cleanup plan.

1990

FEB. 27: A Federal grand jury indicts Exxon and its shipping subsidiary on five criminal counts. If convicted on all counts, [illegible] company could be fined up to $1.6 billion and could be [illegible] an additional $600 million in penalties.

MARCH 22: Jury finds Captain Hazelwood guilty of a single charge of misdemeanor negligence. He is acquitted of the felony charge of criminal mischief and other misdemeanor charges of operating a vessel while intoxicated and of reckless endangerment.

NOV. 6: Walter J. Hickel, a former Governor and former Interior Secretary, is elected Governor of Alaska as an independent.

1991

MID-JANUARY: In a private meeting, Governor Hickel proposes dropping all state and Federal lawsuits against the Exxon Corporation over damage done by the oil spill, in exchange for $1.5 billion to restore and enhance Prince William Sound.

MARCH 13: Exxon, Alaska and the Federal Government announce the settlement of the criminal and civil cases brought by the governments against Exxon.

Lost fish taxes worry oil spill communities

By DIRK MILLER

TIMES CAPITAL BUREAU

JUNEAU — Gov. Walter Hickel's Exxon Valdez settlement last week has left oil spill communities worrying what will happen to their claims of between $3.7 million and $1.7 million in lost fish taxes.

"It leaves the burden on us to figure out what we're owed," said Kenai Peninsula Borough Attorney Tom Boedeker. Fishing seasons in the Kenai Peninsula, Prince William Sound and Kodiak Island areas were disrupted after the Exxon Valdez crashed into Bligh Reef on March 24, 1989, spilling about 11 million gallons of crude oil.

"It's one area left unclear in the settlement," said Jerome Selby, Kodiak Island Borough mayor. "Hopefully, the state would help us pursue the matter."

Hickel and the federal government announced a proposed $900 million settlement with Exxon Corp. last week that pays the state and federal governments for natural resource damages caused by the spill and also assesses a $100 million criminal fine against the company.

Selby said the Kodiak borough was estimating it had lost about $1 million in shared tax revenues because of the spill. Nearly all of Kodiak's fisheries were shut down that summer.

Boedeker said the Kenai borough figures it lost between $750,000 and $420,000 in lost fish taxes, depending on how the claims are calculated.

Boedeker said the fish tax losses were figured three ways: The high range was computed using fish prices from 1988. The middle range was based on an average of prices from 1987-1988 and the low range was figured based on prices paid to fishermen by the Exxon claims office.

Attorney General Charlie Cole said Monday the administration had not forgotten them. He said the lost fish taxes were excluded from the settlement in the closing days because of disagreements on how to handle them.

The raw fish tax is split between the state and municipalities that help service the fishing industry. The tax ranges from 5 to 3 percent on fish products.

"I had consistently said fish taxes were outside the settlement," Cole said. "As the days wore on, Exxon did not accept that position. When we got down to the final days, if not the final hours, it was agreed that the fish tax claims would be outside the settlement.

An Exxon spokesman in Anchorage said the fish tax issue was still unresolved. "It's an open legal issue," spokesman Joe Tucker said.

News
4.23.91

Bait and switch?

Hickel backtracks on timber buyout

Gov. Wally Hickel seems to have a genuine affection for Prince William Sound. In discussing plans to restore the damage from the Exxon oil spill, he spoke of turning the sound into a "world-class water recreation area."

That vision helped boost his campaign for a quick settlement of damage claims against Exxon. Gov. Hickel talked about using the money to save privately owned timber in the Sound from logging. Now, though, that part of his sales pitch is starting to look like a world-class bait and switch.

Three key Hickel appointees have downplayed the timber buyout idea. As reported in Wednesday's Daily News, all three say timber buyouts will hardly have top claim on settlement monies, if they make the cut at all.

The views of the three — Attorney General Charles Cole, Fish and Game Commissioner Carl Rosier and Environmental Conservation Commissioner John Sandor — are especially significant. They will be the state representatives on the joint state-federal panel that spends the settlement money.

Gov. Hickel's earlier talk of timber buyouts helped build support for a spill settlement. Now that a deal is on the table, some advocates of timber buyouts feel betrayed — and understandably so.

A speedy spill settlement is a plus, if it can immediately yield money to protect or enhance the Sound. But it's starting to look as though large chunks of the restoration money may be spent on a long line of studies — while the Sound endures added environmental stress from logging. If that's the case, there's less reason to be in a hurry to get the settlement money.

It's true, Gov. Hickel never signed a blood oath to use settlement money on timber buyouts. It's also true, the governor reportedly still supports the idea of buying some timber; the only question is where the money will come from.

But that's a mighty big unanswered question. State money is tight. If there's any hope the timber buyouts will proceed, settlement money will play a key role.

That won't happen unless Gov. Hickel directs state spill trustees to push for it. And if he doesn't, Alaskans can't be faulted for feeling like victims of a bait and switch.

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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.

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 [redacted]

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.

[redacted]

"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.

[redacted] ?

[redacted] 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 pı The legislation was sponsored by Hic

Panel to consider abortion legislation

4.25.91

TIMES CAPITAL BUREAU

JUNEAU — A Senate and House 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.

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.

ALASKA DEPARTMENT OF ENVIRONMENTAL CONSERVATION

OIL SPILL CHRONICLE

VOL 3, NO. 4 APRIL 16, 1991 ANCHORAGE, ALASKA

Spring Shoreline Survey Shaping Up

Anchorage — Planning is underway for what may be the last major interagency survey of shorelines fouled following the Exxon Valdez oil spill.

Representatives of state and federal agencies, Exxon, and land owners have been meeting through the winter to plan the survey, expected to begin April 26 and continue through May. Groups of specialists, scientists and landowner representatives will assess conditions of shorelines in Prince William Sound and the Gulf of Alaska oiled following the March 1989 grounding of the Exxon Valdez. This information will be used to develop work plans for the 1991 cleanup season.

"We want to make sure we've looked everywhere we think oil might still exist."

Ernie Piper, ADEC

"Exxon and the Coast Guard have indicated that we probably won't have another big interagency survey like this," said John Bauer, head of cleanup monitoring for the Alaska Department of Environmental Conservation.

Bauer said there will probably be other surveys done by individual agencies in future years, such as by DEC, the National Oceanographic and Atmospheric Administration or the National Park Service. The state might want to monitor long-term effects at different sites, but no planning has started yet, Bauer said.

The principal state goals for the cleanup are to target sites for 1991 cleanup work, and to fully document and map the subsurface oil, especially at locations at which work is unlikely or impossible, said Ernie Piper, the State On Scene Coordinator.

"We plan to put this information on a DEC database of contaminated sites, so that landowners, recreationists, fishermen and other interested groups can get access to that information when they need it later on," Piper said. "We want to make sure we've looked everywhere we think oil might still exist."

The 1991 survey, dubbed the May Shoreline Assessment Program or MAYSAP, is scheduled in three phases, with five 11-member teams based on vessels and one team working from helicopters. Phase I will take place during April 26-May 5, Phase II from May 6-11, and Phase III during May 12-28. The break occurs between Phase II and III because of unfavorable tides.

The surveys are expected to be complete about the end of May but could extend into June if survey rates are slower than expected. Coast Guard Rear Admiral David E. Ciancaglini, the Federal On Scene Coordinator, has said that cleanup work will commence on June 1.

A pair of workers accompanying each team will pick up debris and small patches of asphalt or tarballs if found during the survey. The other team members include an oil geomorphologist, a biologist, a skiff operator, and representatives from

See Survey, Page 4

INSIDE:

Alaska Legislators Hold Hearings on Spill Settlement

Juneau — A series of meetings to take public comment on the proposed Exxon Valdez settlement are wrapping up this week, lawmakers said.

The House and Senate special committees on the Exxon Valdez Spill Claims Settlement have conducted meetings via teleconference from Juneau and Anchorage. The House panel also took their show on the road, holding meetings in Seward, Homer, Kodiak and Cordova. The last House teleconference is scheduled originating in Juneau, at noon on Wednesday, April 17.

"It's unusual for the public to be given so much opportunity to comment on legal matters," said Rep. Max Gruenberg, who chairs the House Committee. "The public comment the Legislature receives will play an important role in determining whether to accept the civil settlement." Sen. Dick Eliason chairs the Senate committee.

> "The public comment the Legislature receives will play an important role in determining whether to accept the civil settlement."
> Rep. Max Gruenberg

Attorney General Charles Cole and Commissioner of the Alaska Department of Fish and Game Carl Rosier also attended some of the hearings to help answer questions from the audience and lawmakers.

When Governor Hickel referred the settlement to the Alaska legislature for an advisory opinion, the Senate and House set up special committees to evaluate the settlement and report back to the legislature. Both houses will come to a consensus and report their findings and recommendation to Gov. Hickel so he can relay the state's answer to U.S. District Judge Russel Holland in Anchorage by the May 3 deadline.

Gov. Hickel can override the legislature's recommendations, but Attorney General Charles Cole has indicated that the administration would probably abide by the legislature's opinion either way.

"If the legislature does not approve the settlement, I will not proceed," Cole said at the Cordova hearing.

Cordovans crowded the library meeting room at the House panel meeting there on April 14. Legislators accepted testimony in person and in writing from meeting participants, including representatives of fisheries organizations, native groups, and individual testimony.

"I have been intimately involved with the Exxon Valdez oil spill since before 7:00 am on March 24, 1989," said Marilyn Leland of Cordova District Fishermen United. "More than two years later, the oil spill still dominates my life."

Leland, who is executive director of CDFU, said she thinks it is too soon to determine the value of injuries resulting from the spill, and that the figure set aside in the settlement is too small to be an incentive for oil companies to prevent future spills.

> "I have been intimately involved with the Exxon Valdez oil spill since before 7:00 am on March 24, 1989. More than two years later, the oil spill still dominates my life."
> Marilyn Leland
> CDFU

"We ask the legislature to postpone approval of the settlement," Leland said, until more information is available and until provisions are added to the settlement to give the legislature and the public more control over how the money is spent.

Patience Faulkner, providing testimony on behalf of Eyak natives, said that her group strongly opposes the settlement because native groups were not involved in the settlement negotiations, the money set aside for restoration is inadequate, and the settlement does not address social, cultural and community damages.

"The natural resource damage value can eventually be quantified; yet the damage to the human element cannot. The disruption to our lives in 1989 is beyond description," Faulkner said.

Copies of the hearing notes and written testimony can be obtained from the Juneau Legislative Information Office, P.O. Box Y, Juneau, AK 99811.

Summary of Resource Damage Findings Released

A summary of findings from state and federal researchers assessing damages to natural resources resulting from the Exxon Valdez oil spill was filed in Anchorage federal court and released to the public on April 8.

The 18-page summary lists preliminary results of studies designed to measure injuries to birds, mammals, fish and other wildlife, marine and land-based wildlife habitat, and archaeological and subsistence resources.

In some cases the damage to wildlife species reported is more severe than previously thought and may be continuing, according to the report.

"This is the first time we've gotten results from systematic studies of the whole region, as opposed to anecdotal information," said Jim Gibeaut of the Alaska Department of Environmental Conservation. Gibeaut is the head of DEC's science studies on the spill.

"What is frustrating is to find that the oil is persisting down to 100 meters depth (underwater). That's the worst news of all, I think."

The summary indicates that the animals which seem to have been hardest hit were seabirds, sea otters, bald eagles and possibly killer whales. Gibeaut said researchers knew from past oil spills that birds and otters would be affected, but scientists will end up with more in depth information on those effects from the Exxon Valdez studies.

"The difference here is that we've quantified a lot more than previous spills, by counting the dead birds and other dead animals, and by noting the location and amount of persisting oil on the beaches and in the shallow subtidal regions. I don't think that has been done as extensively before, not for a large spill anyway," Gibeaut said.

U.S. Fish and Wildlife officials initiated a program soon after the March 1989 oil spill to recover bird and other animal remains in the spill affected areas, partly to prevent their being eaten by scavengers such as eagles and bears. A total of 36,471 birds were collected, and a U.S. F&WS paper published in January 1990 estimated that number represented only 10-30 percent of the actual deaths. According to the report released last week, the best approximation now available is that between 340,000 - 390,000 birds died.

Sea otter populations in Prince William Sound and the Gulf of Alaska were estimated to be as high as 30,000 before the spill. The new report estimates 3,500-5,000 animals were killed directly from effects of the oil spill. Otter necropsies also indicated damage from inhaling toxic aromatic compounds evaporating from the crude and from ingesting the oil as they tried to clean their fur.

State and federal scientists expect to continue researching the effects of the spill in 1991 "and thereafter until the process is complete." A number of monitoring projects will measure the natural recovery of wildlife and other resources affected by the spill.

"There's another whole field season that's going to be conducted (this year), then it will take another one to two years after that to get the final reports out," Gibeaut said.

Restoration programs are expected to begin in 1991. The summary indicates the restoration projects will be adjusted as results from the resource damage studies indicate where efforts should be concentrated.

To request a copy of the summary, write the U.S. Justice Department, Oil Spill Information Center, 645 G Street, Anchorage, AK 99501, or telephone 907/278-8008.

NOAA Study of Hot Water Wash and State's Comments Available

The National Oceanographic and Atmospheric Administration released a report on April 9 with their evaluation of the effects of hot water washing on Alaskan shorelines to remove oil contamination following the Exxon Valdez oil spill.

The report, titled "Evaluation of the Condition of Intertidal and Shallow Subtidal Biota in Prince William Sound Following the Exxon Valdez Oil Spill and Subsequent Shoreline Treatment," is available from the U.S. Justice Department, Oil Spill Information Center, 645 G Street, Anchorage, AK 99501, or by calling 907/278-8008.

For a copy of comments and reviews of the study by the Alaska Departments of Environmental Conservation and Fish and Game, contact the Public Information Office, ADEC Exxon Valdez Oil Spill Response Center, 4241 B Street, Suite 304, Anchorage, AK 99503, or call 907/563-1126.

Survey, Cont. from page 1

the U.S. Coast Guard, National Oceanic and Atmospheric Administration, the Alaska Department of Environmental Conservation, Exxon, the land manager, and a representative from the local community.

The survey teams are expected to document surface and subsurface oiling conditions and record their observations on forms and maps and with photographs. The teams will also collect information on intertidal organisms and wildlife observed. Reports from each days' observations will be sent to Anchorage daily.

A total of 598 sites or subdivisions are expected to be surveyed by the groups, 436 in Prince William Sound, 101 in Kenai, and 61 in Kodiak. This includes 48 subdivisions with 54 anadromous fish streams which have been identified by the Alaska Department of Fish and Game.

Valdessa Finds a New Home

Sitka — Volunteers at the Alaska Raptor Rehabilitation Center in Sitka, Alaska, couldn't release Valdessa to the wild but they found her a good home.

The Ross Park Zoo in Binghamton, New York accepted Valdessa, the first bald eagle captured live after the Exxon Valdez oil spill of March 1989. Zoo workers paired her up with Claws, formerly the zoo's only bald eagle.

"They hit it off immediately," said Steven Contento, director of the Ross Park zoo.

Valdessa was captured in Prince William Sound in April of 1989. Volunteers at the bird rescue center in Valdez washed her to remove oil coating her feathers. When found she was feeding on the oil soaked carcass of an otter. She was then shipped in a large dog kennel to the ARRC, the state's only raptor treatment and rehabilitation center qualified to handle bald eagles at the time. Volunteers at ARRC named the adult female bald eagle after the town of Valdez.

After two years of recuperative care, Valdessa regained her health but not the full use of her wings, said Lynn Vaught of the ARRC. Center volunteers searched until they found a zoo or captive breeding program with the proper facilities and staff to care for bald eagles. Valdessa arrived in the upper New York State town on April 9.

Three other unreleasable bald eagles picked up following the Exxon Valdez oil spill remain in the care of the Bird Treatment and Learning Center in Anchorage, and one additional bird was placed at the Gladys Porter Zoo in Brownsville, Texas, as part of a captive breeding program.

The OIL SPILL CHRONICLE is published monthly by the Alaska Department of Environmental Conservation. Comments or inquiries should be addressed to: ADEC, Exxon Valdez Oil Spill Response Center, Attn: L.J. Evans, 4241 B Street, Suite 304, Anchorage, AK 99503. FAX: 907/563-1789. Phone 907/563-1126.

Ops Meeting Location Changed

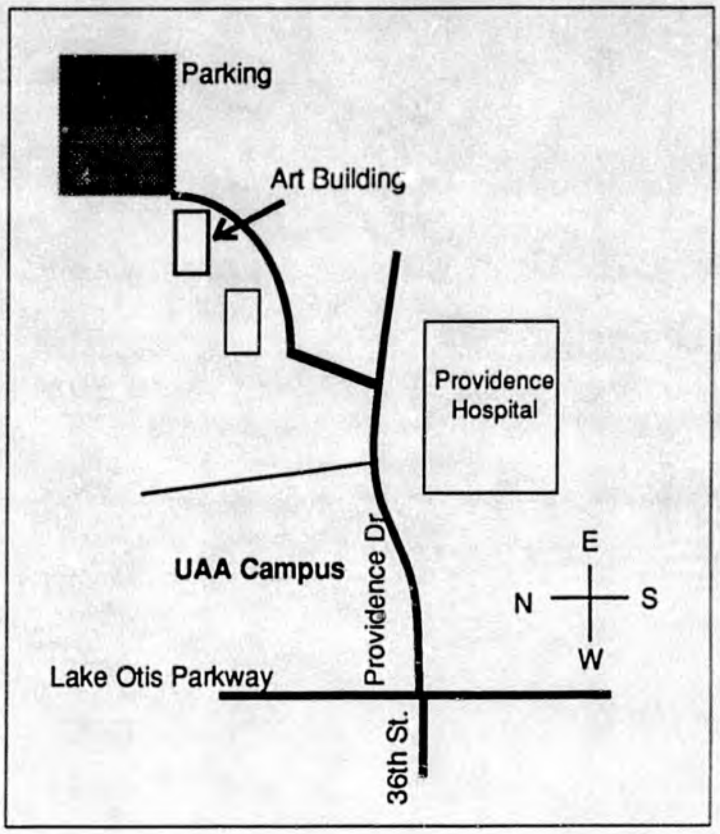
The Exxon Valdez Oil Spill Operations Steering Committee meeting scheduled for April 23 at 5:00 pm has been moved to the Room 220 Theatre in the Art building on the University of Alaska Anchorage campus, 3211 Providence Drive.

The meeting is generating a high degree of interest, Coast Guard officials said, and has been moved to a larger facility to accommodate the public. The date and time of the meeting will remain the same.

The agenda for the meeting will include cleanup plans for the 1991 season, the May shoreline survey program, and information about how the cleanup would proceed under the proposed civil litigation settlement under consideration by the Alaska State Legislature and the U.S. Congress.

Audioconference facilities will still be available for any communities who wish to participate. For more information on audioconferencing, call Lt. Robert Forgit at 263-1728.

A map showing the general location of the Art building on the UAA campus is to the right.

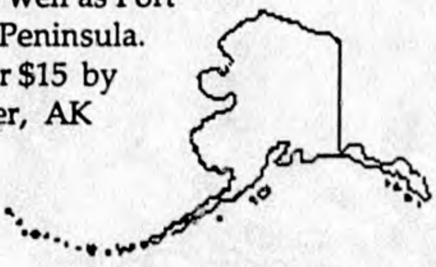


Poisoned Waters: Alaska Natives and the Oil Spill

A one-hour radio documentary about the native Alaskan perspective on the Exxon Valdez oil spill was aired during March on the Alaska Public Radio Network.

Entitled "Poisoned Waters: Alaska Natives and the Oil Spill," the documentary was produced by Susan Kernes of KBBI in Homer. It focused on the Chugach Aleut residents of Chenega Bay and Tatitlek in Prince William Sound as well as Port Graham and English Bay, which are located on the Kenai Peninsula.

Audiotape copies of the program may be purchased for $15 by writing True North Productions, P.O. Box 984, Homer, AK 99603.



Final Comments on Spill Settlement Due April 18

Public comments on the proposed settlement agreement between the United States, the State of Alaska, and Exxon Corp. must be received by April 18, 1991. Written comments concerning the settlement are to be submitted to Thomas A. Campbell, General Counsel of NOAA, U.S. Department of Commerce, Room 5816, Washington, D.C. 20230, <u>and</u> to Barbara Herman, Attorney General's Office, State of Alaska, 1031 West 4th Avenue, Suite 200, Anchorage, AK 99501.

The proposed settlement was published in the Federal Register of Tuesday, March 19, 1991. Copies of the settlement may be obtained from any library which subscribes to the Federal Register, from the U.S. Justice Department Oil Spill Information Center, 645 G Street, Anchorage, AK 99501 or from the ADEC Exxon Valdez Oil Spill Public Information Office, 4241 B Street, Suite 304, Anchorage, AK 99503, 907/563-1126.

OIL SPILL CHRONICLE
State of Alaska
Department of Environmental Conservation
Exxon Valdez Oil Spill Response Center
4241 B Street, Suite 304
Anchorage, AK 99503

Senator Dick Eliason
P.O. Box V
Juneau, AK 99811

file

4-4-91

Spill fund suits ask billions

Governments vie for spoils

By DESIREE HUMPHREY

TIMES WRITER

The U.S. government, the state of Alaska, Exxon Co. USA and several other groups filed more than $59 billion in claims against an oil-spill liability fund that is limited to $100 million in payments to all people affected by the 1989 Exxon Valdez spill.

> Large groups of fishermen, businesses, Natives and others want $56.1 billion.

The federal government and the state of Alaska want more than $1 billion from the Trans-Alaska Pipeline Liability Fund, although a federal judge asked the governments not to file. U.S. District Judge H. Russel Holland has said the limited funds available to individuals hurt by the spill would be substantially reduced by any government claims.

Several large groups of fishermen, businesses, Natives and others asked for $56.1 billion, according to the fund's March report.

Holland urged many with spill-related lawsuits to file claims with the fund before the March 25 cutoff date because it was probably their only chance to receive a settlement. Holland cited existing federal law that denies many people except fishermen the chance to sue Exxon later for damages.

He asked the federal and state governments not to file claims because they have other recourse.

The 1973 Trans-Alaska Pipeline Authorization Act allows the fund to pay up to $100 million dollars per accident to people it finds were injured by spilled pipeline oil. Congress established the fund in 1973 to quickly assist individuals hurt by a spill.

But no claims can be paid until all the requests have been processed since, according to law, claims will be distributed proportionately if they exceed the $100-million cap.

The government claims are two of nearly 11,100 submitted by March 30, according to the fund's monthly report filed with the U.S. District Court in Anchorage on Monday.

Lawyers representing fishermen and other indi-

See Suits, back page

Page 2

Suits

Continued from page A1

viduals said the U.S. government and the state were acting unfairly by filing claims and are trying to force approval of the tentative $1 billion settlement the state signed with Exxon on March 12.

"I think it's ludicrous, bordering on outrageous," said Dave Oesting, an Anchorage lawyer appointed as co-council to coordinate the numerous plaintiffs' court actions. The huge amount of the claims also show the "inadequacy and meaninglessness of the fund process," he said.

San Francisco lawyer Randall Scarlett, a member of the Melvin Belli firm representing about 1,000 people, agreed with Oesting. Because of the state and federal governments' large claims, individuals may get only "pennies on the dollar, if anything," he said.

"No, I don't think it is fair at all," Scarlett said. "Governments have other ways of raising revenues."

The U.S. government has agreed to withdraw its claim if its $1 billion settlement with Exxon and the state is approved and if the fund promises to drop its claims against the government, the report said. The federal government seeks reimbursement for cleanup and response expenses, removal of oil, and natural resource damages.

Trans-Alaska Pipeline Liability Fund

The fund has a cap of $100 million per accident it can pay to people affected by spilled oil. Here are some of the larger claims filed in March:

U.S. government:	$1 billion plus
State government:	confidential
Exxon Co. USA.:	$1.3 billion plus
Other oil companies:	$85 million
A group of property owners:	$5 billion
A group of fishermen:	$46.6 billion
A group of businesses:	$4.8 billion
A group of Alaska Natives:	$530 million
A group of cannery and seafood processors:	$160 million

SOURCE: Trans-Alaska Pipeline Liability Fund. TIMES CHART

The fund's lawyers wrote in the report they were reluctant to relieve the government of its obligations to pay for damages possibly caused by the government through negligence.

Unlike Exxon and the federal government, the state asked that the amount of its claim be kept confidential. The state wants to be compensated for natural resource damages, some response costs and lost revenues, the report said.

Alaska Attorney General Charles Cole could not be reached late Wednesday for comment.

The amount requested by the federal government, the state government and the oil companies totals nearly $2.5 billion, the report said.

Besides the $1 billion for the federal government, Exxon asked for more than $1.3 billion. BP America Inc., Atlantic Richfield Co., Phillips Petroleum Co. and Mobil Oil Corp. asked for $85 million.

The oil companies agree to wait until everyone else, except the governments, is paid before seeking their shares, according to the report.

A five-cent-per-barrel-of-oil charge was assessed on North Slope crude until the fund reached its $100-million limit in 1981.

With accumulated interest and investments, the fund had grown to about $300 million, said Stephen Hut, the fund's Washington, D.C., lawyer.

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^Federal Judge Rejects Criminal Plea Agreement: 'Fines Not Adequate(
^URGENT(
^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 the approximately 90 law firms around the country involved in civil spill litigation have worked hard to keep the results under wraps to bolster any future court battles.

The $900 million was to have been paid over 11 years and would go toward restoring Prince William Sound.

Holland had said last month the criminal and civil agreements were legally separate.

State Attorney General Charles Cole 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.

AP-ANC-04-24-91 1040PDT(

NEWS RELEASE

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ALASKANS SUPPORT EXXON SETTLEMENT

JUNEAU--According to a recent statewide poll, Alaskans approve by a margin of two to one, of the settlement between the State of Alaska, the federal government and Exxon.

Dittman Research polled 536 Alaskans from 51 different communities and asked the following question: "The Hickel Administration, the federal government, and Exxon have negotiated a settlement that would have Exxon pay approximately one billion dollars over the next 10 years as payment for state and federal natural resource damage claims related to the oil spill. Do you think the state legislature should or should not approve this settlement?"

The response was overwhelming that the legislature **should** approve the settlement (58 percent should, 29 percent should not, and 13 percent unsure). Results of the poll show "support is wide-spread and basically uniform in the various demographic and geographic areas across the state."

"Anyone can second guess," said Governor Walter J. Hickel. "What's important is that this issue needed to be resolved and we did it. You could debate this thing in the courts until the end of time, but that wouldn't help anyone restore the Sound."

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Unkept Exxon vows leave Cordovans mistrustful of pact

4.15.91

By DIRK MILLER

TIMES CAPITAL BUREAU

CORDOVA — People here have had too many broken promises the past two years to be impressed with the proposed Exxon Valdez oil spill settlement, says Mayor Bobby Van Brocklin.

Van Brocklin, testifying at Sunday's hearing of the House's settlement review committee, said the promises to Cordova began long before the Exxon Valdez tanker struck Bligh Reef on March 24, 1989. Cordovans were assured such a disaster would not happen when the trans-Alaska oil pipeline was built.

"We've had promises and promises starting 20 years before the disaster of the spill, and here we sit," Van Brocklin said at the hearing in Cordova's public library. "So our trust is at a very low level."

Many said they had been promised by Exxon representatives that the town would "be made whole again." They say it did not happen.

"Once again, it seems we're being told 'Trust us. It will happen,'" said City Council woman Nancy Bird.

State, federal and Exxon officials last month agreed to a $1 billion settlement of federal and state lawsuits stemming from the 11-million-gallon spill. The settlement includes a $100 million criminal fine for guilty pleas by Exxon to four federal charges and $900 million in natural resource damages. The $900 million is to be placed in a trust fund to be used for restoration of Prince William Sound and other oiled areas. Six trustees — three federal, three state — would decide

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Cordova

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how the money is spent.

A federal judge is expected to decide on Exxon's guilty pleas April 24. A decision by state and federal governments on whether to approve the rest of the settlement is to be made by May 3.

Fisherman Bill Black said the date is too soon, especially since federal studies of the spill's effects just recently were released.

"Some of these facts are just coming to light," Black said. "I would urge the Legislature to turn this down and let it digest a little."

Most of those testifying from the crowd of about 50 people urged lawmakers to try to change the $1 billion pact or reject it. People were concerned about the size of the settlement, its effect on private lawsuits, the uses of the trust fund, and the release of state damage studies.

Melissa Rice told the panel she had worked for the state with the confidential data and that the state was not getting enough for the disaster.

"From what I learned, the state has an excellent case against Alyeska and Exxon," she said. "We are selling ourselves short."

Attorney General Charles Cole told residents at the hearing that he was keeping state studies secret to keep others from using them against the state. He said lawmakers will be given a confidential briefing on the studies this week to help them decide on the settlement.

Cole and Fish and Game Commissioner Carl Rosier — two of the state's trustees — attended the hearing.

Native groups told lawmakers that the spill was still disrupting their subsistence lifestyle.

Mary Gordaoff, the president of the Tatitlek Corp., said villagers still could not trust the seafood they relied on for food. Tatitlek was less than five miles from the tanker accident. Gordaoff said she continues to hear horror stories from fishermen about diseased sea life.

"This isn't over yet and it isn't going to be for a long time," she said.

H THOMAS
EMPIRE

: sharp criticisms released h by state resource agen- Hickel administration says il Bureau of Land Manage- a "sound" job on its draft ental impact statement for ; the Alaska-Juneau gold

state's long-awaited com- ere released Monday, in- many state-agency criti- the BLM report that some ared would be edited out by el administration.

a prepared statement re- day by the governor's office reflect all of the concerns

ernmental Coordination. "The state should not be a roadblock to it."

The governor's office today also released a letter Rusanowski wrote to David Dorris, who is in charge of BLM's impact statement. In the letter, Rusanowski said the state supports the project, and "the draft (impact statement) is sound."

The letter differs from a version released Monday by Rusanowski's office. The letter was apparently changed after a Cabinet-level meeting was held Tuesday in the governor's office.

In the first letter, which was never sent to the BLM, Rusanowski said the state supports the mine "in gen-

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"Employment Through Economic Development" is the theme of this year's general assembly of the Tlingit and Haida Indian Tribes of Alaska.

The 56th annual gathering, taking place this week in Juneau, will involve about 120 delegates representing Tlingits and Haidas who live in Southeast Alaska, Anchorage, Seattle and San Francisco.

The theme will be carried through the election of an economic development commission, discussions of Native employment efforts by the state and sessions on tribal employment rights.

a.m. Thursday with opening ceremonies and addresses from politicians and organization leaders.

The assembly will adjourn about 4 p.m. Saturday.

All sessions will be held at the Andrew P. Hope Building, 320 W. Willoughby Ave., and are open to the public, said Judith George, assistant to central council president Edward Thomas. The building houses the Alaska Native Brotherhood hall.

"We welcome observers and like to have them there," George

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id.

ic, dance, speeches and a neeting will be featured at fternoon celebration. The neeting, opened by Deputy Errol Champion, is set for m., and will discuss the top- 'hat is a Sustainable Future ieau?"

s weekend's festivities will from 1 to 5 p.m. Friday with ic tree planting sponsored by aska Green Party. Trees will

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Villages sue to block oil spill settlement

By JULIA RUBIN
THE ASSOCIATED PRESS

ANCHORAGE – The proposed $1 billion Exxon Valdez oil-spill settlement is fair, despite overwhelming public comment to the contrary, Exxon Corp. and the federal government argued in papers filed in federal court here Tuesday.

Meanwhile, five Alaska Native villages sued in federal court in Washington, D.C., to block the settlement and amend it to include their claims for compensation in the nation's biggest oil spill.

Exxon Corp., its subsidiary Exxon Shipping, and the U.S. Justice Department urged U.S. District Court Judge H. Russel Holland in separate briefs to accept the settlement.

Its terms require Exxon to plead guilty to four misdemeanors and pay a record $100 million criminal fine. Half of that would go to the state as restitution. Felony charges against the oil giant would be dropped.

The agreement also would settle state and federal civil claims against Exxon for the 1989 oil spill in Prince William Sound. Exxon would pay $900 million over 11 years, with the money going into a trust to pay for the Sound's cleanup and restoration.

Holland has scheduled sentencing for April 24.

The tanker Exxon Valdez strayed off course in March 1989 and ran aground on a charted reef, tearing a hole in its bottom. It spewed nearly 11 million gallons of crude oil into the sound, tainting thousands of miles of shoreline, and poisoning untold numbers of marine animals and birds.

Of 87 public comments submitted to Holland about the criminal case, only 11 supported the plea agree-

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Dow closes over 3,000

THE ASSOCIATED PRESS

NEW YORK – A vigorous rally sent the Dow Jones industrial average soaring today, and the index appeared to set a record by closing above the 3,000 mark.

Traders said optimism of an improving economy drove the market to new heights. The rally is seen as a continuation of a bullish trend that has favored equities since January.

The Dow Jones average of 30 industrials crossed the record 3,000 mark for about two hours until 2:13 p.m. when it retreated.

The previous record of 3,010.60 was set July 17, 1990. The benchmark index has never closed above 3,000.

It was at 3,006.93, up 20.05, with five minutes left in trading.

WEATHER Intermittent drizzle tonight and Thursday, high in upper 40s. Page 2

Juneau Empire
4/17/91

[redacted]

plans to build a r end of the valley. 100 million tons of he dam during the life of the mine.

Va... is four miles and is the watershed rea's most popular reams. Echo Bay's r proposal has gen- iblic criticism than of the mine plan.

tance, vocational training and home remodeling, George said.

dures within the tribes," George said.

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Exxon...

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ment, according to the Justice Department brief.

Critics argued, among other things, that the fine was too small; that there isn't enough information on the spill's damage to set penalties; that Alyeska Pipeline Service Co., which operates the trans-Alaska oil pipeline, shouldn't be immune to possible criminal charges; that Exxon should be tried publicly; and that many plaintiffs, like the Alaska Native villages, are left out.

In arguments submitted Tuesday, the federal government argued that the fine – 20 times the previous record for a criminal environmental violation – "would reflect the seriousness of the conduct that caused the grounding of the Exxon Valdez ... and send a strong message that companies that violate environmental statutes face serious punishment."

C4 Anchorage Daily News Friday, April 12, 1991

Spill officials say hot wash worked

Alaskans contend study was incomplete

By DAVID WHITNEY
Daily News reporter

WASHINGTON — Alaska oil-spill officials said Thursday that pressurized, hot-water treatment of Prince William Sound beaches following the Exxon Valdez tanker spill was effective and should be used again in similar disasters.

They said a federal report this week concluding that hot-water beach washing did more harm than good was incomplete.

"We are not repudiating the National Oceanic and Atmospheric Administration's report," said Ernie Piper of the state Department of Environmental Conservation. "But it is not the whole story."

While the hot-water washing may have caused additional damage to the intertidal zone — the strip of shore between the high-tide line and the low-tide line — it helped achieve the more pressing goal of quickly removing large quantities of oil from the beaches, state officials said.

If that oil were not removed, they said, it would have seeped more deeply into the rocks and sand and some of it probably would have been washed away by the tides to contaminate other beaches and kill more wildlife.

"When you're trying to remove a lot of oil in a short time (to combat) massive pollution, you are willing to take certain trade-offs," Piper said. "We were not operating under any illusion that this was a benign treatment."

In the summer months after the March 1989 tanker grounding, which dumped nearly 11 million gallons of oil into the Sound, state and federal officials worked with Exxon Co. to develop pressurized hot-water washing technology. Hundreds of miles of beaches were treated with the equipment, often more than once.

NOAA officials said Tuesday that 1990 assessments of polluted beaches cleansed by the hot-water treatment showed they were recovering more slowly and could have longer-lasting damage than those that were not.

But Piper, the DEC's on-scene spill coordinator, and Mark N. Kuwada, oil-spill coordinator at the state Department of Fish and Game, said the federal study was focused so narrowly on intertidal areas of the spill zone that the broader benefits of the hot-water treatments were ignored.

"To focus on this is to overlook the benefits of removing a lot of bulk oil quickly," Kuwada said. "And that was our major thrust in 1989."

Kuwada said if the oil had not been blasted off the beaches, oil sheens in Prince William Sound would have been more extensive today, many beach areas would be plastered with asphalt and the subsurface would be more deeply saturated with oil.

"There were a lot more issues relating to cleanup beyond the impact to intertidal areas," Kuwada said.

In response to a draft version of the NOAA study, the state said in February there were so many variables that were not taken into consideration that its sweeping conclusions about intertidal damage were questionable.

The state cited the lack of documentation on water temperatures and pressure and the duration of the beach washings.

"Furthermore, while best management practices were prescribed, they were not always followed," the state said. "Consequently, the quality of treatments varied considerably between different beaches and crews."

But Piper said the NOAA study may be useful in the future because it will make cleanup supervisors more prudent in the use of the hot-water systems.

"I think the (hot-water) Omni booms were the best piece of applied engineering that came out of the spill," he said. He said he disagreed with NOAA's conclusion that the lesson of the study was not to use hot-water washing at all.

"For me, it's to use it only in situations X, Y or Z," Piper said.