RPWG
(4)

Working for the Nature of Tomorrow®

NATIONAL WILDLIFE FEDERATION
1400 Sixteenth Street, N.W., Washington, D.C. 20036-2266 (202) 797-6800

STATEMENT OF DAVID C. CAMPBELL

NOV 4 - 1991

regarding the
EXXON VALDEZ OIL SPILL SETTLEMENT

before the
HOUSE BUDGET COMMITTEE TASK FORCE ON URGENT FISCAL ISSUES

October 31, 1991

Mr. Chairman and members of the committee. Good afternoon. I am pleased to present the concerns of the National Wildlife Federation with the Agreement and Consent Decree regarding the EXXON Valdez oil spill.

Marine biologist Sylvia Earle best expressed the difficulty of ever compensating fully for damage from the EXXON Valdez spill as she left oil-soaked Prince William Sound in April 1989.

> *How do you weigh the forever cost of this catastrophe?... I could go on, but what may be of most concern, ultimately, is those things that are <u>not</u> obvious and often not visible. It's not just the otters, or the birds, or the herring, or the magical beauty of Prince William Sound. It's the countless invertebrates that live in the ocean and on the shores, it's the diatoms, the phytoplankton and zooplankton, the amphipods, the mollusks and crustaceans, the little fish, the bigger fish that eat them, and on and on through the food chain. It's the <u>system.</u>*

We believe that the economic value of the settlement (i.e. the discounted present value after taxes) is insufficient compensation for the public natural resources damage caused by the spill, provided for under Section 311 of the Clean Water Act and the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). Compensation should include all the costs of cleaning up damaged

sites, the costs of either restoring or replacing the damaged resource, and the value of any residual damage for lost services of the resource.

The studies that assessed the injuries sustained by the resources at Prince William Sound and assigned a monetary value to the lost services have not been released. Thus, it is difficult to know the basis for the settlement agreed to by the State of Alaska and the U.S. Justice Department. The Economist reported that the state's preliminary survey found the American public valued the protection of the Sound at $3 billion, considerably higher than the announced nominal value of the $1 billion civil settlement.

The language in the settlement and associated statements to the press would have the public believe that EXXON will incur total costs in excess of $3 billion. The plea agreement regarding the criminal action at C .3. states that the remission of the agreed upon amounts is appropriate in view of several facts: ... (b) "The defendants have expended in excess of $2.1 billion in response to and clean up of the oil spill in Prince William Sound and environs." Staff from our Alaska office and Dr. Jay Hair, the Federation's President, surveyed EXXON's "cleaned-up sites" and found that many measures did little for the resource and that a large portion of the $2.1 billion spent was not cost effective. Therefore, the value of the compensation to the public resources from EXXON's unplanned cleanup is much less than $2.1 billion.

The economic value of the civil settlement is approximately $475 million as compared to the advertised amount of $1 billion. The economic value is less than the nominal value for two reasons: the payment of the settlement is stretched out over 10 years until September 1, 2001, and because EXXON will be able to deduct the civil payments from its Federal and state tax liability.

The discounted present value of the stream of future payments is approximately $754 million (see attachment) using an interest rate of 8.16%. The reason that the discounted value is less than the nominal value is that EXXON would have had to invest only $754 million on the settlement date, October 8, 1991, at 8.16% to make the twelve scheduled future payments. The 8.16% interest rate approximates the borrowing cost to the state and the Federal government.

The cost to EXXON and the corresponding compensation for resources damage is further reduced to $475 million because the damage award was structured so that $279 million (in discounted value) of damage compensation can be deducted from Federal income taxes (34%) and Alaska state income taxes (3%). Thus, the effective value of the settlement is less than one-half of the advertised $1 billion. Moreover, if the present value is calculated using a discount rate of 11.2%, representative of expected internal corporate rates of return, the discounted after-tax cost to EXXON is only $434 million.

This committee should also be aware that the settlement will cost the Federal Treasury approximately $250 million discounted at 8.16%. The reason for this is that the State of Alaska will receive nearly all of the $1.025 billion in nomimal payments while EXXON will be deducting 34% of the payments from its Federal tax return. The settlement included only $25 million in criminal penalties that cannot be deducted from state and Federal income taxes.

In nominal dollar terms, EXXON will pay $25 million in criminal penalties to the Federal Treasury and one billion dollars to Alaska, and receive approximately $340 million from the Federal government and $30 million from Alaska in tax deductions. In discounted dollars, EXXON will pay $25 million in Federal criminal penalties and $755 million to Alaska, and receive approximately $257 million from the Federal government and $22 million from Alaska in tax deductions.

Moreover, the failure of the settlement to release the natural resource damage assessment may seal information that would be useful to scientists in planning and implementing restoration and replacement of damaged resources.

In summary, the settlement will cost EXXON only $434 million and cost the American taxpayer $250 million in lost revenues. And that does not take into account the enormous, irreplaceable loss of the public's natural resources. To quote further from Sylvia Earle:

> *Because once something is gone from this planet -- any creature, any species, any system -- no matter how many billions of dollars we throw at it, we will never be able to bring it back.*

Economic Analysis of Agreement and Consent Decree
United States of America, State of Alaska vs. Exxon et al.

Date	Nominal Payment (in $ millions)	Present Value @ 8.16% *	Net after-tax value to U.S. and AK	Present Value @11.2% **	Exxon's net after 37% tax write-off
Oct. 8, 1991	$90 m	$90 m	$56.7 m	$90 m	$56.7 m
Oct. 28, 1991	100	99.5	62.7	99.3	62.6
Dec. 1, 1992	150	137.2	86.4	132.2	83.3
Sept. 1, 1993	100	85.7	54.0	81.1	51.1
Sept. 1, 1994	70	55.3	34.8	50.8	32.0
Sept. 1, 1995	70	51.1	32.2	45.4	28.6
Sept. 1, 1996	70	47.3	29.8	40.8	25.7
Sept. 1, 1997	70	43.7	27.5	36.7	23.1
Sept. 1, 1998	70	40.4	25.5	33.0	20.8
Sept. 1, 1999	70	37.4	23.6	29.7	18.7
Sept. 1, 2000	70	34.5	21.7	26.7	16.8
Sept. 1, 2001	70	31.9	20.1	24.0	15.1
TOTALS:	**$1,000 m**	**$754 m**	**$475 m**	**$689.7 m**	**$434.5 m**

*Current interest cost to the Treasury of long-term borrowing.
**Approximate corporate internal rates of return.

Distribution of Payments Resulting From the Agreement and Consent Decree United States of America, State of Alaska vs. EXXON et al.

(millions of dollars)

	EXXON	Federal	Alaska & Joint Fund
Nominal Payments:	-$1,000		+$1,000
Tax Credits:	+ 370	-$ 340	- 30
Implicit Interest at 8.16%:	+ 155	+ 90	- 245
NET:	-$ 475 m.	-$ 250 m.	+$ 725 m.
Criminal Fine:	$- 25 m.	+$ 25 m.	

NWF 10/29/91

A price on the priceless

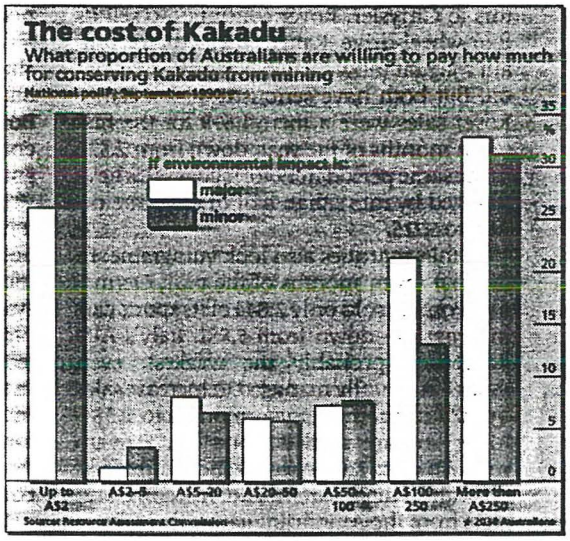
Methods developed by academic economists for measuring the value of natural beauty are affecting mining in Australia and oil companies in America

ECONOMICS FOCUS

AT THE heart of environmental economics lies a dilemma. Economists are most comfortable when measuring people's preferences as revealed by their behaviour in the market. But the environment is rarely bought or sold. So some way has to be found to give a monetary value to clean air or the continued existence of the elephant before rational decisions can be made about protecting them.

Ludicrous, say environmentalists. "What am I bid for one ozone layer, slightly depleted?" they jeer. Economists retort that even the ozone layer has a calculable value. Humanity would not willingly pay the world's entire GNP to prevent further depletion. So the ozone layer is demonstrably worth less than $21.2 trillion annually.

Economists have developed several techniques to measure environmental value. Thus an unpolluted river has a value to people who like water sports. But even people who do not visit the river may value its purity. To find that "non-use" value, which may be much higher than the use value, economists frequently employ contingent valuation, a technique first used in 1963. They ask people in a public-opinion survey what they are willing to pay for a benefit, or what they would accept in compensation for its loss.



Such calculations have been used, mainly in the United States, to estimate the benefits of some environmental policies in a way that can be set against the cash costs. Their application has now spread. Contingent valuation was employed by Australia's Resource Assessment Commission to help the government decide whether to allow mining on the edge of Kakadu National Park (the stomping ground of Crocodile Dundee).

In the case of Kakadu, just over 2,000 people were interviewed in Australia at large, and a further 500 in the Northern Territory, where the mining would have occurred. Respondents were asked which of several specific amounts they would pay to protect the site. Half were given a version of the environmentalists' assessment of the damage that mining would do (called "major impact" in the chart) and half were given the mining industry's assessment. Richard Carson, an expert from the University of California, helped to design the survey.

The results indicated that, even if the impacts of mining were as minor as the industry described them, Australians were willing to pay at least A$647m ($826m) a year to prevent mining. That sum exceeded the value of minerals thought to be in Kakadu. Australians who were told the impact would be "major" would have cheerfully paid much more. But people in the Northern Territory, who would gain from jobs in the mines, were willing to pay considerably less.

The survey was attacked, predictably, by the mining industry and by other critics who argued that it put a value on a hectare of wilderness that was a hundred times that of plots in downtown Melbourne. But land in public use is often differently valued from land in private use, replied Mr Carson: that, indeed, is why New York's Central Park is not sold off for skyscrapers. Critics also drew attention to an American study, which found that the price people would pay to preserve clean air in the Grand Canyon fell from $90 to $16 when they were asked, not just about the canyon, but also about paying for the competing claims of cleaner air in Chicago and the eastern United States as well.

The survey did not decide the fate of Kakadu. When Bob Hawke, Australia's prime minister, turned down the mining proposal in June, he said it was because the area is considered sacred by the Jawoyn aborigines. The survey may have been more important as an indicator of public feeling against mining than for assigning a cash value to Kakadu.

When America's courts decide what civil damages Exxon must pay for the 1989 *Exxon Valdez* oil spill in Alaska's Prince William Sound, the amount will be partly based on three rival contingent valuations: one each by the Federal government and the state of Alaska, both of which are suing Exxon; and one by Exxon itself. Criminal penalties may also be based on the studies. Almost every American expert in the technique is now employed by one litigant or another.

The amounts at stake could be vast. Pilot work for the state's survey reportedly found the American public valued the protection of the sound at $3 billion—or nearly three times the $1.1 billion that Exxon agreed to pay in a deal struck by the three litigants in February but subsequently thrown out by the courts. Contingent valuation has been cited in legal cases only since the mid-1980s; and only last year did the Court of Appeals approve the validity of the technique, though no judgment has yet been based on it. Most cases have been settled out of court. The three surveys in the Exxon case will therefore be state-of-the-art: designed by psychologists, sociologists and philosophers as well as economists. Together they may cost over $6m, a huge sum for such research.

This means that litigation is now advancing techniques for measuring natural-resource damage, just as it spurred new thinking on competition policy in the 1970s, when antitrust cases shaped academic work and academics in turn helped to devise legal definitions of concepts such as market share. Differences among the three Exxon studies will be eagerly examined in universities, as well as in court.

One by-product may be an explanation of why questions that ask people what they would be willing to accept for the loss of a natural resource always produce much larger numbers than questions that ask what people would be willing to pay to preserve it. In the June issue of the *American Economic Review*, Michael Hanemann, who is on the Alaska team, argues that people reply to the first question not in terms of prices, but of quantities of substitutes. If the good in question has no substitutes (Kakadu or the respondent's own life), the amount a respondent would be willing to pay might, at the limit, equal his entire (finite) wealth; the amount they would accept as compensation could well be infinite.