
March 13, 1991

Exxon to Pay \$100 Million Fine And Plead Guilty in Valdez Spill

By KEITH SCHNEIDER, SPECIAL TO THE NEW YORK TIMES

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

The \$100 million would be part of payments by Exxon that could total as much as \$1.1 billion over the next 10 years to settle civil and criminal cases arising from North America's largest oil spill. Alaskan and Federal authorities said today that all obstacles to the settlement appeared to have been cleared.

Final arrangements for the guilty plea, including a review of the agreement by the E.P.A. Administrator, William K. Reilly, are being worked out tonight, the E.P.A. officials said. Protecting the Villagers

It was not clear this evening what charge Exxon would plead to. The company had faced two felony charges and several misdemeanor counts stemming from the March 24, 1989, accident and could have been fined up to \$600 million if convicted on all counts, Attorney General Dick Thornburgh said after the company was indicted just over a year ago.

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

Economists said Exxon would be able to claim tax deductions for every payment except for the \$100 million criminal penalty, to be paid immediately. The \$100 million would be one of the largest, if not the largest, criminal fine ever paid for pollution. A trial on the charges had been scheduled for April 10 in District Court in Alaska. Effects Would be Studied

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

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

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

The skipper, Capt. Joseph J. Hazelwood, was convicted on March 22, 1990, of the relatively minor charge of negligently discharging oil but acquitted of piloting the vessel while drunk and other serious charges. He was sentenced to spend 1,000 hours in the cleanup operation and was ordered to make \$50,000 restitution.

Exxon said in April 1990 that it had spent \$2 billion on the cleanup and had paid an additional \$200 million to settle claims.

The agreement made final today called for payments into the fund of \$150 million in September 1992, \$100 million in September 1993, and \$70 million annually from 1994 until 2001. The settlement calls for Exxon to contribute \$100 million more to the fund, bringing the total payments to \$1.1 billion, if additional damage from the oil spill is discovered.

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

"It seems like a good deal for Exxon," said Eric Jorgenson, a lawyer for the Sierra Club Legal Defense Fund in Juneau, which has sued the company.

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

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

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

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

"Keeping the data secret is a major problem," said Mr. Jorgenson. "All of the data available from the spill should be released. The public paid for it." Public Comment Allowed

Although the terms would make the settlement the most expensive ever for damages caused by an environmental disaster, the pact is certain to raise a stir in Alaska and in Washington. The negotiators will open the pact to public comment for 30 days after it is signed.

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

On April 9, 1990, Exxon and its subsidiary, the Exxon Shipping Company, pleaded not guilty in Federal District Court in Anchorage to two felony violations and several misdemeanor violations of five Federal statutes. The agreement resolves those charges.

The most serious violations were under Federal maritime law and accused Exxon Shipping of operating the Exxon Valdez with a "physically and mentally" incapable crew. The company also faced a misdemeanor count for violations of the Federal Migratory Bird Treaty Act for killing thousands of birds, and two misdemeanors for spilling oil under the Clean Water Act and the Refuse Act. Other charges were pending under the Ports and Waterways Act and the Dangerous Cargo Act.

The Government and Exxon had tried to settle the case through plea bargaining but Alaska's former Attorney General, Doug Baily, resisted the settlement and accused the Justice Department of selling out to the oil company.

Several state officials who asked not to be identified today said they had hoped that Exxon would be required to pay \$1 billion in a one-time payment that could generate permanent income through annual interest payments. These officials said the payments spread out over 10 years would be much less valuable.

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

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

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

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

Last week, Judge Sporkin blocked the settlement from being signed until the state and Federal Government assured more than 5,000 Alaskan native villagers that their right to gain financial damages from Exxon would not be harmed by the pact. Today, Judge Sporkin said he was satisfied and lifted his injunction. But in an order he signed this afternoon, Judge Sporkin said he would review the settlement after it is signed.

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