

ALASKA LEGISLATURE SPECIAL COMMITTEE/SUBJECT FILE 8672
2007 SCOMM 77: SENATE SPEC. COMM. EXXON VALDEZ OIL SPILL. 1991

224



Harold Heinze

Heinze could testify in Alyeska suit

By DIRK MILLER

TIMES CAPITAL BUREAU

JUNEAU — A member of Gov. Walter J. Hickel's Cabinet could end up testifying against the state in its suit against the Alyeska Pipeline Service Co. regarding the Exxon Valdez oil spill.

Resources Commissioner Harold Heinze said Thursday he could be called as a witness for any side in lawsuits stemming from the almost 11-million-gallon spill in Prince William Sound.

Heinze is a former president of ARCO Alaska Inc. and ARCO Pipeline Co. He said he participated in Alyeska owners' meetings in 1988 concerning oil spill response plans.

State, federal and Exxon officials recently agreed to a proposed \$1 billion settlement, and lawmakers are now considering whether to approve it.

Part of the settlement, a plea agreement between the federal government and Exxon, includes a promise not to charge Alyeska

with criminal violations. It also sets up a trustee board to handle \$900 million to be used in restoration of the Sound.

Attorney General Charles Cole told senators Thursday the state is still pursuing its claim against Alyeska. The state claims Alyeska intentionally and negligently misrepresented its response and cleanup capabilities in responding to spills.

Heinze said if the state's case against Alyeska goes to court, he might be called to testify.

"Certainly I've been open about that," Heinze said. "I can be called by anybody. That's the way it was and still is." Cole said later he could not say who might be called as a witness by any side in the state's case.

"Commissioner Heinze was not appointed the state trustee because of his former association with ARCO Pipeline, one of the owners of the trans-Alaska pipeline," Cole said.

But Cole said Heinze should eventually replace him as a trustee.

Environmental Conservation Commissioner John Sandor, Fish and Game Commissioner Carl Rosier and Cole are the state's trustees.

"I have not said when that should occur or even if it would occur when Harold Heinze is the commissioner of Natural Resources," Cole said.

Eric Rehmann, Hickel's press secretary, said the settlement gives the governor the power to choose the state's three trustees.

See Heinze, page B4

Heinze

Continued from page B1

"(Heinze) doesn't see any conflicts with himself, but if it bothers people he would be happy to delegate to someone else," Rehmann said.

California Congressman George Miller alleged in a letter Tuesday Alyeska's owners secretly decided at a 1988 meeting in Phoenix to limit their immediate spill response inside Valdez Arm and Valdez Narrows.

Outside that area, cleanup responsibility would have been with the spiller, said the letter sent to the media and to two federal judges dealing with spill litigation and to media.

"That's just flat wrong," Heinze said. He said he attended the meeting but would not comment further because lawsuits against Alyeska are still pending. He said he would save his comments until his confirmation hearing before the House Resources Committee on Tuesday.

Lawmakers say they plan to question Heinze on his role in cleanup plans. Rep. Mike Navarre, D-Kenai, said the allegations are not enough to derail Heinze's confirmation, but they raise more questions to ask Heinze at the hearing.

"I don't think it would automatically eliminate him as a trustee," Navarre said.

Commissioners must win a simple majority of both the House and Senate to be confirmed.

Miller's claims cited a July 6, 1988, letter from Stanley Factor, vice president of ARCO Marine Inc., that said Alyeska "would provide immediate response to oil spills in Valdez Arm and Valdez Narrows only."

Spill fund trustee's role scrutinized

By DIRK MILLER

TIMES CAPITAL BUREAU

UNREDACTED

think it's cause for interrogation," said Rep. Cliff Davidson, D-Kodak.

The of state trustees are Fish and Game Commissioner Carl Rosier and Department of Environmental Conservation Commissioner John Sandor. Three federal officials would also be trustees.

See Heinze, back p

Heinze

Continued from page A1

State, federal and Exxon officials agreed to a proposed \$1 billion settlement of litigation over the March 24, 1989, oil spill in Prince William Sound. Lawmakers are now considering whether to approve it. Part of the settlement, a plea agreement between the federal government and Exxon, includes a promise not to charge Alyeska with criminal violations.

Miller made his allegations in letters to two federal judges deciding civil and criminal cases involving Exxon and Alyeska. The letters urge the rejection of the settlement.

Gov. Walter J. Hickel responded to the letters Wednesday, saying the state is continuing its civil claims against Alyeska for failing to respond quickly to the Exxon Valdez spill.

"I appreciate Congressman Miller's continuing concern for the state of Alaska; however, if there's one thing I learned in the Exxon Valdez tragedy, it is that you cannot take any man's word as gospel, including oilmen and congressmen," Hickel said in a press release.

Some lawmakers said Miller's allegation and Heinze's role would be examined.

"It doesn't blow him out of the water for me — I want to know more about it," said Rep. Bill Hudson, R-Juneau. "I would need to know what exactly his role was in response to the oil spill."

Hudson and Davidson are members of the House Resources Committee, which will hold Heinze's confirmation hear-

ing on April 16.

The committee recommends to lawmakers whether to accept or reject his appointment. Heinze, like all commissioners, needs a simple majority of both the House and Senate to win confirmation.

Miller cited a July 6, 1988, telex from Stanley Factor, vice president of ARCO Marine Inc., that said Alyeska "would provide immediate response to oil spills in Valdez Arm and Valdez Narrows only."

Factor's telex went on to say that further cleanup in the Sound would be limited to using dispersants, and additional efforts would be the responsibility of the spiller.

Andrews confirmed the telex's validity but said the oil firm would not comment on the issue.

Heinze would not comment on the meeting.

"You'd have to ask Mr. Stanley Factor," he said.

Marnie Isaacs, Alyeska's spokeswoman, said that Factor's letter did not represent a final decision.

"The discussion was dealing with problems confronting Alyeska and owner companies on spill response," she said. "This particular discussion was part of the ongoing effort."

Heinze spoke to the House settlement panel Wednesday about the \$1 billion agreement, recommending it be approved.



Harold Heinze

"I, in my previous lifetime, had the experience of dealing with Exxon for some 15 years, and I know them to be very tough, capable negotiators," Heinze said.

Davidson asked Heinze about his involvement with Alyeska and how it affected his judgment of the settlement talks.

"You should realize that was one of the reasons I purposely disqualified myself really from any conversation with the attorney general about the settlement and all these types of things," Heinze said.

"I accept the fact that having been on the other side of this specific issue that it would be unethical in regards to those past associations to cross over and be part of the basis of the formulation of litigation strategy," he said.

Didi- These 2 articles
give some background in
what "contingent valuation"
method of resource damage
assessment is - and they
talk about the studies concluding
that \$3-8 million is value of
damage using that method.

Value of Intangible Losses From

Exxon Valdez Spill Put at \$3 Billion

By John Lancaster
Washington Post Staff Writer

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.

the \$3 billion figure, 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.

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 (D).

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."

Describes
how
contingent
valuation
theory
works

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.

• 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 murre on islands south of the Kenai Peninsula hit hard by the spill because the oil caused long-term disruption to their reproductive process;

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.

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 murre's 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 differently," 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 web," Rossbach said.

SUNDAY

SECTION B March 31, 1991

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

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 led to 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

Spill fund claims invalid

Lawyers representing groups told to resubmit individually

By DESIREE HUMPHREY

Times Writer

Five group claims for \$56.1 billion submitted to an oil-spill insurance fund are invalid because they were not filed individually, leaving thousands of Alaskans listed in the claims unregistered, according to the fund's lawyer.

Lawyers who filed the group requests with the \$100-million Trans-Alaska Pipeline Liability Fund for damages from the Exxon Valdez spill have until April 23 to submit individual paperwork, said Stephen Hut, the fund's Washington, D.C., lawyer.

Although the March 25 deadline for filing a claim has past, lawyers responsible for filing the five group claims were sent notices telling them of the extension, Hut said Thursday.

The five claims list 5,169 businesses seeking \$4.8 billion; 56,452 fishermen and crew members asking for \$45.6 billion; 6,000 cannery and seafood processors for \$160 million; about 3,000 Natives for \$330 million and a \$5 billion claim for about 107,000 separate properties, the fund's March report said.

"We couldn't possibly notify all those individuals," Hut said.

A federal judge said in February federal law prohibited many people from receiving money in court for damages caused by the spill. U.S. District Judge H. Russel Holland repeatedly told people affected by the 1989 spill to file with the non-profit fund to insure they have some chance to receive compensation for damages.

Lloyd Miller said he and other lawyers for people affected by the spill do not agree with the fund's decision. He said he believes the fund will give lawyers more time to process claims.

"It might as well be one day for my people," Miller said of the three-week extension. Miller, who has filed 1,500 claims with the fund on behalf of subsistence hunters and fishermen, said sometimes it takes a week just to get mail to residents in rural Alaska.

B-2 Friday, April 3, 1991, The Anchorage Times

TAPAA

Continued from page B1

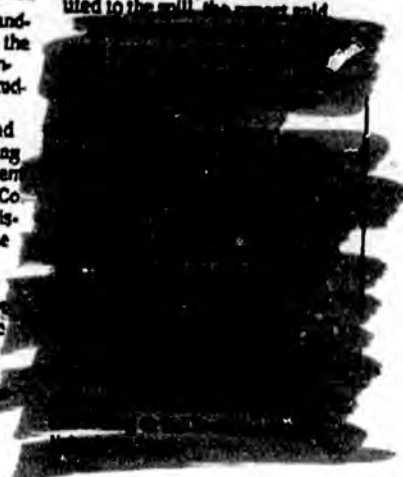
said San Francisco lawyer Randall Scarlett. Experts differ on the amount of environmental damage and are still conducting studies, he said.

The fund also reported it had received 11,100 claims, including one from the federal government for \$1 billion, one from Exxon Co. USA for \$1.3 billion and an undisclosed amount requested by the state, the report said.

The oil companies agree to wait until everyone else, except the governments, is paid before seeking its share, according to the report.

The federal government, however, said it will drop its claim only if a tentative \$1 billion settlement signed with Exxon and the state is approved and if the fund agrees not to press it for compensation for any negligent actions that may have contributed to the spill, the report said.

lement signed with Exxon and the state is approved and if the fund agrees not to press it for compensation for any negligent actions that may have contributed to the spill, the report said.



Spill deal in Juneau hot seat

By DIRK MILLER

TIMES CAPITAL BUREAU

JUNEAU — Attorney General Charlie Cole and the House's oil spill settlement committee squared off Wednesday on why the state's spill study data should remain secret and how the \$1 billion agreement was reached.

Rep. Gene Kubina, D-Valdez, started things off on a forceful note.

"I'm kind of an impatient person so I'm going to put my major concerns to you right up front," Kubina told Cole. "Number one, I'd like to compliment Exxon on their skill in negotiating. I think they negotiated a very good settlement for themselves."

"You may think I did a bum job ...," Cole answered. "That's your view. But I'm prepared to support my view with a lot of sound experience and legal craftsmanship."

Lawmakers are considering whether to approve a settlement of federal and state lawsuits against Exxon reached last month. Their deadline for rejecting or accepting the settlement passes on May 3.

Cole and lawmakers had different views on the release of

See Deal, page B4

11 million gallons of oil in Prince William Sound. He fears the results could be used against the state in lawsuits.

not on whether the state should release its secret spill data. Cole said he would not release results of resource, social and economic damage studies until private plaintiffs release the state from claims arising out of the March 24, 1989, spill of about

pages by your refusal to release the scientific data," Kubina said. The legislators represents communities affected by the spill. Rep. David Finkelstein, D-Anchorage, said he thinks the state has an obligation to release the studies.

"Where there's dancing to a tune, or something that helps them, that's the truth," Finkelstein said. "They ought to have access to that as well."

Cole said lawmakers should focus on the terms of the Exxon Valdez oil spill settlement and

Deal

Continued from page B1

spill study data.

Kubina said without the studies, lawmakers could not make as informed a decision on the settlement. He said not releasing the data puts the state's own residents at a disadvantage in pursuing claims against Exxon and the state.

"I'm very concerned about Prince William Sound being held hostage, and the state of Alaska allowing Prince William Sound and the affected areas to be hos-

House

A22 Friday, March 15, 1991

The Washington Post

AN INDEPENDENT NEWSPAPER

The Exxon Valdez Settlement

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

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

The alternative to this settlement was litigation.

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

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

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

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

By RONALD J. OSTROW
TIMES STAFF WRITER

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Deen

Exxon agrees to pay record fine in spill

By JAMES ROWLEY
Associated Press

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Environmental groups had mixed reactions.

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



RICHARD L. THORNBURGH
A signal to pollsters

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

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

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

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

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

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

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

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

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

Rawl said Exxon could deduct the

Cont'd

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

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

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

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

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

Exxon's Bill for Spill

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

By Stephanie Saul
WASHINGTON BUREAU

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Exxon settles spill case

\$1 billion deal to cover fine, Alaska cleanup

By Maria Halkias

Staff Writer of The Dallas Morning News

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

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

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

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

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

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

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

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

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

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

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

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

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

Similarly, said Jay D. Hair, president of the National Wildlife Federation: "The large settlement and criminal plea will send a strong message to polluters. However, no one can claim victory over a disaster which will impact people and the environment for decades to come."

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

^AP-Exxon-Who Won

^All Sides Seen Victorious in Exxon Settlement

^An AP Analysis

^By LAURIE ASSEO-

^Associated Press Writer

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Cont'd

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

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

AP-NP-03-14-91 0943EST<

The Exxon Valdez Settlement

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

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

The alternative to this settlement was litigation.

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

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

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

Exxon to Pay Up to \$15 Million for Spill

By ALLAN R. GOLD

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

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

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

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

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

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

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

to comment on details of the settlement.

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

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

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

Valdez oil tanker spill of March 1989.

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

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

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

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

Killifish Suffering

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

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

New Jersey's Department of Environmental Protection directed Exxon to pay \$661,250 toward Manomet's study of bird population damage.

Study Encourages Exxon

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

But Dr. Parsons said it was not clear

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

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

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

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

NEWS RELEASE

STATE OF ALASKA

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

WALTER J. HICKEL
GOVERNOR



FOR INFORMATION CONTACT:

ERIC REHMANN
ACTING PRESS SECRETARY

DEPUTY PRESS SECRETARY

(907) 465-3500

FOR IMMEDIATE RELEASE

March 20, 1991

91-54

30 DAY COMMENT PERIOD ANNOUNCED ON EXXON VALDEZ SETTLEMENT
AGREEMENT

JUNEAU--Notice of a 30-day comment period was announced Tuesday in the Federal Register concerning the settlement agreement of the Exxon Valdez oil spill. Alaskans, and others wishing to comment on the agreement, must do so no later than April 14, 1991.

Written comments must be submitted to Thomas A. Campbell, General Counsel of NOAA, U.S. Department of Commerce, 16th and Constitution Ave. NW, Washington, DC 20230. A copy of the comments must also be sent to Barbara Herman, Attorney General's Office, State of Alaska, 1031 West 4th Ave., Suite 200, Anchorage, Alaska 99501.

For further information, contact Daniel Addison, Office of General Counsel, NOAA, Department of Commerce, Washington, DC 20230, telephone 202-377-1400.

###

4-3-91

Officials discuss public's role in spending spill money

By CHARLES WOHLFORTH
Daily News reporter

State and federal officials will meet behind closed doors Thursday to discuss, among other things, how to involve the public in the spending of money won in the settlement of Exxon Valdez oil spill litigation.

The Trustee Council, a group of officials from state and federal resource agencies plus the state attorney general, also will decide what oil-spill restoration and study projects to pursue this summer. Anything they spend will come out of \$950 million designated in the billion-dollar Exxon settlement for cleanup and restoration of Alaska's spill-damaged environment.

They currently plan to spend \$33 million on about 80 studies but may change that because of the settlement, channeling money into restoration projects instead, said



council member John Sandor, Alaska's commissioner of environmental conservation.

But secrecy shrouds the choice of new restoration projects the council is considering, and after the decisions are made the work will soon begin, leaving no time for public review, said state restoration planner Stan Senner.

The council discussed the same issues last week in a series of telephone conferences, but Sandor said he asked to meet face-to-face to map out the future of the spill money.

"I'm going to urge that the council consider the establishment of an endowment fund that this

settlement money can be put into and held for perpetuity to further projects for restoration," Sandor said.

He said the public should be involved in spending the money, and the council will talk about that, too.

An agreement signed with the Exxon settlement March 13 lays out clearly the state and federal governments' rules in spending the money, but not the public's. It gives both governments veto power and says they "shall establish procedures providing for meaningful public participation ... which may include establishment of a public advisory group."

Under the agreement, the governments have 90 days after the settlement is ratified by a judge to set up "an organizational structure for decisionmaking."

So far, the structure has been secret and Byzantine. The council

lies among four levels of decision-makers, which also include the trustees, the Washington policy group and the trustee management team. All their deliberations and most of their decisions have been kept secret because officials feared disclosing information to the government's foes in court.

Council member Walt Stieglitz, who is regional director of the U.S. Fish and Wildlife Service, said the meetings still must be secret in case the legislature or courts do not approve the Exxon settlement. He said there will be public announcements of the council's decisions after they are made, not before.

But Stieglitz said he is not sure that process will change after the settlement is complete.

"No decision on that," he said. "That is part of deciding on an organization and process. I'm assuming there is going to be some

sort of public process."

The meeting Thursday will deal mostly with decisions about this summer's scientific and restoration work. The trustees this week published a book of some 80 studies planned for the summer and is seeking public comment. But the work is already going forward. Even Sandor's request for a council meeting this week delayed buying supplies for the projects by a week, said Michael Dean, who heads spill study for the Alaska Department of Fish and Game.

Carl Rosier, commissioner of the department and a council member, said the list of studies could come in for major surgery Thursday. Most of the studies were aimed at measuring the spill's damage. With the settlement, that work may not be needed anymore, he said.

"You've got a whole new set of players; you've got a whole new set of circumstances," he said.

Dare to open up

State should release oil spill studies

Gov. Wally Hickel styles himself as a bold and decisive executive. He takes pride in his willingness to take risks and take whatever heat comes his way. He showed all those qualities in daring to settle the state's oil spill lawsuits with Exxon. Having put that deal on the table, he now has a chance to make another bold move: Override his attorney general's objections and release the state's oil spill studies.

Releasing the studies definitely would be daring. The conventional wisdom, as articulated by Attorney General Charlie Cole, is that such a move is legally dangerous. Mr. Cole worries that releasing the studies will give aid and comfort to the state's courtroom enemies. Scores of parties have sued the state over the spill.

But that view of the state's interest is too narrow, adversarial and legalistic. Overriding it are two broader and compelling public interests. Other scientists trying to understand the spill want and need the studies. And the information could help many Alaskans harmed by the spill to get fair and just settlements from Exxon.

The administration may be forced to release many of the studies anyway. Under legal standards governing the exchange of information in lawsuits, the state may have to let the other side see them. Fishermen, businesses and native villages cannot be expected to go out and duplicate years of costly research on their own.

And the scientific studies are unlikely to contain any smoking guns. Science is almost never open and shut. The most common scientific conclusion is "more study needed."

But science cannot progress in secrecy. The world will never fully understand the spill if years of litigation keeps state studies buried in secrecy.

Gov. Hickel likes to refer to Alaska as an "owner state." He's usually referring to the fact that the state owns vast resources and land. But here it has a different twist: The state owns valuable information, and Alaskans want to see it. Showing them the spill studies may be legally a bit risky, but it's the right thing to do.

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 cleaned 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 & Z," Piper said.

in the
Work
durin
An
1956,
move
Forest
Eglin
Florida
doon
his be
He



Oil-spill answers raising questions

Settlement's OK still appears likely

By CHARLES WOHLFORTH
Daily News reporter

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

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

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

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

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

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

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

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

Please see Page B-2, NEW INFO

NEW INFO: New questions

Continued from B-1

how he will vote. He said the legislature must first have the state's economic data on the damage of the spill, which have not been released. He expects to get the information in a confidential session.

"We have to," he said. "If we can't ... it would make it more suspect."

Sen. Dick Eliason, R-Sitka, said he still favors the settlement. He said it is no surprise that the spill did a lot of environmental damage and that Alyeska was partly to blame, and the disclosures don't change the fact that if the settlement fails, spill litigation could drag on for years.

"If we're really serious about restoration, I think we should get money now to begin it," Eliason said.

Eliason is chairman of the Senate committee reviewing the settlement. Rep. Max Gruenberg, D-Anchorage, is chairman of the House settlement committee, of which Kubinn and Navarre are members.

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

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

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

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



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

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

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

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

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

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

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

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

Legislators argue study's effect on deal

By DANIEL R. SADDLER

TIMES WRITER

4.10.91

Legislators differed Tuesday on whether scientific studies that show the Exxon Valdez oil spill was more damaging than first thought would scuttle a proposed \$1.1 billion settlement.

The U.S. Department of Justice released an 18-page report Monday summarizing early results of \$70 million in studies assessing damage from the spill. State and federal agencies have done scores of secret studies since the 1989 spill to determine damage should Exxon be found liable.

The preliminary findings show more fish, birds and animals died than previously suspected, death rates continue to be higher than normal, shellfish continue to absorb oil, and recovery for some species may take decades.

Exxon-supported scientists have said the Sound is recovering with little or no long-term effects.

But some lawmakers said the new information, the first public release of documents describing extensive spill damage, did not change their minds one way or the other on a proposed settlement of state lawsuits stemming from the spill. The lawmakers have only 23 days before deciding whether to settle damage claims for \$1.1 billion, or go to court.

"I was not expecting to see everything was cured," said Rep. Max Gruenberg, D-Anchorage. "I was expecting to see there were some significant problems, so I'm not particularly surprised."

"I'm pretty skeptical of it (the settlement), and this information doesn't help that skepticism," said Rep. Gene Kubina, D-Valdez.

Rep. Robin Taylor, R-Ketchikan said he will keep an open mind on the settlement, and wait for more public comment on it.

"The federal government report that the damage was a little more extensive and a little more long-lasting than some scientists have said it was does not really shock me, nor does it really impact the way I view this settlement," said Taylor.

Attorney General Charles Cole defended the settlement in the face of the new information, saying he knew all about the previously secret studies while negotiating the settlement, according to a spokesman in the governor's office.

Cole had declined to release state studies for fear they would fuel lawsuits against the state, but said Monday's release did not hurt the state. It is too early to tell whether the new damage data will prompt more lawsuits against the state, said Dave Oesting, an attorney coordinating private individuals seeking damages from the spill. But Gruenberg said the studies' release could speed settlements in some cases.

The settlement calls on Exxon to plead guilty to four misdemeanors, pay the state \$900 million over 11 years for restoration, another \$100 million fine split with the federal government, and up to \$100 million more for any as-yet undiscovered damage.

House Speaker Ben Grussendorf, D-Sitka, said the settlement would have passed the House last week, but the new information lessens its chances.

"I think there's a lot of people leaning towards the settlement who might be back on the fence, and some people on the fence may have fallen back to the other side," Grussendorf said.

The information confirmed some environmentalists' worst fears about the spill's long-term damage to Prince William Sound. Debra Donhue, an attorney for the National Wildlife Federation, said the report should prompt the state to push for more money to restore the environment.

"The closer we looked at the settlement agreement, the less we liked it, and this gives us something to base our general displeasure with the amount on," she said.

Scientists working on their studies in secret are relieved at the chance to consult openly with their peers on their work, said Paul Gertler, chairman of a management team for government land trustees coordinating spill restoration.

But plans for a third season of scientific studies, made before the settlement, are likely to continue without much change, Gertler said.

The public will have the chance to comment on the settlement in light of the new knowledge.

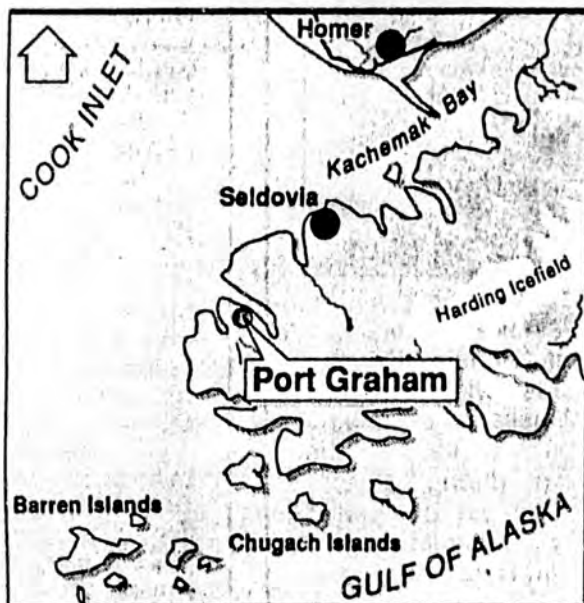
Up to seven members of the House oil spill litigation committee will visit communities impacted by the spill this weekend, said Gruenberg. Hearings are scheduled in Seward on Friday, Homer, Seldovia and Kodiak on Saturday, and Cordova on Sunday.



BOB HALLINEN / Anchorage Daily News

Elenore McMullen strolls on the Port Graham beach, which was lightly oiled from the Exxon Valdez oil spill two years ago today. She says the mussels that once covered the beach have not come back.

NOT NORMAL YET



KEVIN POWELL / Anchorage Daily News

2 years after Valdez spill, Port Graham is still recovering

BY RICHARD MAUER

Daily News reporter

PORT GRAHAM — Two years ago today, Elenore McMullen woke up to news she could hardly believe. The radio station in Homer said a tanker had run aground in Prince William Sound shortly after midnight and North Slope crude was pouring from its holds.

"I turned on the satellite television, and there was a picture of the Exxon Valdez aground and the oil spilling everywhere."

On her screen, she saw Fred Komkoff, a friend from a village near the spill, guiding a network correspondent on a skiff. She was stunned by the grief she saw in his eyes.

"I have all those friends that I know in Chenega and Tatitlek, and I knew how they would be affected," she said. "It was like slow torture every morning when I got up to

■ **SUBSISTENCE:** Harvest down, study says. B-1

see it slowly drift their way."

By the next week, the first slicks began rounding out of the Sound and into the Gulf of Alaska, and fingers of oil slipped up Cook Inlet. Soon, foamy, emulsified oil hit the beaches around Port Graham, which sits beside a tree-lined bay on the Cook Inlet side of the Kenai Peninsula. Nearby Windy Bay, on the gulf side of the peninsula, was doused with oil.

"At first it was pain and tears for my friends in the Sound, and then it was for us," McMullen said.

The oil is mostly gone now, as the beautiful pictures in oil company and tourism commercials attest. But damage

Please see Page A-4, **SPILL**



John Moonin, a lay reader at the Russian Orthodox Church who worked on the cleanup, said Exxon should pay villagers for their suffering as a result of the oil spill. "What's been here before, that the oil ruined, Exxon cannot put back. It'll take years to get it back. But money would help some of the people."

SPILL: Damage still hurts village

Continued from Page A-1

remains. The other day, McMullen said, she went down to a beach that had been lightly oiled to look for mussels, but there were none.

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

SPILL LEGACY REMAINS

Two years after the Exxon Valdez oil spill, life is still far from normal for villages that lie in its wake. Their fishing and economies remain disrupted, their ancient artifacts have been disturbed, their subsistence activities curtailed. And, they say, they find they must fend for themselves as they seek justice and redress for damage suffered from North America's worst oil spill.

"We felt extremely abandoned by the state and federal government," said McMullen, the village chief.

Port Graham and its village corporation were among eight villages and corporations that sought to block the recent settlement with Exxon by the state and federal governments. The Natives' suit in U.S. District Court in Washington, D.C., was prompted by an overriding concern that they were being neglected by the government, said Port Graham Corp. President Pat Norman.

That concern was spurred in December, Norman said, when Gov. Wally Hickel began talking about settling the state's lawsuit against Exxon. The Natives wrote to him, seeking to wrap their claims in with the state.

The letters were never answered, Norman said. State officials promised meetings, then canceled at the last minute.

Attorney General Charlie Cole said there was no reason to involve the Natives because their claims weren't being discussed.

"Simply because they ask to sit at the table gives them no right to sit at the table," he said. The Natives have ample opportunity in their own lawsuits against Exxon to get their claims redressed, he said.

That attitude has only heightened the villagers' sense of abandonment.

"The village people feel, rightly or wrongly, somewhat perilous against a giant like Exxon," said Anchorage lawyer Lloyd Miller, one of their attorneys. "They see the powerful engines of the state and federal government side by side with them for two years parting company. They felt that the state and federal government had an obligation to watch out for their interests."

Agnes Miller recalled that after the spill, Gov. Steve Cowper flew into Port Graham. The villagers feasted him with a potluck and a celebration.

McMullen said Cowper asked what the villagers would want if the state were able to settle with Exxon out of court. "He was including us in some way, even if only a little," she said.

EXCLUDED FROM SETTLEMENT

In Port Graham last week, the villagers were still talking about the battles ahead.

"Every time I talk about the oil spill, I get shaking mad," said Walter Meganack Sr., at 76 the leading village elder and a former traditional chief.

"These villages are part of the state. How they can carve us out? I don't know what we can do but to fight. We always fight to survive, from the very beginning. I think we had to fight with the Russians when they first come, not in a war, but fight to survive. So we have to continue to try to fight, to make them listen."

McMullen, who also is a regional health official, said subsistence activities in Prince William Sound and Cook Inlet have been sharply curtailed since the spill. And a state

study appears to back her up.

In a report that was delivered to a meeting of anthropologists this weekend, Jim Fall, regional subsistence supervisor for the Alaska Department of Fish and Game, found that the harvest of traditional foods was down about 50 percent during the year of the spill in Port Graham and neighboring English Bay. In the Prince William Sound villages of Chenega Bay and Tatitlek, it was down more than 60 percent.

Port Graham residents say they still have trouble finding some types of foods and don't trust others. Fall said that while there has been no formal study yet of subsistence harvests last year, he believes from interviewing residents that more hunting and fishing took place, but that it was not up to pre-spill levels.

"It's there on your mind," said Harrietta McGhan. "Before we never had to worry about this. Now, I never know what to expect."

A carefully wrapped package of oil-tainted seaweed that McMullen's 10-year-old nephew gave her last year still sits in her freezer. "I accepted it because it was given to me as a gift, but I never used it," she said.

"We used to do a lot of clamming," said Fred Toko. "They say it's OK to eat now, but I wouldn't know about that area below, in Windy Bay. That was the worst spot."

Ron Stanek, a subsistence specialist with the Fish and Game department, said the relatively small oil dousing that the Port Graham vicinity got shouldn't have killed many clams, mussels or bidarkis, the fist-sized mollusks also known as chitons and prized in the region.

Some were already in decline before the spill because of heavy freezes and increased predation from sea mammals, he said.

But Stanek said he isn't privy to the secret state-financed studies of resource loss

that were conducted in connection with the Exxon lawsuit. Attorney General Cole said the scientific and economic research will be kept secret so it can't be used against the state in other litigation.

Jobs in the village also remain scarce. The oil spill wiped out the main source of cash for the village, the Port Graham Corp. cannery.

Norman, the corporation president, said the cannery didn't operate in 1989 because no one was allowed to fish. It didn't matter much then — virtually everyone that year worked in the spill cleanup, making more money than they ever could canning salmon.

But in 1990, uncertainty about the quality of fish led the company that had leased the cannery to walk away, even though fishing later turned out to be good. Now this year, no one seems to want to take it over, Norman said, resulting in the loss of 70 seasonal jobs and a \$150,000 annual write-off for the small corporation.

FEELING VIOLATED

More infuriating to him, though, was the public disclosure by the government of previously unknown antiquity sites — graves, cabins and villages — on the 50,000 acres owned or claimed by the village corporation. The sites were discovered by archaeologists sent out in advance of cleanup crews, and they later showed up on maps when the government was seeking bidders to evaluate how badly they were damaged.

"They're our people's sites. They need to be protected," Norman said. Officials tried to recall those maps, he said, but enough are now out in the public domain that he fears antiquities will be looted.

"That's part of our claim against Exxon," he said.

Ted Birkedal, regional archaeologist for the National Park Service, said the maps were a mistake brought about by the secrecy

imposed on damage studies by government lawyers. Villagers were not allowed to be consulted before the maps were released, he said. Though he didn't think the original maps were specific enough to give much help to looters, he acknowledged that the Natives had become acutely sensitive since the spill and "felt violated by everything."

That feeling flared again two weeks ago, when state officials from the Department of Community and Regional Affairs presented a tourism development plan to people from Port Graham and other villages in the region who were meeting in Anchorage.

Chuck Smythe, one of the state officials, said the money would come from the Exxon settlement and be used to increase access to Prince William Sound and the region around it, and for construction of lodges and other tourist facilities.

The talk frightened the villagers, who saw it as another threat.

"Our people don't have a whole lot of culture left, except what we have inside," said McMullen. "We lost our original religion; we don't make kayaks anymore. We do have our language, and we have our subsistence, but a lot of that is gone because of the oil spill. If people are impacting the Sound again, it's just going to be a lot more loss."

In an interview, Smythe said the idea came from Hickel, though the governor had not approved specific plans. He said the proposal was just a "conceptual discussion." His boss, Bob Knight, said they had come seeking ideas, not to force something on the villagers.

But Dick Rolland, director of The North Pacific Rim, the Native organization that sponsored the meeting, said it was easy to see why the villagers were upset by the state officials.

"They came in here with their flip chart already full. In general, we'd like them to come in with blank paper," Rolland said.

Cole said it was doubtful that the settlement money could be used for economic development.

Whether legal or not, Miller, the Natives' attorney, said it would be inappropriate.

"The restoration fund ought to be used on nature, on those parts of the environment that are of critical need for those people who live in the environment," Miller said.

"There's a great fear, particularly as disclosed by DCRA, that these would be used in a totally different way — to spur economic development in Prince William Sound."

SEEKING RETRIBUTION

For all the talk of restoration, there is also a sense in Port Graham that Exxon should be made to suffer, too, and people there are convinced that the settlement hasn't done that.

"It's made me real mad to see the hurt in our elders' eyes," Norman said. "People don't see that, but it's a direct impact. In any lawsuit you win, you get paid for pain and suffering. Exxon can't say, 'Well, we've cleaned up the oil, what the hell else do you want from us?' There's got to be some kind of justice, because the damage isn't just to our resources, it's to us as a people. That was the biggest, craziest thing I heard, when (Exxon Chairman) Lawrence Rawl said the settlement would have no effect on their bottom line. It was pretty insulting."

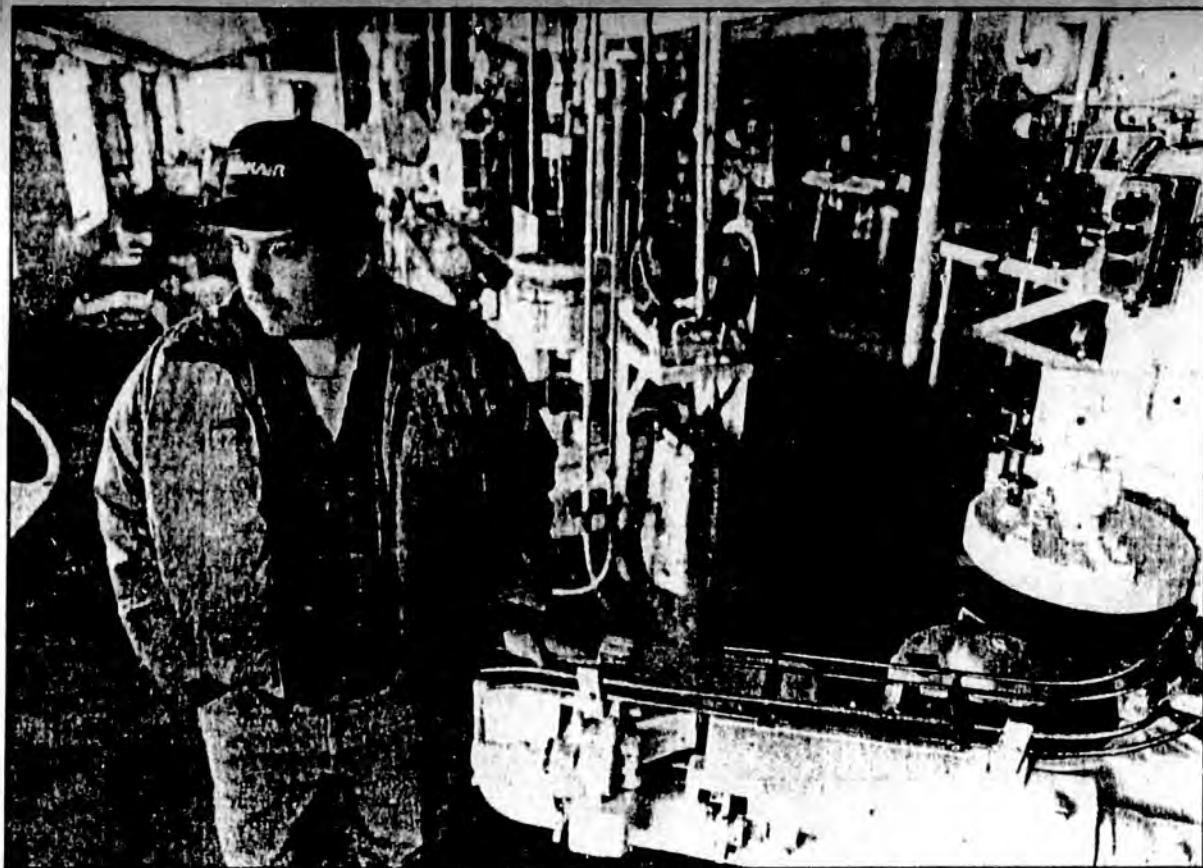
"They hurt us a lot," said Fred Toko. "All that we lost, the fishing, and cannery. Sometimes I wish they were out on the beach, the big shots, to see it and work with it."

"It's true, we got a lot of things out of the oil spill — cars and boats and Hondas. But that's not going to get our beaches and animals back. You ask yourself how it ever happened, why, and wonder if it's ever going to be back to normal. Sometimes it doesn't seem like it."

LEGACY OF THE SPILL



Debbie Meganack and son Matthew explore a Port Graham beach that she said once was covered with mussels.



Pat Norman, president of the Port Graham Corp., says no one seems to want to take over the cannery, which has been idle for two years because of the spill. The closing caused the loss of 70 jobs and an annual \$150,000 write-off for the corporation.



Randy Horman cleans the hull of the fishing boat Aries, which is owned by Riley Meganack, in preparation for the fishing season. Last year's fishing was good, but the Port Graham Corp. cannery remained closed.



Elenore McMullen holds a mussel that's smaller than the ones she harvested from the Port Graham beach before the spill.

Photographs
by Bob Hallinen



Elencre McMullen says used to gather mussels on this beach, but now the mussels are few and half the size of the ones she gathered before the Exxon Valdez spill.



N. Michigan topples UAA skaters Page C1

CLOUDY



Chance light snow
HIGH 33 LOW 30
Weather, A2

LOCALLY OWNED SINCE 1915

The Anchorage Times

Alaska's Best Newspaper

ANCHORAGE TIMES

FURNISHED BY THE ANCHORAGE TIMES
FOR MEMBERS OF THE LEGISLATURE

FLOYN TO JUNEAU COURTESY OF
ALASKA AIRLINES

ATURDAY
rch 23, 1991

25¢

VOLUME 77 NO. 82

Exxon submits four guilty pleas

Judge seeks public comment before he decides to accept

By **DESIREE HUMPHREY**

TIMES WRITER

Nearly two years to the day after the tanker Exxon Valdez spill in Prince William Sound, Exxon Corp. and its shipping company pleaded guilty to four misdemeanor counts of violating U.S. environmental laws.

The pleas were entered as part of a proposed \$1 billion deal signed by Exxon and federal and state officials to settle charges stemming from the March 24, 1989, spill.

Exxon Corp. pleaded guilty to violating the Migratory Bird Treaty Act. Exxon Shipping Co. pleaded guilty to violating that act, the Clean Water Act and the Refuse Act.

U.S. District Judge H. Russel Holland told Exxon Shipping Co. President Augustus Elmer and Exxon Corp. Chairman Lawrence G. Rawl he will listen to public comments on the proposed plea agree-

■ Coast Guard spill supervision costly A12

■ Judge is irked with Alaska lawmakers A12

ment before deciding whether it will be accepted.

Holland set an April 24 hearing to announce his decision. He said if he accepts the proposal, he would sentence the companies at that time.

The plea agreement stipulates the companies would pay a \$100 million fine, with half forgiven because of Exxon's cleanup efforts. It also calls for Exxon to pay Alaska \$50 million to repair damages caused by the massive spill.

If Holland rejects the agreement, the nation's third-largest corporation can withdraw its pleas or appeal to the 9th U.S. Circuit Court of Appeals.

Holland said free copies of the plea agreement would be available from the

See Exxon, back page

Exxon

Continued from page A1

court clerk. Comments should be typed and no more than five pages, Holland said.

Deadline for comments is April 11, he said.

Holland criticized the Alaska Legislature for trying to interfere in the criminal case to pressure Exxon in the state's pending lawsuit.

Legislators on Thursday passed a resolution asking Holland to delay a decision on the plea agreement until May 3, so lawmakers would have time to review the \$1 billion deal.

"I'm concerned and put off... by this kind of conduct by the state of Alaska," Holland said.

"The state Legislature is preciously close to doing something that, if done by a lawyer, would subject that lawyer to public sanctions.

"It is inappropriate for the Legislature to do this — the criminal and civil cases are totally separate, and I will not be a party to tying them together."

Rawl during the hearing told Holland that Exxon oil from the spill in Prince William Sound killed birds in violation of the

Migratory Bird Treaty Act, the only charge against Exxon Corp. He said it would be difficult to verify the number of birds killed by the spill if the case went to trial.

"Unfortunately, we did kill a large number of birds," Rawl said.

Elmer said his corporation, a subsidiary of the oil giant, was guilty of violating one count each of the Migratory Bird Treaty Act, the Refuse Act and Clean Water Act.

Elmer, Rawl and Exxon Corp. President Lee Raymond rushed past a horde of reporters in front of the Federal Building on Seventh Avenue, got into a car and quickly drove away after the hearing.

News of Exxon's pleas, and of Holland's courtroom chiding of the Legislature, was greeted with mixed reaction Friday.

Justice Department lawyer Charles De Monaco said after the hearing the \$100 million Exxon will have to pay in the criminal case is the largest-ever for environmental damages.

"It sends a strong message to polluters that they will be punished," he said.

In Juneau, some lawmakers chided Holland.

"If you look at a part of the civil settlement, there is reference to the plea bargain," said Rep. Ben Grussendorf, D-Sitka, speaker of the House. "And you'll also notice in there there is the \$50 million of the criminal penalty aspect for restitution that is also in that civil part."

House Majority Leader Max Gruenberg, D-Anchorage, said lawmakers had no intention of threatening Exxon. But there is a link between the civil and criminal cases, he said.

"We can't ignore the fact that the emperor has no clothes here," Gruenberg said. "I believe that we have a duty and a responsibility to have the playing field left open, so we can look at all aspects of the agreement. It's not a question of leverage."

Attorney General Charles Cole distanced Gov. Walter J. Hickel's administration from the Legislature's actions.

"Holy smokes," Cole said. "Governor Hickel and I have always said that the federal criminal proceedings are exclusively a matter for the U.S. Department of Justice and Exxon and that the state has no part in those proceedings."

Cole also said he does not understand why some groups think the proposed settlement stifles

their ability to sue Exxon.

"They didn't get short shrift in the deal with respect to the settlement between the state of Alaska and Exxon," said Cole. "Their rights are fully preserved in the settlement, and they're free to pursue against Exxon their other claims."

Elsewhere, Joann Holmes, spokeswoman for the Ivanof Village Council, said town leaders fear future litigation may be affected by any deal involving state and federal governments, Exxon and the federal court.

But what they fear most is not being able to get scientific information on the oil spill from the state or federal government, she said. State and federal officials have refused to give Ivanof the data, even though the village supplied samples taken from beaches and water around Ivanof, she said.

"There is a 30-day comment period on the settlement and we have nothing we can use to comment on," Holmes said. "It's impossible to comment on the settlement when we have no information. These people are getting shut out more and more."

Kodiak Mayor Robert Brodie, head of the Oiled Mayors group representing 26 towns and villages affected by the spill, said he was pleased with the plea

agreement.

"Exxon pleading guilty to these misdemeanors is an admission of responsibility for their actions," Brodie said. "They are admitting polluting the Gulf of Alaska and if we have to, we will use it in court. But we're still trying to get a hold of data. We're not intent on being vindictive or taking it out of Exxon's hide as some environmentalists have said. We just want the people affected by the spill to be adequately taken care of."

The Exxon Valdez spill will be the focus of a ceremony today in Valdez.

Sen. Frank Murkowski is scheduled to present federal certification of the Regional Citizen's Advisory Council, formed to supervise operation of the trans-Alaska oil pipeline terminal in Valdez.

On Sunday, leaders from six Native corporations of Prince William Sound and lower Cook Inlet will kick off their "We're Next" campaign aimed at winning money from Exxon.

A press conference is scheduled for 11 a.m. in the Captain Cook Hotel's Voyager Room in Anchorage.

David Fitch, Dave Patrick and Jay Croft contributed to this report.



Times photo by AL GRILLO

Left to right, Augustus Elmer, president of Exxon Shipping Co., Lee Raymond, president of Exxon Corp., Exxon employee Pat Shely and L.G. Rawl, chairman of the board of Exxon Corp., walk from the federal court house Friday after Exxon pleaded guilty to charges stemming from the Exxon Valdez oil spill.

Flawed cleanup supervision may cost Treasury millions

By JEFF HOUCK

TIMES WRITER

A federal study says inadequate U.S. Coast Guard supervision of the Exxon Valdez oil spill cleanup could cost the U.S. Treasury \$30.5 million, but the vice admiral in charge at the time said he did the best he could.

The General Accounting Office report examined the Coast Guard's expenses on oversight of the Prince William Sound cleanup. About 11 million gallons of oil spilled into the Sound March 1989. The GAO is in charge of monitoring congressional finances.

The study found that Coast Guard requirements for spill-related reimbursements were too restrictive and that federal agencies made multimillion-dollar billing errors.

"The Exxon Valdez spill demonstrated the confusion over the reim-

bursment process that can result among agencies from an oil spill involving many diverse federal resources," the report said. "Agencies need to know in advance of such incidents how to determine actual costs for their spill activities."

The federal government reported June 30 that it spent \$154 million on the spill but "may only recover \$123 million," the report said.

The missing amounts include:

- \$13.5 million for damage assessment billed to Exxon. The Coast Guard requires the company to reimburse only the costs for oil removal.

- \$3 million for spill-related services that agencies do not plan to charge to Exxon.

- \$6.5 million worth of Coast Guard bills that Exxon disputes.

- \$2.6 million in government legal

bills accrued before June 1990.

Exxon agreed last week to settle the state and federal government's civil and criminal spill claims for \$1 billion. It is unknown whether the \$31 million in bills would be paid according to that agreement.

The Coast Guard coordinated spill operations and oversaw work done by 13 federal departments and agencies. It also managed a \$6.5-million oil-pollution trust and paid expenses created by the agencies.

The Coast Guard declined to spend more money than was available in the trust, despite pledges by Exxon that it would manage the spill, deposit money into the fund and pay agency costs.

"Given Exxon's actions, we believe the Coast Guard should not have applied such a conservative approach in this spill to restrict agency activities that ...

could have qualified as oil removal activities."

Exxon spokesman Karsten Rodvik said he had not received a copy of the report. The Coast Guard also said it had not reviewed the GAO report as of Friday and declined to comment on its findings, Cmdr. John McElwain said.

"Our policy is not to comment on something we haven't seen yet," he said.

Vice Adm. Clyde Robbins, who coordinated spill operations from April to September 1989 and who was blamed for a large portion of the government's financial loss, said Friday he only recently learned of the report.

"I have never been questioned (about spill coordination efforts) for this report," Robbins said. "Maybe some of my staff was, but I was never questioned. The first I heard about it

was yesterday."

Robbins, who now is the Department of Transportation's intelligence and security director in Washington, D.C., said he knew Exxon would pay the bills but that some expenses were not justified.

"I was there for six months," he said. "I authorized the requests I got as long as they were bona fide requests where funds were for cleanup. We went out of our way to make sure they were legitimate."

Robbins speculated that the grind of the round-the-clock cleanup effort caused much of the agencies' mis-accounting.

"We were out there seven days a week working 17 or 18-hour days," he said. "After a while your memory begins to fade. It was just a discipline that was probably missing."

Anchorage Times 3/23/91

Judge flays Legislature for meddling

By JAY CROFT

TIMES WRITER

U.S. District Judge H. Russel Holland has kept quiet since the Exxon Valdez oil spill, but Friday he lashed out at Alaska lawmakers after Exxon pleaded guilty in his courtroom to environmental crimes stemming from the 1989 disaster.

The Legislature on Thursday asked Holland to delay until May 3 consideration of the plea agreement worked out between Exxon and the government. Lawmakers said they needed time to review the deal.

Holland said he was angered that the Legislature notified him of its action by a telefaxed message and that he was concerned legislators were trying to use the federal criminal case to their advantage in a state lawsuit against the oil giant.

Attorney General Charles Cole quickly tried to distance the Hickel administration from the Legislature's action.

"It wasn't from the state, I guarantee you," Cole said. "Not from the Hickel administration did it come."

Holland later refused to discuss the case or his remarks concerning the Alaska Legislature.

A lawyer who asked not to be identified said Holland was ang-



Russel Holland

ered by the Legislature's meddling in a criminal case to affect the state's lawsuit.

Such manipulation would violate legal ethics, he said.

Holland's words and his later silence were indicative of the quiet jurist, who began his legal career in Anchorage humbly and has gained a solid reputation as a thorough, inconspicuous judge.

He received a bachelor's degree in business administration in 1958 and got his law degree in 1961 from the University of Michigan. He moved to Alaska

and was a clerk with the Alaska Supreme Court.

Holland joined the Alaska Bar Association in 1963 and was an assistant U.S. attorney in Anchorage from 1963 to 1965, when he entered private practice with Ted Stevens.

Holland worked for the firm of Stevens, Savage, Holland, Erwin and Edwards, and later with Stevens alone. The partnership ended when Gov. Walter J. Hickel appointed Stevens to fill the unexpired term of U.S. Sen. Bob Bartlett, who died in 1968.

Holland was recommended to become a U.S. District Court judge in 1983. Mary Kay Hughes, then president of the Alaska Bar, said, "Russ is very competent, very reasonable. He has what I would call a judicious attitude."

In July 1984, at age 47, Holland was sworn in as Alaska's fifth federal judge. He was to handle cases involving Native claims, endangered species preservation, mineral leases and resources management.

At his swearing-in, speakers described Holland as "a sound craftsman who knows his profession" and a man of "compassion, uncanny good sense, courage, who also is free of any arrogance."

When he was appointed, Hol-

land described the federal judgeship as "sort of the ultimate goal" in the career of an attorney. "I'm kind of excited about it," he said.

Before his appointment, he had worked in partnership with George Trefry, and had handled commercial cases.

Of the seven lawyers who applied for the federal post, Holland was ranked third in the "extremely well-qualified" category by nearly 800 members of the Bar. State Superior Court Judges Douglas Serdahely of Anchorage and Thomas Schutz of Ketchikan were ranked higher.

Anchorage lawyer Edgar Paul Boyko described Holland as conservative, cautious and principled.

"He's going to interpret the law and not make national policy," Boyko said.

"If I were a liberal environmentalist, I would feel a little nervous about his natural conservatism. But I think that would be a needless worry because I feel in the end he would be fair to everybody."

"The one comforting thing about him is you can be sure he's not going to go off the deep end on either side. At times (he's) a bit naive about the world, but learning."

Anchorage Times 3/23/91

Business-Native coalition sues Exxon for negligence

By STEVE PILKINGTON

TIMES WRITER

A coalition of businesses, Alaska Natives and commercial and sport fisherman sued the state Friday, accusing it of negligence over the 1989 Exxon Valdez oil spill. The action was taken just hours before a two-year statute of limitations ran out.

The suit was filed in Anchorage Superior Court hours after Exxon Corp. officials pleaded guilty to criminal charges in federal court. The suit asks for an undisclosed amount of damages.

But state Attorney General Charles Cole said he had not seen the lawsuit and did not understand why the state was the target.

"It's a mystery to me," Cole said. "I don't think it will in any way affect the Exxon settlement."

Cole also said he failed to understand why individuals and groups think a recent \$1 billion settlement between the state and Exxon hampers people's ability to sue Exxon.

"They didn't get short shrift in the deal with respect to the settlement," he said.

The 11-million-gallon oil spill occurred March 24, 1989, after the tanker Exxon Valdez ran aground on Bligh Reef in Prince William Sound.

Friday was the last business day before the March 24 deadline to sue over the spill. Under Alaska law, the state's and Exxon's

See Lawsuit, back page

Lawsuit

Continued from page A1

liability would last two years from the spill's date.

The class-action suit was filed by hundreds of people hurt by the spill's aftermath, said Lloyd Miller, an Anchorage lawyer representing several Native groups.

Named in the suit were the Native Village of Chenega and the Native Village of Larsen Bay.

"The villages were extremely reluctant to sue the state," Miller said.

The complaint cites lost commercial- and sport-fishing resources, disrupted subsistence lifestyles and economic and property loss for landowners and businesses around the Sound.

Miller said Native groups were disappointed with the state and Exxon's settlement because Native groups were excluded from the negotiations.

Cole had refused to grant an extension on the time groups had to file lawsuits over the spill so the groups had to sue Friday to preserve their legal standing, Miller said.

Native villages around Prince William Sound will continue trying to negotiate an out-of-court settlement with the state, Miller said.

The suit also seeks attorneys' fees and a fund for studying the damage caused by the oil spill.

Numerous civil suits were filed against Exxon and Alyeska Pipeline Service Co. this week before the deadline passed.

C.R. Kennelly, an Anchorage lawyer for several who are suing Exxon, said a federal ruling has guided how litigation proceeds against the company.

Kennelly said the ruling meant people must try to negotiate a settlement with Exxon before March 24 and could still sue any time afterward.

"It's closer to exhausting a grievance procedure under a contract," he said.

Many lawyers decided to file suits before Friday because they wanted to ensure Exxon would not claim the two-year limit had run out, Kennelly said.

"I'm filing them at this point as a precautionary matter," he said.

Kennelly said Exxon's guilty plea in federal court Friday would help civil suits against the corporation. "It's an admission."

A barrage of other civil suits were filed this week before the deadline, said Diane Alford, a legal technician with the Alaska Court System.

Alaska Native villages also sued in federal court Friday seeking an undisclosed amount of damages from a \$100-million oil spill insurance fund.

Spill still commands attention worldwide

Two years ago, on March 24, 1989, the tanker Exxon Valdez ran aground in Prince William Sound. Exxon and the state of Alaska appear to have forged a \$900 million agreement to settle civil or criminal lawsuits brought by the state or federal governments. That amount, added to the reported cleanup costs, would bring spending by Exxon alone in the aftermath of the accident to about \$3 billion — an extraordinary figure.

Meanwhile, the spill continues to dominate the minds of many who witnessed it — a testament to the emotional and physical toll exacted by the accident. And

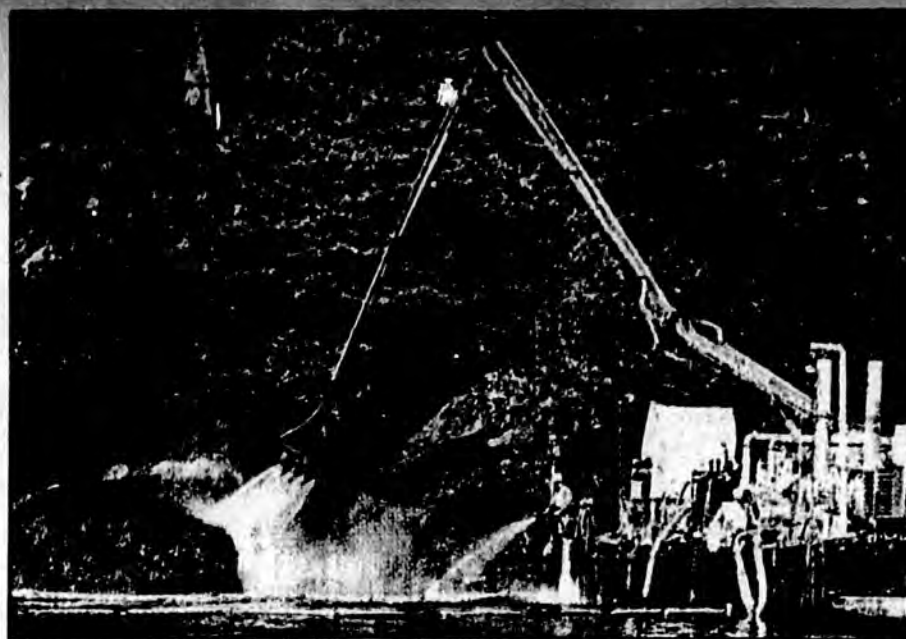
JEAN-MICHEL COUSTEAU

the spill continues to command attention.

After all the dollars spent, some oil appears intractable and some Alaska beaches remain fouled, according to a recent survey conducted under the auspices of the National Oceanic and Atmospheric Administration.

About four miles of shoreline remain oiled, and some sites are unchanged since 1989. Where oil still resides below the surface, it

Please see Page E-8, **COUSTEAU**



FRAN DURNER / Daily News file photo

A cleanup crew uses a boom with high-pressure spray nozzles on an oiled beach in 1989.

Anchorage Daily News 3/24/91

COAST GUARD: Exxon spill cleanup commands attention 2 years later

Continued from Page E-1

remains liquid. Where it clung to surface sand and rocks, rough winter storms have weathered the oil to the consistency of asphalt or tar. This means that, without the massive cleanup effort, many of the 1,200 miles of shoreline affected by the spill might today resemble paved roadway.

Preliminary results of studies show that biological recovery resulting from the cleanup has been promising. So we should be pleased with the cleanup strategy and that Exxon could afford to pay for it.

But even as Exxon prepares to leave the Valdez spill behind, it faces new allegations of abuses in oil shipping that could also affect other oil companies currently involved in transporting oil through Prince William Sound.

In a letter to the Administrator of the Environmental Protection Agency, William Reilly, a former oil broker, Charles Hamel, has alleged that Exxon has been violating the national Clean Water Act by illegally disposing of toxic oil residue and filtrates in the sound for the last three years.

Hamel says: "It is the practice of Exxon Shipping to transfer toxic wastes originating in California, via EXXON lightering tankers/barges, to Valdez-bound EXXON vessels. These liquid wastes are diluted and disguised in the ballast water of Exxon's Alaska-bound tankers. Much of the water soluble concentrations of chemicals, corrosive solvents, heavy metals and toxic aromatic hydrocarbons are ultimately disposed of, undetected, into Prince William Sound through ... the Ballast Water Treatment facility.... Tons of toxic sludge were disposed of by dilution in the ballast water of Alaska-bound tankers and dumped in Valdez disguised as seawater."

When asked for a response, a spokesman for Exxon read the following statement: "We are confident that the record will show no bases for his allegations and will support our position that we have not violated any requirements. There are procedures in place ... that Exxon has

followed to treat and monitor discharges of ballast water to ensure compliance with ... permits."

Harold Geren, the Seattle-based chief of the EPA permit office responsible for Prince William Sound, said in a telephone interview that the agency is investigating Hamel's allegations in detail. But Geren added that "the permits do mention cleaning agents, but not some of the other material in the allegations."

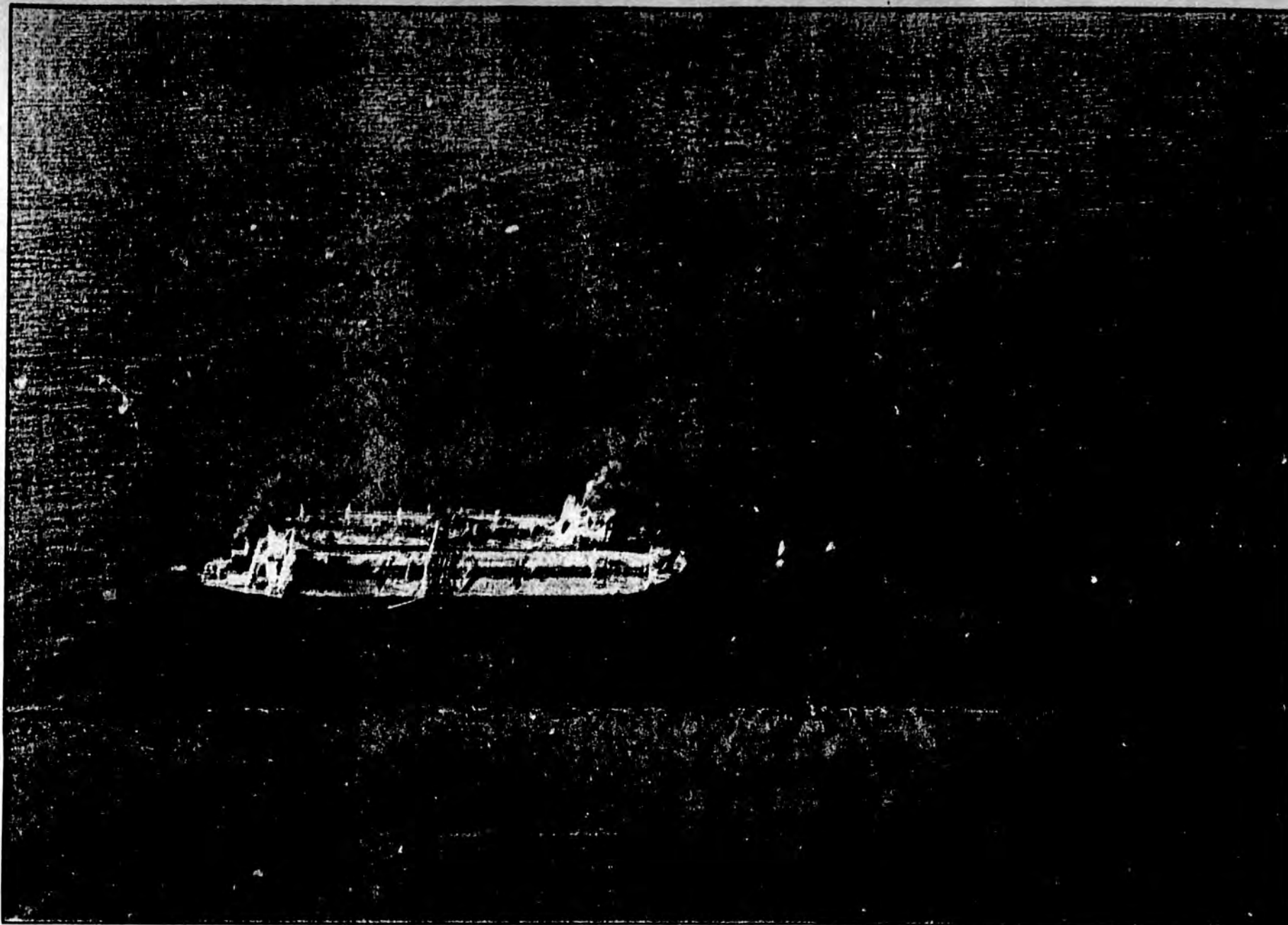
He also said EPA had learned of the practices only through Hamel's letter, and has now found them common among other oil carriers in the Sound.

At a minimum, there seems to be a major discrepancy between the spirit and the letter of the permits. But surely no permit meant to ensure clean water could have intended to authorize the use of Prince William Sound as a sewer for toxic wastes too cumbersome or costly to dispose of otherwise.

Two years after the Valdez ran aground, I remain convinced of the far-reaching implications of the now-infamous event. Even today, attention continues to focus on the credibility of the oil industry. Thus, a single ship and the single rocky reef that gashed its hull continue to have singular potential for influence on national and international energy and environmental policies.

□ Jean-Michel Cousteau is a syndicated columnist.

OILY ANNIVERSARY



A sheen spreads from the Exxon Valdez as oil is loaded to another tanker after the 1989 spill.

ERIK HILL / Daily News file photo

SCOMM

77:79

J. Michael Robbins

Attorney At Law

540 L Street, Suite 205

Anchorage, Alaska 99501

Admitted:
State of Alaska
State of Louisiana

Telephone:
(907) 277-7007
(907) 345-6791

May 6, 1991

Members of the Alaska Legislature
P. O. Box V
Juneau, Alaska 99811

Re: Exxon Settlement - "Let us stone them. . ."

Dear Members of the Legislature:

The time for proceeding with maturity and the spirit of cooperation is here. If the people of Alaska are to reflect democracy with the hope of retaining and regaining the individual freedoms which are so rapidly being consumed by government regulation of our lives, we must show ourselves and others that individuals and corporations can live and function in harmony.

Exxon did not intentionally run a supertanker onto the shoals of Prince William Sound. Exxon did react responsibly in attempting to clean up the mess. Those efforts assisted countless families whose men and women found a new source of income that was not determined by their "poverty level" under social legislation. Exxon did react responsibly in attempting to settle civil claims with the State by paying almost ten times as much as the maximum (\$100 million) allowed by state law. A.S. 46.03.758. (In 1989 the legislature raised the maximum to \$500 million, still only half of what Exxon already agreed to pay!) Exxon acted responsibly in pleading to the criminal charges pending against it under state and federal law. And most significantly, Exxon accepted responsibility for the spill although another corporation (Exxon Shipping Co.) could have shielded the parent company from liability. How many of you have erected a corporation to shield you from personal liability?

The executive branch of government acted responsibly in resolving a most complex lawsuit for payment of a substantial monetary consideration. Attorney General Cole acted responsibly in maintaining the sanctity of contract before the onslaught of the House committee. How responsibly has the legislature acted in "politicizing" yet another issue over which they legislated more than ten years ago when the TAPS Act became the law of the land?

The state's Oil Pollution Control Act (A.S. 46.04) vested enormous power in the Alaska Department of Environmental Conservation ("DEC"). In 1989 the DEC Commissioner was the exclusive agency empowered to approve an "oil discharge contingency plan for [the Alyeska oil terminal]." The state Act mandated that DEC attach "reasonable terms and conditions to its approval of an oil discharge contingency plan" which plan "must provide for the use of the best available technology." A.S. 46.04.030(a) and (e).

The same if not greater power is vested in the federal government's U.S. Coast Guard and Environmental Protection Agency. Their enormous power is derived from a plethora of legislation: e.g., National Environmental Policy Act, Clean Water Act, Ports and Waterways Safety Act and the Ports and Tanker Safety Act (with thousands of pages of regulations "necessary to carry out the purposes of the Act[s]"). When the spill happened, these highly paid officials reacted as though the possibility of a tanker running aground in the Sound had never occurred to them despite years of planning and oversight.

These regulatory and enforcement agencies can act IRRESPONSIBLY for a decade yet they lead the crusade to impale Exxon. When the spill occurred, our highly paid government officials and regulators did not even know which bureaucrat should assume responsibility for preventing any further spillage. The only entity who took affirmative action was Exxon. All of the environmental and pollution control "experts" employed by the state and federal governments stood idly and irresponsibly by and did nothing. We should ask: Is this the contingency planning they have done since the TAPS Act was passed? These government regulators did not know what action to take even when the most obvious accident - a tanker running aground in Prince William Sound - occurred because they had never planned for such a contingency.

And now despite your oaths of office to support the Alaska and U.S. Constitutions, you politicize even the highly generous settlement CONTRACT between the executive branch and Exxon. Incredibly, Exxon agreed to pay nine times the \$100 million statutory limit enacted by the legislature, pre-1989, raised to \$500 million AFTER the spill. A.S. 46.03.758(e) (pre-spill) and A.S. 46.03.759 (post-spill). Yet, just as incredibly, the legislature refuses to abide by its own legislation, which happens also to be the law of the land, wanting instead even

Members of Legislature
May 6, 1991
Page 3

more than the law, as amended in ex post facto fashion, authorizes. A majority of the current legislators voted in favor of the post-spill amendments. Did the House rely on an ex post facto law to disapprove the settlement agreement? The right to be free from ex post facto laws and another basic right believed sacrosanct by the Founding Fathers were adopted as Article I, §10, U.S. Const., which forbade:

No state shall. . .pass any. . .ex post facto law or law impairing the obligation of contracts. . .

The people of Alaska believed so strongly in these principles that a similar prohibition appears in Article I, §15, Ak. Const.:

No. . .ex-post facto law shall be passed. No law impairing the obligation of contracts. . .shall be passed.

Yet the failure of the House to honor the Exxon settlement contract represented to this writer a poor example of adherence to the democratic principles embodied in the sanctity-of-contract provisions of our Constitutions.

Are we as a people, and our legislators as our voice, to act so as to defeat, rather than defend, such constitutional rights?

Oil money is the reason our legislature convenes more often than every two years. Oil money funded this government from the \$900 million in bonus bids for Prudhoe Bay in 1968 to \$900 million in ANCSA settlement funds in 1971 to the \$900 million in final payment of civil reparations for the oil spill in Prince William Sound in 1991. Oil money has funded billions in roads and highways, municipal revenue sharing, public educational facilities throughout the state, housing and public building programs, and a bureaucracy of the highest paid and highest density per capita group of public employees ever assembled in the United States (with 100% medical and dental benefits, five-year vesting in retirement plans and 30-day paid vacations annually). The question of responsible decision-making soon becomes rhetorical.

We raise our voices in condemnation without remembering the Oil Pollution Act was passed unanimously by our legislature in 1980. The Act gave Alaska's DEC the power of Gideon over Alyeska's oil spill contingency plan and Exxon's tankers. The U.S. Coast Guard and the EPA are federal agencies vested with the power of God over oil spill contingency planning in the Nation.

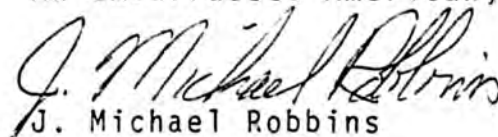
Members of Legislature
May 6, 1991
Page 4

Where have these watchdog agencies been throughout the past ten years?

The legislature continues passing yet more laws to "protect" Alaska's pristine environment. I heard someone say that what we need now are tough regulations. POPPYCOCK! We've had the toughest laws and regulations on the books since NEPA in 1969 and Alaska's EPA in 1971. Alaska doesn't need another law or regulation or - Heaven forbid! - another government agency to prevent tankers from DWI'ing onto the shoals of Prince William Sound. What is needed is someone who can roll up their sleeves, keep abreast of the technology, and fulfill the responsibilities of office.

While a little adversity is a good thing, too much is a war. The time to put away our guns is here. We must usher in a new era of cooperation and forgiveness and put the spill peacefully behind us. If someone is out there who can say that they have acted responsibly in fulfilling their duties of office in all matters, then let them step forward and cast the first stones.

An embarrassed American,


J. Michael Robbins

cc: Governor W. Hickel
Alaska Congressional Delegation
Attorney General Cole
DEC Commissioner Sandor
Revenue Commissioner Fisher
Anchorage Daily News
Anchorage Times

May 1, 1991

All Alaska State Legislators
P.O. Box V (MS3100)
Juneau, Ak 99811

From what information I have been able to gather concerning the Legislative review of the Exxon settlement, it certainly appears that major issues are being ignored. I must admit however that I consider a great deal of my information as unreliable because it is limited to press coverage based on inane remarks by Max Gruenberg.

Notwithstanding however, I feel the following items must be addressed:

In placing a value on the settlement, if you consider the 2.2 billion dollars that Exxon has already spent on cleanup and the 1 billion dollar settlement proposal, the cost per barrel of oil spilled is \$12,325 dollars per barrel! This does not even include the \$300,000,000 plus paid out in claims so far or what will be spent on cleanup this summer. If you used this same standard, a settlement on the 3 million barrels of oil spilled in the Persian Gulf would be nearly 37 billion dollars!

The State's settlement, if there is one, is going to set a precedent that we are going to have to live by. And, as difficult as it is for everyone to admit, the State's liability has not been established and the State will more than likely end up paying also, so the same set of standards will apply.

I have brought up many times that the State required, administered, regulated and approved Alyeska's oil spill contingency plan. And, as brought up time and time again, the plan clearly stated that the results of a spill the size of that of the Exxon Valdez, would have the results that were ultimately experienced. In other words, the State "pre-approved" the Exxon spill. I wonder, how many of you have reviewed this plan?

Much ado was made over the federal report released 4/8/91. This report made the headlines and was heralded as new information that showed that the spill was worse than originally thought. This of course was totally false because the information was not new, was not current and dealt with conjective theory rather than proven data.

On the other hand, when Exxon filed reports on 26 separate scientific spill studies on 4/16/91, it didn't even make the paper. Have all of you seen these studies? Ignoring something doesn't mean that it doesn't exist. If this settlement is litigated, proven scientific studies showing how the sound is, will be the dominate deciding factor, not theories on how bad it was.

Very truly yours,

A handwritten signature in dark ink, appearing to read 'Jerry Celey', with a long horizontal flourish extending to the right.

Jerry Celey
6766 Double Tree Court
Anchorage, Ak 99516

Governor Hickel:

I believe I know why you want to settle a sweetheart of a deal with Exxon. Why would you risk legislative anger in approving the deal if the legislature votes it down? Your quote from Los Angeles (Manilee Enge and David Postman deal: Criminal fine called too low; entire settlement in jeopardy - Anchorage Daily News, April 25, 1991), confirms this.

I believe Exxon Chairman Rawls corrupted you. You ask how could he corrupt Governor Hickel?? Maybe he offered you the North Slope Natural Gas Selling contracts the Japanese demand before they sign the purchasing contracts. These contracts would get your pipeline built. Would you sell the State of Alaska down an oily sewer for a couple of hundred million dollars (received after you leave office, of course) ?? I believe you would.

Legislators take note----If he approves the settlement, if you vote it down, would this be an impeachable offense?? Send your legal staff running full tilt to answer this one!!!!

Anonymous



Alaska Environmental Lobby, Inc.

P.O. Box 22151 Juneau, Alaska 99802

907-463-3366
Fax 907-463-3312

The Alaska Environmental Lobby (AEL) urges the legislature to reject the Exxon Valdez civil settlement.

4/26/91

The Exxon Valdez oil spill profoundly affected thousands of Alaskans. However, the very process to redress these damages excluded those injured parties. By excluding the public, the administration negotiated an unacceptably flawed settlement.

Justice Holland's ruling to reject the criminal settlement sends a message: Exxon's and Alyeska's punishment does not fit their crimes. This same message carries through to the proposed civil settlement--Exxon and Alyeska have not provided suitable recompense for the damages they inflicted upon the environment. To Alaskans, the Exxon Valdez oil spill is the greatest environmental catastrophe to affect our state. The oil spill wiped out livelihoods, converted entire subsistence cultures to cash economies overnight, and inflicted a staggering toll on animal communities. The proposed Exxon civil settlement does not repair all that was lost.

This settlement--

1. Is not a deterrent . . .

This settlement sets a poor example for future offenders. Alyeska failed to fulfill its promise to respond to a spill in Prince William Sound. Not only is Alyeska released from natural resources damage liability, but the financial cost, with a real dollar, amount after taxes of only \$425 million in 1991 dollars, is insignificant to a corporation the size of Exxon.

2. Discounts the value of scientific studies . . .

This settlement permits the suppression of scientific and economic studies. The public cannot make an intelligent and informed decision on the settlement without these studies. The studies' suppression enforces a cruel ignorance on the people. This sets an unjust precedence.

3. Neglects the people . . .

The trustees system fails to include a vehicle for meaningful public input. The trustees have already met--in private. There is no mechanism in place to include the public, the legislature or local governments. Indeed, the formation of such a mechanism is up to the trustees.

4. Does not provide for adequate restoration. . .

This settlement fails to ascertain adequate protection for spill affected areas. In order for these ecosystems to recover, they will need to be adequately protected. This will require acquisition of land and its resources. Local communities need to be involved with the selection and management of these purchases.

ALASKA CENTER FOR THE ENVIRONMENT • ALASKA CHAPTER, SIERRA CLUB • ALASKA FRIENDS OF THE EARTH
ANCHORAGE AUDUBON SOCIETY • ARCTIC AUDUBON SOCIETY • CLEAN AIR COALITION • DENALI CITIZENS' COUNCIL
DENALI GROUP, SIERRA CLUB • JUNEAU AUDUBON SOCIETY • JUNEAU GROUP, SIERRA CLUB
KACHEMAK BAY CONSERVATION SOCIETY • KENAI PENINSULA AUDUBON SOCIETY • KNIK CANOERS AND KAYAKERS
KNIK GROUP, SIERRA CLUB • KODIAK AUDUBON SOCIETY • LYNN CANAL CONSERVATION • NORTHERN ALASKA ENVIRONMENTAL CENTER
PRINCE WILLIAM SOUND CONSERVATION ALLIANCE • SITKA CONSERVATION SOCIETY • SOUTHEAST ALASKA CONSERVATION COUNCIL



Alaska Center for the Environment

519 West 8th Avenue, Suite 201 • Anchorage, Alaska 99501 • (907) 274-3621

April 24, 1991

Senator Dick Eliason
Alaska State Legislature
P.O. Box V
Juneau, AK 99801

Dear Senator Eliason:

The following comments are submitted on behalf of the Alaska Center for the Environment (ACE) regarding the proposed Exxon Valdez criminal and civil settlement agreements. ACE greatly appreciates the work done by the House and Senate Special Committees on the Exxon Valdez Settlement to provide opportunities to the public to testify before the Legislature regarding the settlement. As stated in verbal testimony, ACE considers the settlement presented to the people of Alaska by Exxon, the Governor, and the federal government to be flawed irreconcilably as currently proposed.

Release of Economic and Scientific Spill Data

ACE finds it ludicrous to be asked to evaluate the adequacy of the settlement without first being given the opportunity to review the biologic and economic study data measuring natural resource damages to Prince William Sound. Public monies paid for that data, and the public has a right to it. Attorney General Cole's argument that the spill data should not be released because it could potentially be used against the state in a lawsuit is horrifying in terms of public policy. If indeed the state was party to events leading to or causing improper response to the Prince William Sound spill (e.g. approval of a faulty spill contingency plan, failure to inspect response equipment, etc.), then the public has a right to know where the flaws were in order to evaluate how to correct them before a future spill occurs.

Review of the spill data is needed not only to evaluate the settlement, but also to help direct efforts towards restoration of Prince William Sound and prevention of future spills. How can we know where restoration is needed most, or what ongoing studies are needed without review of the spill data? Equally as important, little is currently known in "dollar for dollar" terms about the value of preventative measures compared to the costs of spill response and natural resource damages. The data from the Exxon Valdez spill could help provide answers to some of these questions. It would truly be a tragedy if another spill like the Exxon Valdez occurred in Alaska tomorrow because, for example, the arguments for prevention were outweighed by industry resistance to expending the upfront capital needed for a double-hulled tanker, or because the state did not want to pay the costs of maintaining adequate staffing of the Oil Spill Response Office in the Department of Environmental Conservation.

The summary of federal spill data recently released is not enough. Economic analysis is not included in the summary, and the report plainly states that it is "preliminary" and "available data are not fully analyzed and interpreted." The rest of the federal scientific and economic data, in addition to the state studies, must be released in order to be of value.

Public Participation

The public has been given no opportunity to participate in decisions about how settlement monies would be spent, were the settlement approved. The Trustees Council thus far has met behind closed doors, and has made no move towards soliciting public input on this matter. ACE would like to see the money spent on 1) purchase of timber rights along spill-affected coastlines to prevent further damage to these areas, 2) other restoration activities, and 3) ongoing studies of spill impacts in Prince William Sound.

ACE is disturbed to hear the Trustees Council part from the state administration's long stated intention to use the settlement monies to purchase timber tract lands. The statements against purchase of timber rights by members of the Trustees Council came forth despite the clear public support for timber buy-backs expressed in the legislative hearings on the settlement, and is further evidence of the Council's oblivion to public concerns.

Deterrent Value of Settlement

ACE is extremely pleased with Judge Holland's ruling that the \$100 million fine required of Exxon in the proposed criminal settlement is inadequate. A criminal penalty should both reflect the enormity of the crime committed by Exxon and should act to deter further crimes of this sort. The settlement fashioned by Exxon and the state and federal administrations accomplishes neither of these goals.

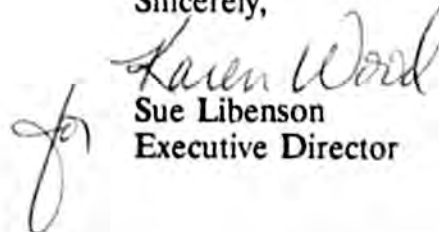
The entire settlement package clearly fails to send a message to polluters that egregious environmental crimes are unacceptable and will not be tolerated. The message it does send, however, is that polluters can make deals behind closed doors and buy their way out of messy pollution problems-- including the largest oil spill in North America.

Alyeska's Release from Culpability

ACE objects to the release of Alyeska Pipeline Service Company and its owner companies from any criminal charges, civil penalties or administrative penalties in the criminal plea, and release from natural resource damages in the civil settlement. Alyeska's failure to comply with the oil spill contingency plan in effect on March 24, 1989 significantly compounded the environmental damage that eventually occurred. According to material presented by Rep. George Miller, U.S. House of Representatives, in his letter to Judge Holland and Judge Sporkin dated April 8, 1991, Alyeska and its owners had advance knowledge of the company's inability to respond to an oil spill in Prince William Sound, and failed to take action to correct that situation. It is clearly not in the public interest for the state and the federal government to waive their rights to pursue charges against Alyeska for the Exxon Valdez oil spill.

Because of the major flaws inherent in the Exxon Valdez settlement agreement, the Alaska Center for the Environment strongly urges you to reject the settlement. We encourage you to consider these concerns and work to avoid the reemergence of the same problems in any potential future settlement proposals. Thank you for considering these comments.

Sincerely,


Sue Libenson
Executive Director

- ☒ Mary ✓
- ☐ Sheila _____
- ☐ Laura _____
- ☐ Jo-Eve _____
- ☐ Carol _____
- ☐ Brandie _____

Staff Notes:

☒ Dick _____

Notes to Dick:

Oiled mayors want a
seat on the Trustees
for Exxon Settlement Trust

Eliaison's Instructions:

☐ File _____

☒ Back to Staffer Mary

Instructions/Action to Be Taken:

ALASKA CONFERENCE OF MAYORS

PRESIDENT 1991

Robert B. Brodie
Mayor, City of Kodiak
(907) 486-8635

217 SECOND STREET, SUITE 200

JUNEAU, AK 99801
(907) 586-1325 Fax 463-5480

VICE PRESIDENT

Dan Keck
Mayor, City & Borough of Sitka
(907) 747-3294

April 16, 1991

"OILED" MAYORS SUBCOMMITTEE

Robert B. Brodie, Chairman
Box 1397, Kodiak, AK 99615
(907) 486-8642 Fax 486-8600

SECRETARY/TREASURER

Gary L. Davis
Mayor, City of Soldotna
(907) 262-9107

Governor Walter J. Hickel
Pouch A
Juneau, AK 99811-0101

Dear Governor Hickel:

I am writing on behalf of the "Oiled Mayors" of Alaska regarding the pending EXXON VALDEZ oil spill settlement.

First I would like to begin by thanking you and Attorney General Cole for meeting with us during our trip to Juneau in March of this year. As a result of this meeting and the continued dialogue between our staffs I feel progress was made in clarifying our respective positions.

We appreciate the modifications which were made to the EXXON Settlement Agreement which reflected some of the Oiled Mayors concerns. But I feel obligated to bring to your attention several of our continuing concerns.

The legal staff of the Oiled Mayors continue to review the technical aspects and implications of the agreement and will communicate those concerns in a separate letter. Those concerns reflect our desire to clarify how certain sections of the EXXON settlement will impact our own situations.

A major concern that we would like to raise is one that was broached at our February meeting and continues to haunt us. This is the matter of the make up of the Exxon Settlement Trustee Council.

The fact is that the 3 Federal and 3 state trustees are all representatives of natural resource agencies. A substantial representation of these groups is not inappropriate in light of the fact of the wide spread damage caused by EXXON'S oil on Alaska's environment. We continue to ask who is the representative of the human resources. Specifically we refer to the cannery worker, businessman, fisherman, subsistence user and landowner affected by the spill.

April 16, 1991
Governor Hickel

It is our contention that these groups can be no better represented than by a member of local government. It was the local governments that stood alone in the early days of the EXXON spill. It was the local governments that stood alone and dealt with the tremendous influx of clean up activities. It was the local governments that still stand alone in dealing with the aftermath of damage now that EXXON is long gone.

Through out this process of dealing with EXXON'S arrogance, VECO'S incompetence, the Federal government's indifference and the state's impotence the Oiled Mayors have steadfastly refused to publicly criticize the Coast Guard or the State's efforts. Rather we have chosen to pursue the role of quiet diplomacy in dealing with our elected officials and administration agencies.

Consequently we feel that the Oiled Mayors have a legitimate basis for requesting that a seventh seat be established on the Trustee Council to include a member of local government. I would suggest that the ranks of the Oiled Mayors would provide no better source for such a representative.

I believe that this change would go along way in relieving another concern which is that there still remains a perception that Prince William Sound continues to be the center of the spill universe. No sooner had the announcement of the settlement been made than EPA Secretary Riley made the statement to the effect "now that a settlement has been reached we can now go about the business of rebuilding Prince William Sound".

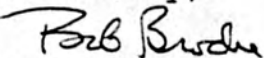
Those of us in Alaska recognize that EXXON'S oil had far reaching effects throughout the Gulf of Alaska and that in all fairness the entire area should be given appropriate consideration in the restoration process. It is through the inclusion of the municipal representative on the Trustee Council that this point can be brought home.

I recognize that this is not a new topic but we feel that now is the time to formally bring forth this reasonable request. We will be espousing this doctrine to a number of agencies, legislators and interested parties in state and federal government.

April 16, 1991
Governor Hickel

I look forward to discussing this further with you during the next visit of the mayors to Juneau April 25 and 26. If you or your staff have any questions please do not hesitate to get in touch with me or our legal council Mr. Matt Jamin.

Sincerely,



Bob Brodie, Mayor
City of Kodiak
President, Alaska State Conference of Mayors
Chairman, Alaska's "Oiled Mayors"

cc:DNR,ADF&G,ATTNY GEN.,AK SENATE & HOUSE MEMBERS, DEPT'S
OF INTERIOR, EPA, TRANSPORTATION, USCG, CONGRESS, MEDIA

April 26, 1991

The Alaska Environmental Lobby and the Oil Reform Alliance strongly oppose the proposed Exxon Valdez oil spill claims settlement. The following list of conditions is provided in the spirit of laying a foundation for further negotiations.

CONDITIONS

Memorandum of Agreement

- 1) Full release of all scientific and economic studies/data with summary interpretations provided by all parties AND sufficient time (60 days) for the public to comment on an appropriate settlement amount.
- 2) Clear provisions for how the funds may and may not be spent with emphasis on restoration, replacement and acquisition of equivalent resources. For example, appropriate use of funds includes IN-STATE acquisition of land and development rights, and spill-related scientific studies; inappropriate use of funds includes road building, economic development, creation of recreational facilities, etc.
- 3) Provide in the trustee arrangement for including, as voting members, representatives from regional or statewide Native, environmental, and commercial and sport fishing groups.

Agreement & Consent Decree

- 4) Obtain significantly more money in the settlement (natural resource damage estimates range from three to eight billion dollars) with non-tax deductible payments, if possible, and compounding interest.
- 5) Remove the restrictive language in "re-opener" clause and the \$100 million cap.
- 6) Separate cleanup funds (past and future) from restoration funds and from the settlement - cleanup funds should be reimbursed directly by the spiller.
- 7) Retain state rights to pursue recovery natural resources damages against Alyeska.
- 8) Settlement should not jeopardize legitimate claims by private parties.

April 9, 1991

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

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

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

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

Sincerely,

A handwritten signature in dark ink, appearing to read 'Jennifer Nelson', with a long horizontal flourish extending to the right.

Jennifer Nelson



Oil Reform Alliance



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

IT SETS BAD PRECEDENT

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

IT LETS CRIMINALS OFF THE HOOK

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

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

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

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

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

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

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

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

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

THINK AHEAD! VOTE "NO" ON THIS SETTLEMENT!

A PARTIAL 1991 CHRONOLOGY OF EXXON SETTLEMENT EVENTS

15 APR 1991

GOVERNOR MEETS PRESS, Jan-Feb. ?

Responding to 2nd floor saying that "a governor can cut, but he can't add," Gov. Hickel says perhaps he can find a way to "multiply."

HOUSE JUDICIARY, February dates

AG repeatedly refuses to answer Committee questions about settlement progress and clauses, alleging incomplete answer-preparation process.

HOUSE JUDICIARY, 3/7

Asked if his repeated failure to answer Committee questions, on deadlines he chose, was an effort to stall the Committee until after the settlement was complete, the AG says "What difference would that make?"

AG says legislative involvement in negotiation process or settlement approval would be "highly ill-advised public policy."

HOUSE JUDICIARY, Feb-March??

AG says some settlement negotiators do not want Legislature to be able to appropriate to any purpose.

HOUSE SETTLEMENT REVIEW COMM., ??

AG says negotiators had "no substantive discussion" of Legislature's power to appropriate.

AG does not answer Rep. Gruenberg question re: any discussion of dividing the damaged resources between Alaska and U.S. governments. Gruenberg asks again if "any discussion." AG then says he did not discuss that with U.S. Asst. AG Stewart.

AG says Hickel got idea for \$1.2 billion figure from "intuition."

SENATE SETTLEMENT REVIEW COMM. ??

AG says Hickel got idea for \$1.2 billion figure from analysis.

HOUSE SETTLEMENT REVIEW COMM, 4/5

AG says some settlement negotiators "who shall remain nameless" do not want Congress to control funds.

AG tells Rep. Hudson that the Legislature can not have "advise and consent" power over Trustee spending, but may have advisory-only role.

Rep. Barnes says that some damaged natural resources were State assets, that money recovery for that damage must thus also be a State asset even if not so called, and that only the Legislature can appropriate State assets. "So I have a constitu-

by Joe Sonneman

tional problem" with the proposed settlement's Executive branch trustee control of most settlement money.

SENATE SETTLEMENT REVIEW COMM., 4/6

AG says he considered alternative, that Legislature might want to fund restoration, would need half of Exxon money and Legislature might want to spend it on education.

Private lawyer questions settlement amount as inadequate, especially upset that no trial means no chance of punitive damages.

AG says he would consider releasing data if Legislature asked him to do so by a joint resolution. Sen. Eliason asks why the Legislature would want to take Cole off the hook and put themselves on it.

CONG. MILLER LETTER, 4/8

U.S. Rep. George Miller writes Judges Holland & Sporkin that: "Exxon and the other owner companies which control Alyeska: (1) knew that Alyeska could not effectively respond to an oil spill in Prince William Sound; (2) failed to make necessary improvements in Alyeska's oil spill response capabilities; and (3) secretly decided that Alyeska would not respond to an oil spill in Prince William Sound in the manner prescribed by Alyeska's Oil Spill Contingency Plan."

Cong. Miller includes photocopy telex evidence as proof, asks the judges not to accept plea bargain.

SENATE MEMORANDUM, 4/8

Findley writes that possible constitutional issues exist, both as to dedicated funds--because settlement receipts mostly for special purposes, though "federal programs" exception may apply--and as to the power only of the Legislature to appropriate--because Trustees, not Legislature, disburse Exxon settlement payments.

FEDS RELEASE STUDY SUMMARY, 4/9

U.S. Govt. releases summary of scientific studies, showing spill damage as reportedly twice the level previously known.

LEGISLATOR COMMENTS, 4/6-9

Rep. Sharp observes that if State & Federal trustees are not unanimous, a single Federal judge

decides, and "our batting average is not good before Federal judges."

Rep. Koponen says Hickel administration was "relying on the settlement as a way of keeping payments out of the Legislature's hands."

Rep. Kubina says settlement "a poorly-negotiated contract, but what's the alternative?" He "won't vote 'No' lightly," because of the District 6 money, likes idea that all settlement funds limited to natural resource restoration purpose, but still has "many questions."

GOVERNOR'S PRESS CONFERENCE, 4/12

Gov. Hickel publicly admits an intent to try to shift the balance of power from the Legislature to the Executive branch.

Gov. says he will stand by DNR Comm'r Heinze as State Trustee, even though Heinze may have acted for ARCO in agreeing not to provide Alyeska the oil spill response capabilities required under the Contingency Plan.

JUNEAU BAR ASSOCIATION LUNCHEON, 4/12

Former AG Baily questions the public policy decision of election to proceed only under the Federal Clean Water Act, rather than advancing some State claims under State law, so that recovery for those claims could flow to the General Fund.

Baily & Asst Revisor of Statutes Findley agree that settlement puts the State on the same side as Exxon, against Alaskan citizen-litigants. They forecast political, public policy problems as legislators are asked to fund litigation against their own constituents. Baily: legal "civil war;" doubts that the State avoids litigation through settlement, if result is only to join State with Exxon defense against many plaintiffs.

Baily says that "the greater the rapidity by which the Exxon VALDEZ spill recedes, the sooner it is politically possible to consider ANWR development." A relationship exists.

Findley says that Clean Water Act limits recovery on a \$/bbl.basis, to much less than under proposed settlement. She says this means either settlement is not wholly under CWA or else Exxon knew it had much bigger liabilities for non-CWA claims.

HOUSE SETTLEMENT REVIEW COMM., 4/12

AG admits to Rep. Brown that no village by village assessment of damages was made.

AG also admits to Rep. Brown that subsistence opportunities were not evaluated.

AG tells Rep. Brown that best-available damage assessment techniques were used.

AG tells Rep. Gruenberg that the "reasonably anticipated" language of the re-opener clause is mutually exclusive with "reasonably known".

AG tells Rep. Gruenberg that language excusing restoration if costs are "grossly disproportionate" to results is "like any other legal test."

AG refuses, despite repeated requests, to provide Rep. Gruenberg and the Committee with a "contractual history" of the whole settlement, offers to provide such a history only for requested parts of the settlement. Rep. Gruenberg says the "re-opener" section would be one such requested part.

HOUSE REVIEW COMM.--in Kodiak, 4/13

AG explains that Alyeska's release from liability was a "deal-breaker" requirement of Exxon, who did not want to settle its own liability only to find itself liable for its part ownership of Alyeska. Rep. Gruenberg notes that this is first time AG said this.

AG tells Rep. Gruenberg that the State would be unable to sue Alyeska for natural resource damages due to Alyeska's independent action, or due to Alyeska's actions on behalf of non-Exxon Alyeska owners, even despite Congressman's Miller's allegations of owner company intentional violations, because of the settlement clause intended to release Alyeska for liability for its actions on behalf of Exxon only.

Aquaculture Assn. says funds promised it by Exxon were not paid.

HOUSE REVIEW COMM.--in Cordova, 4/14

Mayor says, "Don't ask us to trust you; we prefer it in writing, backed by a letter of credit."

Oil Spill Response Center worker says "continue suit;" good evidence exists; Exxon pays costs, fees; you set environmental law precedent.

LETTERS: 14 write to U.S. judge

Continued from Page A-1

pay fines and restitution totaling \$100 million. Federal prosecutors have agreed to drop more serious charges against the oil companies if Judge Russel Holland accepts the agreement.

Exxon officials entered guilty pleas for the companies at a hearing March 22. Holland scheduled sentencing for April 24, but said he wanted to hear from victims of the spill before deciding if he will accept the pleas. All public comment must be in the federal court clerk's office by the close of business Thursday to be considered.

So far, only three people have urged Holland to accept the deal. Eleven respondents either oppose it outright or ask Holland to add other conditions — the release of government-financed studies of the spill's effects, for example.

Jerry Celey of Anchorage told Holland the state is more to blame for the spill than Exxon. "Therefore, based on the present condition of Prince William Sound, and based on the terms of the plea agreement, I think the State and Federal government 'made out like bandits' and 'should grab the money and run.'"

The traditional council of the Native village of Ivanof Bay told Holland the vil-

lage's 45 residents watched with dismay as the oil crept closer and closer during the summer of 1989.

"Ivanof Bay is nowhere near Prince William Sound and at the time no one realized that the spill would travel 650 miles from Bligh Island in Prince William Sound, down the Kenai Peninsula, across Shelikof Straits to Kodiak and down the Alaska Peninsula to Ivanof Bay," wrote the council's technical assistant, Jo Ann Holmes.

"This mindless mass of crude oil closed commercial fisheries, fouled traditional subsistence use areas and sent the Ivanof Bay Council into chaos ... The people had no money to purchase winter food supplies and did not know if their traditional subsistence resources were contaminated."

Villagers found piles of 300 to 400 dead crab washed up on beaches, and, at a place called Humpback Bay, "a mass of feathers, crude oil and other unidentifiable matter that was one foot deep and 12 feet wide for as far as they could see," the letter said.

The most distant correspondence came from Chicago, where 76-year-old Edwina Reed saw a story about the agreement in the local paper.

"I'm just incensed at the

thought they can get away with misdemeanors — the third largest company in the world," Reed said in a telephone interview Tuesday.

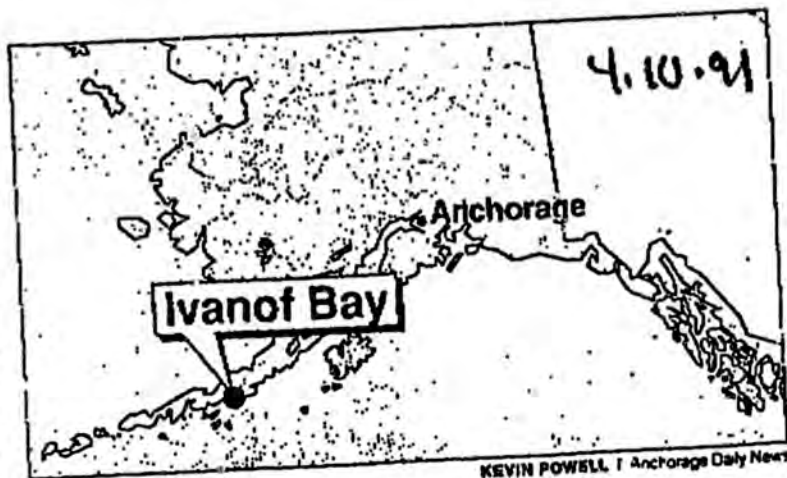
"This damage will exist long after everybody here is dead," she said. "So I called our newspapers and news departments, saying there should be a bigger article about (the plea bargain) so our people could complain."

In her letter to Holland, Reed said a criminal trial might deter other companies from polluting.

"Companies and people must realize that our Earth is fragile and if companies can cause this kind of pollution and not be punished, they will continue to do damage and soon our planet will be like the other planets in our solar system — no living things on it," Reed said in her letter.

Tim Martin said he believes investigating agencies have overlooked or ignored evidence that the Exxon Valdez was intentionally grounded. Martin told Holland he's trying to get \$10,000 from the state to finance a diving expedition at Bligh Reef to prove his claim, and he charged that Gov. Wally Hickel has betrayed Alaskans by pushing to settle the Exxon litigation and criminal charges.

"He represents the interests of oil," Martin wrote.



14 have their say on spill settlement

By DON HUNTER
Daily News reporter

A Native village council, a Chicago senior citizen and a man who thinks the Exxon Valdez oil spill was intentional are among the handful of people and organizations that have responded to a federal judge's call for public comment on the plea

Corp. and its shipping subsidiary.

The 14 responses received as of noon Tuesday were running more than 3-to-1 against the deal, under which Exxon and Exxon Shipping Co. would plead guilty to misdemeanors and

Please see Back Page,
LETTERS

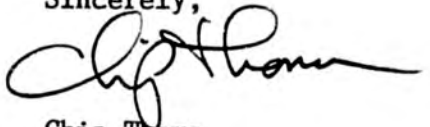
April 12, 1991

Alaska State Legislators
Pouch V
Juneau, Alaska 99801

Dear Legislator,

Attached is my submitted testimony to U.S. District Judge Holland on the proposed settlement of the federal and state charges against the Exxon Corporation, Exxon Shipping, and Alyeska Services Corporation. I hope you take the opportunity to review these comments and consider either new settlement terms or the pursuit of original and new charges through the court system, both federal and state. These are extremely important issues which, if allowed to be settled in present form, will only reinforce the understanding in Congress and the nation as a whole that Alaskans are willing to sacrifice the environment and the trust of many state residents for a very small monetary deposit in the treasury. Thank you for your time and consideration.

Sincerely,



Chip Thoma

TO: Honorable H. Russel Holland
United States District Judge
U.S. District Court
222 W. Seventh Avenue, No. 4
Anchorage, Alaska 99513

April 10, 1991

RE: A 90 - 015 CR

FR: Theodore P. Thoma
#2 Marine Way
Juneau, Alaska 99801

RE: CRIMINAL PLEA BARGAIN PROCEEDINGS
concerning EXXON CORPORATION, EXXON SHIPPING, ALYESKA SERVICES

For the record, I am a self-employed environmental lobbyist and have been closely involved in Alaska resource issues for over 20 years. As such I was a chief proponent for the re-design of the Alyeska pipeline, for an all land route through Canada, and for full environmental safeguards to protect state and national/international waters connected with the eventual marine terminal and tanker route emanating from Valdez. As you are aware, the pipeline and marine route escaped full NEPA court review as a result of Congressional action instigated by the Alaska delegation in 1973. I still believe that NEPA review would have addressed the basic environmental safety and compliance responsibilities that were the root cause of the EXXON VALDEZ disaster, and subsequent inadequate response. My direct comments follow:

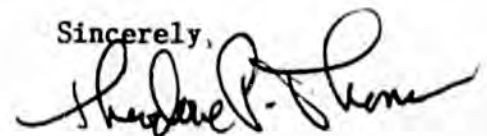
- 1) I oppose the agreement to drop the FELONY criminal charges against Exxon Corporation and Exxon Shipping Company (A90-015). I strongly believe that the pursuit of these grand jury charges and probable convictions are the only way to reform the inadequate staffing and competency levels aboard U.S. tankers that service Valdez and the West Coast to Panama. From the week-long live broadcast of the National Transportation Safety Board (NTSB) hearings in the summer of 1989, it was obvious that:
 - A) Mr. Frank Iarossi, former chairman of Exxon Shipping, knowingly cut back the number of crew members aboard the EXXON VALDEZ, compromising safety, stretching the physical ability of crew to competently man this carrier of dangerous, toxic material;
 - B) That Mr. Iarossi, Exxon Shipping, and Mr. Hazelwood, the ship's master, allowed Mr. KAGAN, a known incompetent, to serve aboard the EXXON VALDEZ, against the wishes and counsel of competent crew members who knew of his mental and physical problems, and caused KAGAN to steer the vessel through dangerous, ice-choked waters, resulting in the crash of the EXXON VALDEZ and resultant spillage of 11 million gallons of oil;
 - C) That Mr. Iarossi, Exxon Shipping, and Exxon Corporation knowingly allowed Mr. Hazelwood to operate the EXXON VALDEZ without monitoring his acute alcoholism, and in fact fabricated the small amounts of paperwork in Exxon files relative to Hazelwood's condition. These two reports were without dates or signatures, yet purported to show that monitoring of Hazelwood did occur;

Consequently, I believe that counts IV & V (A90-015) should be reinstated and litigated, and actively pursued by the federal government, as these circumstances were the BASIS of state testimony before the NTSB. The agreement to bring these charges for litigation by the federal government was done in lieu of applicable state laws covering crew safety and competence.

- 2) Additionally, I strongly believe that the MISDEMEANOR criminal charges against Exxon Corporation and Exxon Shipping Company are being settled far too cheaply for the great, extensive damages to wildlife over a 700 mile region. It is my understanding that the ALLIED CHEMICAL case was the largest, previous U.S. settlement for environmental damages, at \$13 million. However, this was also 10% of Allied's earnings for that year. EXXON's yearly SALES are over \$100 BILLION; their reported net, yearly earnings are \$5 BILLION; and their NYSE traded stock has gone up 13 points in the last two years, at a estimated value of \$1 BILLION per point. This huge corporation is in effect being given a pittance fine by the plea-bargain, and it in no way should be viewed as a properly negotiated fine for either the extent of damages or the worth of the corporation. Also, as you may be aware, Mr. Lawrence Rawl of Exxon has repeatedly stated to the press that the fines and settlement will in no way impair or harm his company, and that all costs will be immediately passed on the consumer in pump prices. Finally, the overall terms of the settlement, payments over ten years, are an affront to Alaskans and the nation as a whole; once Mr. Rawl 'passes on the costs', consumers will in effect be paying over and over for Exxon's corporate liabilities, while the corporation makes token payments for it's environmental assault on the nation's common resources.
- 3) Finally, I strongly believe that civil and criminal charges, both felony and misdemeanor, against Exxon, Exxon Shipping and ALYESKA should be reinstituted and pursued by the federal and state governments, based on the complicity, culpability and liability of Exxon and the owner companies of Alyeska to secretly plan non-compliance with terms of agreements struck with the federal and state governments to immediately respond and clean up ANY spill in Prince William Sound. The documents obtained and verified by U.S. Congressman George Miller amply demonstrate that collusion on the part of Exxon and Alyeska to ignore the existing contingency plan was commonplace, and an active topic of discussion among the owner companies in 1987-88, even to the point of written, internal memos that materials, personell and marine transport were not on-hand to address but the most minor spills in Port Valdez and Valdez Arm. The June, 1988 owners meeting of Alyeska in Phoenix, Arizona, as referenced by Stanley Factor, Vice-President of Arco Marine, Inc., states clearly the Alyeska HAD NO INTENTION of responding to a spill in Prince William Sound, except with dispersents that were not on hand, with no properly fitted aircraft to utilize them. On March 24, 1989, in the early am hours, one of the first calls made by Mr. Iarossi, upon hearing of the spill in Houston, was to Southern Air Transport of Miami, for a C-5 aircraft, specially fitted for dispersent application, to be airborne, fly to New Mexico to pick up the dispersent ("ADDS PACK") and proceed to Anchorage. As the record shows, dispersent was not on-hand in Alaska, the plane was in Miami. The Valdez personell were not trained or available, the barge was empty, and whatever small booms and skimmers on-hand were buried in snow. I term these circumstances as criminal acts on the part of Alyeska and owner companies who were far more interested in tanker turn-around times and under manning than taking any responsibility for the consequences.

In summary, I trust you take these points into consideration, and I do appreciate the opportunity to comment. The Alaska Legislature is holding daily hearings on these vitally important issues, and I hope you are able to see the wisdom in recommending rejection of these present settlement terms, as a judicial officer responsible for determining the fairness of the settlement for immediate and long-term damage to national resources.

Sincerely,



Theodore P. Thoma

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 in 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.

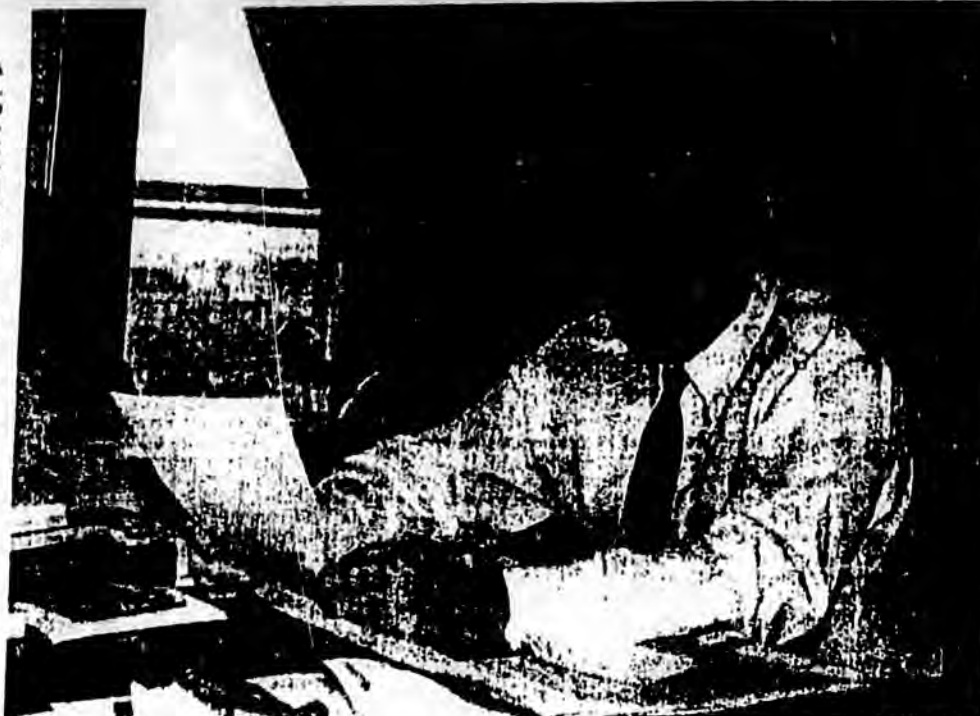
In Response to Disasters

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 De-



"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."

partment, 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.

An experienced litigator finds a way to satisfy everybody.

Skinner and told him that the Governor was seeking an agreement.

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 sour 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 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. Skin-

ner 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.

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.

TO: Honorable H. Russel Holland
United States District Judge
U.S. District Court
222 W. Seventh Avenue, No. 4
Anchorage, Alaska 99513

April 10, 1991

RE: A 90 - 015 CR

FR: Theodore P. Thoma
#2 Marine Way
Juneau, Alaska 99801

RE: CRIMINAL PLEA BARGAIN PROCEEDINGS
concerning EXXON CORPORATION, EXXON SHIPPING, ALYESKA SERVICES

For the record, I am a self-employed environmental lobbyist and have been closely involved in Alaska resource issues for over 20 years. As such I was a chief proponent for the re-design of the Alyeska pipeline, for an all land route through Canada, and for full environmental safeguards to protect state and national/international waters connected with the eventual marine terminal and tanker route emanating from Valdez. As you are aware, the pipeline and marine route escaped full NEPA court review as a result of Congressional action instigated by the Alaska delegation in 1973. I still believe that NEPA review would have addressed the basic environmental safety and compliance responsibilities that were the root cause of the EXXON VALDEZ disaster, and subsequent inadequate response. My direct comments follow:

- 1) I oppose the agreement to drop the FELONY criminal charges against Exxon Corporation and Exxon Shipping Company (A90-015). I strongly believe that the pursuit of these grand jury charges and probable convictions are the only way to reform the inadequate staffing and competency levels aboard U.S. tankers that service Valdez and the West Coast to Panama. From the week-long live broadcast of the National Transportation Safety Board (NTSB) hearings in the summer of 1989, it was obvious that:
 - A) Mr. Frank Tarossi, former chairman of Exxon Shipping, knowingly cut back the number of crew members aboard the EXXON VALDEZ, compromising safety, stretching the physical ability of crew to competently man this carrier of dangerous, toxic material;
 - B) That Mr. Tarossi, Exxon Shipping, and Mr. Hazelwood, the ship's master, allowed Mr. KAGAN, a known incompetent, to serve aboard the EXXON VALDEZ, against the wishes and counsel of competent crew members who knew of his mental and physical problems, and caused KAGAN to steer the vessel through dangerous, ice-choked waters, resulting in the crash of the EXXON VALDEZ and resultant spillage of 11 million gallons of oil;
 - C) That Mr. Tarossi, Exxon Shipping, and Exxon Corporation knowingly allowed Mr. Hazelwood to operate the EXXON VALDEZ without monitoring his acute alcoholism, and in fact fabricated the small amounts of paperwork in Exxon files relative to Hazelwood's condition. These two reports were without dates or signatures, yet purported to show that monitoring of Hazelwood did occur;

Consequently, I believe that counts IV & V (A90-015) should be reinstated and litigated, and actively pursued by the federal government, as these circumstances were the BASIS of state testimony before the NTSB. The agreement to bring these charges for litigation by the federal government was done in lieu of applicable state laws covering crew safety and competence.

2) Additionally, I strongly believe that the MISDEMEANOR criminal charges against Exxon Corporation and Exxon Shipping Company are being settled far too cheaply for the great, extensive damages to wildlife over a 700 mile region. It is my understanding that the ALLIED CHEMICAL case was the largest, previous U.S. settlement for environmental damages, at \$13 million. However, this was also 10% of Allied's earnings for that year. EXXON's yearly SALES are over \$100 BILLION; their reported net, yearly earnings are \$5 BILLION; and their NYSE traded stock has gone up 13 points in the last two years, at a estimated value of \$1 BILLION per point. This huge corporation is in effect being given a pittance fine by the plea-bargain, and it in no way should be viewed as a properly negotiated fine for either the extent of damages or the worth of the corporation. Also, as you may be aware, Mr. Lawrence Rawl of Exxon has repeatedly stated to the press that the fines and settlement will in no way impair or harm his company, and that all costs will be immediately passed on the consumer in pump prices. Finally, the overall terms of the settlement, payments over ten years, are an affront to Alaskans and the nation as a whole; once Mr. Rawl 'passes on the costs', consumers will in effect be paying over and over for Exxon's corporate liabilities, while the corporation makes token payments for it's environmental assault on the nation's common resources.

3) Finally, I strongly believe that civil and criminal charges, both felony and misdemeanor, against Exxon, Exxon Shipping and ALYESKA should be reinstituted and pursued by the federal and state governments, based on the complicity, culpability and liability of Exxon and the owner companies of Alyeska to secretly plan non-compliance with terms of agreements struck with the federal and state governments to immediately respond and clean up ANY spill in Prince William Sound. The documents obtained and verified by U.S. Congressman George Miller amply demonstrate that collusion on the part of Exxon and Alyeska to ignore the existing contingency plan was commonplace, and an active topic of discussion among the owner companies in 1987-88, even to the point of written, internal memos that materials, personell and marine transport were not on-hand to address but the most minor spills in Port Valdez and Valdez Arm. The June, 1988 owners meeting of Alyeska in Phoenix, Arizona, as referenced by Stanley Factor, Vice-President of Arco Marine, Inc., states clearly the Alyeska HAD NO INTENTION of responding to a spill in Prince William Sound, except with dispersents that were not on hand, with no properly fitted aircraft to utilize them. On March 24, 1989, in the early am hours, one of the first calls made by Mr. Iarossi, upon hearing of the spill in Houston, was to Southern Air Transport of Miami, for a C-5 aircraft, specially fitted for dispesent application, to be airborne, fly to New Mexico to pick up the dispersent ("ADDS PACK") and proceed to Anchorage. As the record shows, dispersent was not on-hand in Alaska, the plane was in Miami. The Valdez personell were not trained or available, the barge was empty, and whatever small booms and skimmers on-hand were buried in snow. I term these circumstances as criminal acts on the part of Alyeska and owner companies who were far more interested in tanker turn-around times and under manning than taking any responsibility for the consequences.

In summary, I trust you take these points into consideration, and I do appreciate the opportunity to comment. The Alaska Legislature is holding daily hearings on these vitally important issues, and I hope you are able to see the wisdom in recommending rejection of these present settlement terms, as a judicial officer responsible for determining the fairness of the settlement for immediate and long-term damage to national resources.

Sincerely,



Theodore P. Thoma

- ☒ Mary _____ ✓
- ☐ Sheila _____
- ☐ Laura _____
- ☐ Jo-Eve _____
- ☐ Sheri _____
- ☐ Brandie _____

Staff Notes:

☐ Dick _____

Notes to Dick:

Eliason's Instructions:

- ☐ File _____
- ☐ Back to Staffer _____

Instructions/Action to Be Taken:

Find out if this
guy really has any
affiliation with Greenpeace

ROBERT A. GIGLER
7447 O'Brien Street
Anchorage, Alaska 99507

Dear Member of The Alaska Legislator:

On March 15, 1991, I met with Governor Walter Hickel and Special Assistant James Rockwell to discuss public concerns regarding the EXXON Valdez Oil Spill.

Mr. Rockwell said he spoke with the underwater survey company contracted by EXXON to assess vessel damage. He gained information which suggested that the EXXON Valdez struck Bleigh Reef twice. If this is true, the public was misinformed by the initial report released by EXXON's underwater construction company.

Based on their report the following article appeared on Page A-8 of the March 27, 1989 Anchorage Times. The Starboard side of the EXXON Valdez collided with a pinnacle rock following this the tanker turned westward while sliding toward the South. Afterwards it struck the second pinnacle, at midship. Both strikes occurred approximately 2 miles apart. The President of the EXXON Corporation said the tankers speed was unknown at this time. (This is another inconsistent fact).

Page A-10 of the March 27, 1989 Anchorage Daily News, Spill Archives Reference said this collision occurred at 11:50 p.m. and the vessels speed was estimated at 8 knots. The impact ruptured three holes in the starboard side causing the tanker to turn to the west. Inertia kept it moving in the southerly direction of the first Pinnacle. This forced the vessel to travel more than a mile from the shipping lane and ground on the second pinnacle of Bleigh Reef at 12:03 a.m. on March 24, 1989.

National Transportation Safety Board hearings on May 16-19, 1989 identified the following. From the Archives of the Anchorage Daily News May 17, 1989, page A-10 included the following comments from the May 1989 NTSP hearing.

The EXXON Valdez left the shipping lanes to allegedly possibly avoid impact with ice bergs. The tanker headed west 200° at 12 knots with speed increasing to 15 knots. The course was changed to 180° and the tanker was placed on auto pilot. Afterwards the Captain left the bridge. At 11:57 p.m. March 23, 1989 Constat calls from New Jersey EXXON Valdez began and continued for 33 minutes. Captain Hazelwood did not report the new heading to the Coast Guard radio operator. After the collision, the vessel's main engine was shut down at approximately 1:45 a.m., according to engine log.

The impact was identified by Gregory Cousins in the National Transportation Safety Board hearing room in his testimony May 17, 1989. Deck watch observed the following: The Busby Island red light was viewed from the dangerous waters of Tatitluk Narrows. The 1st strike was located approximately 4000 yds. northerly from Bleigh Reef. The Loran location at 7960X 14337-7960Y32162. The Loran location was documented by a witness to the grounding in Tatitluk Narrows (Bud Hall) commercial fisherman.

From the evidence shown, we believe the grounding of the EXXON Valdez to be deliberate and intentional.

What is the truth?

Sincerely,

Robert Gigler
Greenpeace Action International

4/13/91
Tom Lakosh
PO Box 100648
Anchorage, AK 99510
(907) 2585767

Chairman Eliason:
Senate Special Committee on the Exxon Settlement

Dear Sir

Would you please provide a copy of the tape made of the Public testimony Teleconference of 4/13/91. I will reimburse the State for costs associated with the reproduction of the original tape. Please send the copy to the LIO in Anchorage ASAP. Thank you for your Cooperation.

Sincerely
Tom Lakosh
Tom Lakosh

4.10-91

Dear Senator Blasen,

This is in regard to the Exxon Settlement. I showed up to testify last Saturday (the 6th) + was disappointed you had closed shop for the day. I have a few comments:

1. If nothing else comes out of this spill we better learn something. Please release the scientific studies/data. What a stupid thing not to be learning from the spill.

2. Extend + increase Public comment periods. I notice + commend your efforts but also find it frustrating to show up + have my opportunity to comment closed. I also notice that no directly elected official is on the Spill Trustees.

3. Obviously the settlement is a Cop-out. Extends ability to pay is much more than what is being tapped.

4. The \$50 million of the Criminal settlement going to the state should go entirely to acquisition of lands in the affected area.

5. ~~State~~ Government expenses should not come out of the settlement. Extension should have to pay for expenses. Additionally Settlement \$ should not be spent on agency budgets!

The 'wolves' of Bureaucracy ~~are~~ will eat up this \$ in a blink, and the areas affected by the spill will continue to be degraded and misused.

I do not pretend to understand
1/2 of this issue, but do
know PWS + the Keno
Coast and hope that
we do the best to protect
+ restore them!

Thanks +
Good Luck,
Paul Swader
Paul Twidock
Box 544-
4601 University Dr.
Anchorage AK

22508

☒ Mary ✓
☐ Sheila _____
☐ Laura _____
☐ Jo-Eve _____
☐ Carol _____
☐ Brandie _____

 Staff Notes:

☐ Dick _____

Notes to Dick:

Here's a new twist.
 This guy says that the holes
 & scrape marks on the Exxon
 Valdez hull show that the
 crash was intentional /
 And there has been a big
 cover-up.

 Eliason's Instructions:

☐ File _____

☒ Back to Staffer Mary - Exxon files

Instructions/Action to Be Taken:

March 27, 1991

TO: The Honorable Judge H. Russell Holland
U.S. District Court
222 West 7th
Anchorage, Alaska 99513

FROM: Tim Martin
7100 Lake Otis #37
Anchorage, Alaska 99507

SUBJECT: Comments concerning the Exxon Settlement

Judge Holland:

I was the first caller to talk with Gov Hickel yesterday on the live statewide call in "Live With The Governor", broadcasted on public radio.

I told Gov Hickel that I received his response to my letter from James Rockwell, the governor's special asst., concerning Exxon's settlement with Alaska.

Mr Rockwell's letter to me stated that he talked with the dive supervisor of the local construction company that handled the underwater work for Exxon on the Exxon Valdez. He confirmed my observation that there were two impacts on the Exxon Valdez. The letter went on to state that the ship's inertia caused the second impact. His explanation was that tankers don't stop on demand and the first outcropping wasn't enough to halt forward movement and that the second and final impact did.

At this point I told Gov Hickel that this letter doesn't address my question. Where is the site of the first impact?

I've studied the depth chart and there is no place close by where the Exxon Valdez could have hit on the starboard side. I said, "The first impact caused more damage to the vessel than the grounding, yet the crew acts like they didn't feel it".

I told Gov Hickel that I was under the impression that Caleb Brett Co gauged the Exxon Valdez and that the gauging process was closely monitored by the Coast Guard and the Alaska Department of Conservation, but found out later that Exxon did all the gauging on the Exxon Valdez and that the DEC and Coast Guard did not monitor the gauging process but that the DEC simply took the figures from Exxon.

I told Gov Hickel that I also discovered that Exxon used the wrong process for determining how much oil was on the Exxon Valdez. They used the loadmaster which only shows how much liquid was in the tanks, but this process doesn't show how much of the liquid is oil or water. I said that the proper way to have gauged the tanker is the "paste and ball method", which shows how much water is below the oil. Because the wrong method was used to figure the loss of oil far more spilled from the Exxon Valdez than was reported.

At this point my phone line to the governor was cut off.

Gov Hickel went on to say, in effect, that the settlement with Exxon is a done deal.

He wasn't concerned that this settlement is contingent upon a public comment period nor did he care what might be the result of these comments.

Gov Hickel is not representing the interests of Alaskans. He represents the interests of oil.

Though he appears to take a tough stand against the industry, pushing for greater interest penalties on monies owed to the state, his figures don't add up. Gov Hickel said there are monies owed by the industry to the state that go back 14 years and that Alaska could realize hundreds of millions when these debts are paid.

"No Governor, Alaska should see a few billion from past debts owed to the state".

Alaskans have benefited from oil, but where do we draw the line?

If this grounding had been caused by one impact it would have been, literally, impossible to prove that it wasn't accidental. But being that the first impact caused more damage to the tanker than the grounding, and since no one on board seems to have really felt it, the grounding of the Exxon Valdez was intentional and far more oil was lost than was reported.

I'm a 17 year member of the Alaska Piledriver's Union, the Bridge, Dockbuilder's and Diver's Union. I worked on the first piling holes on the first tanker dock at Valdez.

I've talked with divers who worked on the Exxon Valdez. The scrapes on the bottom of the tanker run straight from bow to stern. If the tanker had been in the process of turning these scrapes would have tended to run from port to starboard.

I've also heard from reliable sources that a considerable amount of sea water was pumped off the Exxon Valdez to the on-loading tankers.

Some lawmakers and attorneys have been pushing for Exxon to release data concerning the cause of the spill. Why should they incriminate themselves? If Exxon did release information, could it be trusted?

As a person, not associated with the industry, I believe that I know more about the details of this grounding than anyone.

I could organize a preliminary dive to determine the site of the first impact, on my own, but against industry's efforts to squelch information, how could I reach established channels? Last month's, 'Live With The Governor' was covered in the Anchorage Daily News the next day, but this month's program wasn't covered in either paper. Was it too much truth?

I wrote and had printed a letter in 'Letters to the Editor' in the Anchorage Daily News more than a year ago and had one printed recently, calling for a first impact dive, but no one from the state or media has seen fit to follow it up. Does any of them know where the tanker first hit?

Gregg Erickson, former director of the state's Oil Spill Assessment and Restoration Division was fired from his post on March 1st for making mildly abrasive comments against Exxon, so this is supposed to make him eminently suited for his new position as economist for the House Oil-Spill Settlement Committee that reviews this statement? I agree with Jim Zawacki, R-Girdwood, I don't trust him either. He reminds me of Lee Fisher, Revenue Commissioner, who boldly lashed out at the governor's proposal for collecting oil debts as an "immoral business practice" who announced that he now supports the governor. He's the same person that told me I have no right to oil royalty information.

Though most members of the legislature are beholden to oil, where do they draw the line?

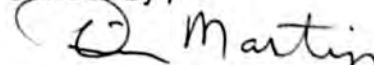
Gov Hickel is no longer pushing his agenda on a few hundred thousand Alaskans. He's now subject to world opinion, as is Alaska's legislature.

If a three day dive will clear up all doubt as to whether or not the grounding was intentional, shouldn't it be performed?

As a certified commercial diver, I want to see for myself the location and take pictures of it. I want to head up this dive.

I'm requesting \$10,000 from the state for divers and the charter of a fully equipped diving vessel with chamber. This amount will also cover a detailed report on the findings of a three day dive. I also extend an offer for Exxon to take part in a coordinated fact finding mission, but they supply their own boat.

Sincerely,



Tim Martin

Inclosures

next page

Thomas A. Cambell NOAA

Barbera Herman Attorney General's Office

Nancy Quinto Senate Special Committee on Exxon Settlement

Cheryl Hinkes Tundra Times

Howard Weaver Anchorage Daily News

Dan Lawn Alaska Department of Environmental Conservation

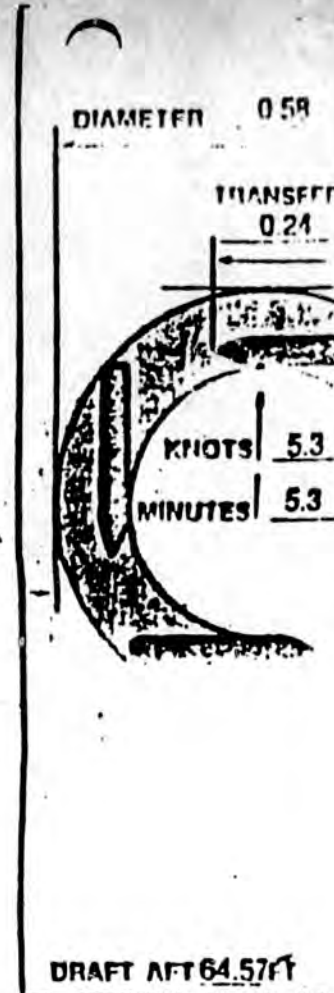
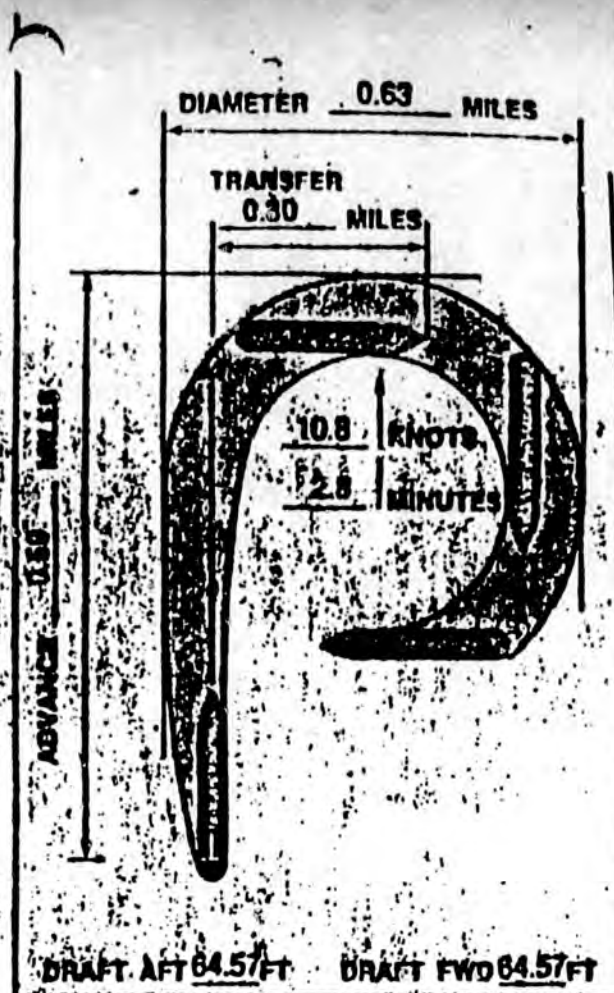
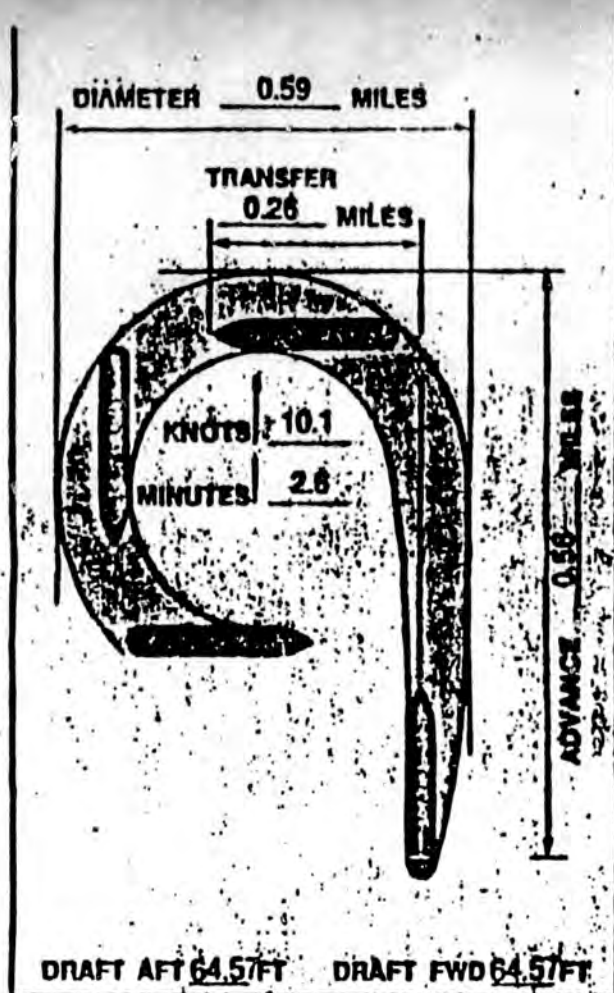
Gren Erikson House Special Committee on Exxon Settlement

Lawrence G. Rawl Exxon

Walter Hickel Governor's Office

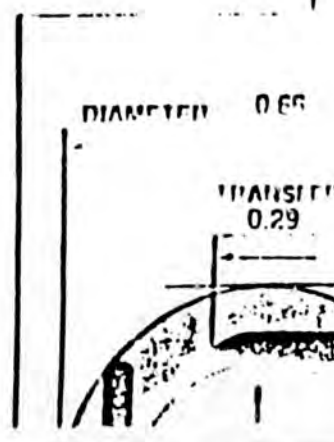
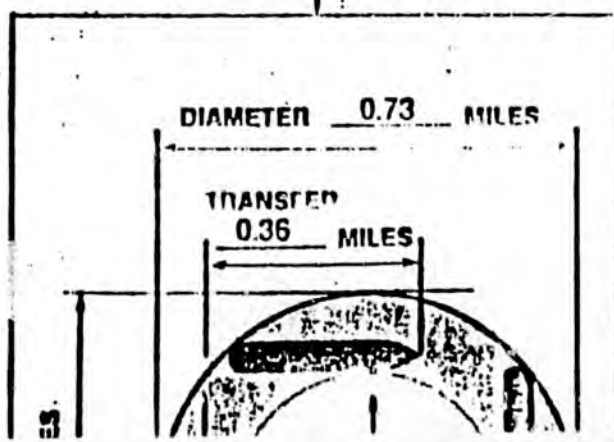
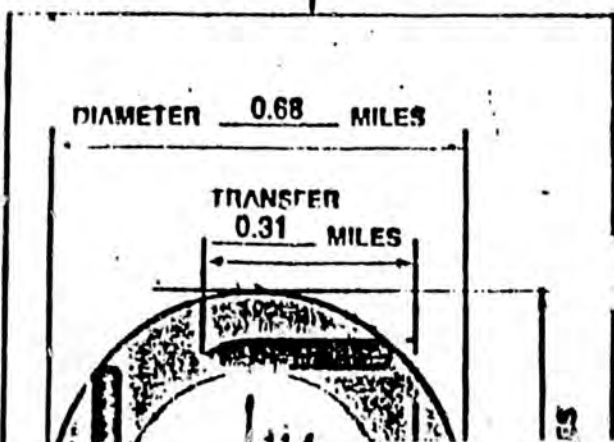
Others

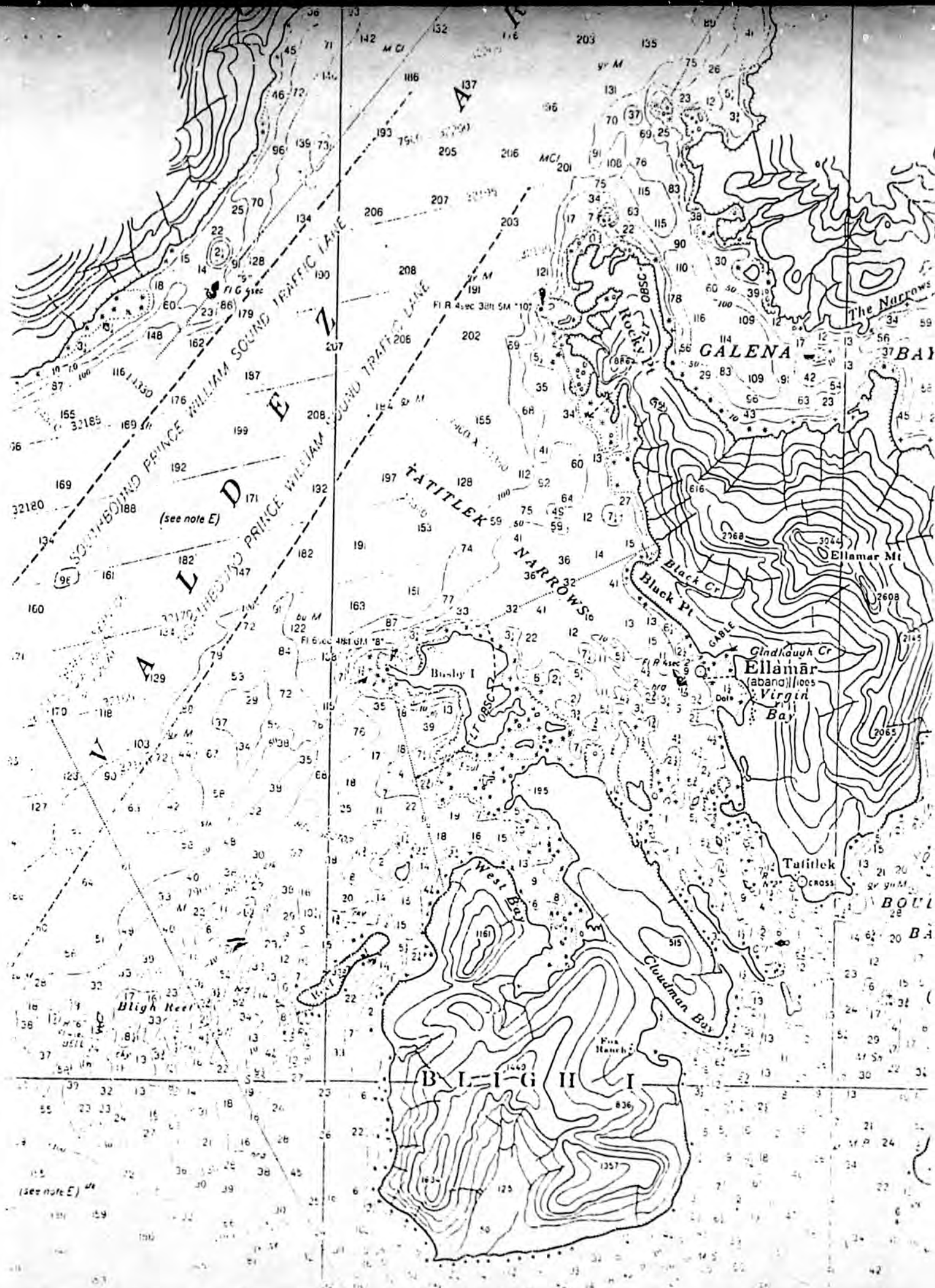
FROM NTS B HEARINGS



FULL SEA SPEED
17.8 KNOTS

BALLAST





☒ Mary ✓

☐ Sheila _____

☐ Laura _____

☐ Jo-Eve _____

☐ Carol _____

☐ Brandie _____

Staff Notes:

☒ Dick _____

Notes to Dick: Well, that guy who said in the teleconf. that he would drop his suit against the state in exchange for the studies did make his offer official.

Eliason's Instructions:

☐ File _____

☒ Back to Staffer Mary

Instructions/Action to Be Taken:

Box 1185
Cordova, Alaska 99574
April 7, 1991

Charles Cole, Attorney General
STATE OF ALASKA
Box K
Juneau, AK 99811

Dear Mr. Attorney General:

I appreciated the opportunity to speak with you by teleconference on Saturday, April 6, 1991 during the special Senate subcommittee hearing on the EXXON Valdez oil spill settlement. I feel that Governor Hickel and you have taken the proper position in submitting the settlement to the legislature for review and approval.

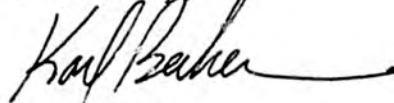
~~I, [redacted] a local fisherman, I have claims against EXXON~~
~~and its subsidiary, EXXON Shipping Company, and Alyeska Pipeline~~
~~Service Company. In order to pursue these claims, I will need~~
~~access to all of the Natural Resource Damage Assessment studies~~
~~relating to the EXXON Valdez oil spill which have been or are~~
~~being conducted by agencies of the State of Alaska.~~

I ask that you release all of the abovementioned studies to me.

 In return, I agree to hold the State of Alaska and any of its agencies, elected officials, or employees harmless for any damages I may have incurred as a result of actions taken by the state, its agencies, elected officials, or employees in relation to the EXXON Valdez oil spill.

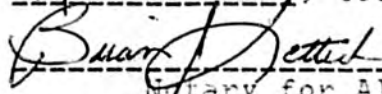
I ask that you comply promptly with my request. Thank you.

Sincerely,



Karl Becker

Witnessed by me this 8th day of April, 1991.



Notary for Alaska

My commission expires: 4-11-93

cc. Representative Gene Kubina
Senator Jalmar Kerttula
Senator Kurt Menard
Members of the House/Senate special committees on the EXXON Valdez settlement