

**Statement by Joseph W. Banta
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to the
Senate Committee on the Judiciary
“Exxon Valdez to Deepwater Horizon: Protecting Victims of Major Oil Spills”
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Good morning. My name is Joe Banta. Thank you for the invitation to appear before the Committee on the Judiciary today and for the opportunity to provide you with information about the profound impact that the *Exxon Valdez* Oil Spill had on my family and me and of my experiences following the spill. I believe that what my family and I have gone through is generally representative of the experiences of many of the local residents affected by the *Exxon Valdez* Oil Spill, although each of our stories is, of course, unique. I hope some of this information will be helpful to the Committee.

I grew up in a commercial fishing family who lived in Cordova, Alaska and I worked the waters of Prince William Sound with my father who was a commercial fisherman. I began fishing with him at the age of ten. My grandfather worked the waters of Prince William Sound starting shortly after World War I when he dug clams in Orca Inlet, and later was joined by his son, my dad.

The 1989 Exxon Valdez Oil Spill

In 1989 at the time of the *Exxon Valdez* Oil Spill, I was preparing for Prince William Sound's spring herring fishery. At the time of the spill my father was also involved in the Prince William Sound herring fisheries. Unfortunately, the herring fisheries were canceled after the immensity and spread of the spill became obvious. Soon after the spill, I took oil and hazardous material safety training and participated in wildlife rescue operations. That work was a sad and often futile effort – as many of the birds and otters that we encountered were so oiled that they were near death or dying by the time we could get close to them.

On top of that, the eagles from the area were quick to take advantage of the weak and dying oiled animals and we had to race to the oiled victims whether dead or alive. The unfortunate consequence was the oiling of the eagles as well. Then, the eagles tracked this oil back to their nests. So you can see the insidious manner in which the oil got spread through the food chain and the environment in ways that you wouldn't even think of. We were there to observe it first-hand and agonize over what it meant. We even encountered dead rockfish floating on the water's surface - deepwater bottom dwellers that don't live close to the surface at all. Observing this effect was especially disconcerting. What did it mean for our future fisheries, not just our livelihood, but our way of life?

Here we were at this critical re-awakening time for the Sound, the spring return of the herring for their massive shoreline spawning activities. In Prince William Sound, the

spring herring spawning was a spectacle in and of itself, with seabirds, seals, sea lions, whales and many other species of fish joining in to target the schools of herring.

My hometown of Cordova is a remote, small community of approximately 2,500 people, where the only way in is by boat or plane. The herring fishery's impact on the livelihoods of local residents was significant. In 1989, at the time the spill, the herring resource had been slowly growing with the careful management of the Alaska Department of Fish and Game so that it had reached a record 150,000 tons of biomass.

Biological Effects

The following year, the herring showed signs of stress, with lesions attributed to viral and fungal infections appearing on a good portion of the populations. Within a few years the fisheries were closed because the previously robust 150,000 ton biomass was reduced by an order of magnitude down to 15,000 or 20,000 tons! The herring fishery in the Sound has been closed for 15 of the 21 years since the spill. While the herring numbers started to increase in 1997 and limited fisheries took place in 1997 and 1998, the increase ended in 1999. The fisheries have been closed since then and there have been no observations of any significant increase in the stocks of herring.

The loss of such a key species and large biomass in the ecosystem had an immense impact biologically as well as commercially. The food web lost one of its primary food producers. The herring that were a basic food source for seabirds, seals, sea lions, whales and many other species of fish were quite suddenly almost entirely gone. Scientists are still struggling to understand the consequences and the entire chain of events. The subject remains a major priority of the joint state and federal research and restoration process funded by criminal settlement funds after the spill. Some researchers have begun work to determine if the herring biomass has been affected genetically in a permanent manner. Just this year, scientists have identified lesions and parasites on two-year old herring.

Multigenerational Financial Losses

Financial impacts from the loss of the herring fisheries have been multi-generation and multi-layered – from individuals up to entire communities. For my family, what all this led to was a significant multi-generational financial impact. My *father's* herring fishery was gone and his salmon seining fishery was impacted. *My* fishery was gone. My sons have had no opportunity to participate in this unique Alaskan way of life – a way of life that created a direct link to the ocean in much the same way that farming or ranching creates a direct link and bond with the land. My herring permit from the state of Alaska went from being worth \$100,000 to being worth nothing. My modest annual income from the fishery evaporated. Twenty-one years after the spill, there is no indication that this way of life is ever coming back. This income has been permanently lost. After three generations of participation in commercial fishing in Prince William Sound, my family no longer fishes commercially in any way.

Compensation (or not)

The class action lawsuit took place in 1994 before the herring fisheries had been closed for a significant period and it addressed only the initial years of financial losses from that timeframe, not those that fishermen and their families have experienced for the past two decades. The final compensation from the lawsuit did not provide enough compensation for herring fishermen to buy into other fisheries, such as salmon seining or gillnetting. Unfortunately, the lawsuit did not foresee that the herring biomass was gone, potentially forever, and that the fisheries would still not be taking place 21 years later. The end result has been a significant uncompensated loss for herring fisherman such as myself.

It has been 21 years and the financial compensation from the lawsuit has still not been fully paid out. Long-term “litigation stress” itself has been a significant additional strain on fishermen as documented by socio-economic researcher Steve Picou who found that the –

“adversarial litigation strategy utilized by Exxon became a secondary disaster that exacerbated and extended the chronic social and psychological impacts caused by the original oil spill.”

And this stress has only been compounded by the way in which the Supreme Court intervened and used esoteric commercial law from the 1800’s meant to deal with loss to pirates as a way to cut the jury award to a small fraction approximating one-tenth of the lower Court original award.

In the 21 years since the spill, a third of the 31,000 plaintiffs have passed away prior to the litigation’s final settlement . . . a third! Many of the plaintiffs who are lucky enough to still be alive have lost faith in a legal system that did not fairly compensate them and denied them justice for so long.

Community Effects

Communities themselves lost money that had gone directly into the city’s tax coffers from a raw fish tax gathered from herring processed in or near their communities. I have been told that my hometown of Cordova, where a significant portion of the herring was traditionally processed, has lost over \$20 million in raw fish tax revenues because of the lack of herring fisheries over the years since the spill. This amount does not include losses accrued from fishermen spending herring fishing revenues for supplies, repairs and reinvestments.

Sociologist Dr. Steve Picou found Cordova to be “...the sociological ‘ground zero’ for EVOS social impacts, a commercial fishing community that has a limited occupational structure. Commercial fishing is the primary economic activity and a wide variety of support occupations (e.g., net mending, vessel electronics, boat repair, and fish processing) provide a network of jobs that organizes the occupational structure.”

To give this some perspective, Cordova, Alaska is only accessible by boat or airplane – there are no roads linking the community to other areas. It is a remote town surrounded by mountains, glaciers, and water, where people’s lifestyles differ greatly from those on a road system. Fishing is one of the few ways people can earn a living to support their families. To people in Cordova and Prince William Sound fishing is part of their heritage, their identity - it gets into their blood - and to have that taken away was absolutely devastating to fishermen.

Besides fishing, the impact on the beauty and magnificence of this pristine environment was heartbreaking. I don’t know how many of you have had the opportunity to enjoy the beauty of Alaska, but if you have, you would know what I mean. To have millions of gallons of oil spilled and spread over this remote environment was disastrous, both ecologically and financially and personally, as well.

Prince William Sound Regional Citizens’ Advisory Council

In 1989, after working on the wildlife rescue process for a couple of weeks, we pretty much had done what we could with the oiled animals in our area. So, I went on to my other work with a small fishermen’s association and also participated in the groundswell of citizen lobbying for legal and regulatory reform.

In 1990, I found employment in a newly formed citizens’ organization, the Prince William Sound Regional Citizens’ Advisory Council (PWSRCAC), authorized by Congress in the Oil Pollution Act of 1990. This oversight panel was established to combat complacency and give local citizens a voice in the operation of the oil industry that had put local fisheries and livelihoods at risk. I’ve worked with the Council for over 20 years because the mission of the organization is so important and I never want to see anything like the EVOS happen in Alaska again. I have the opportunity to truly make a difference.

Since joining the Council, I have worked in a variety of positions in an effort to help the Council ensure that the best possible prevention and response capabilities, and the best scientific, technological, and socio-economic processes, are used to provide for the protection of the coastal natural resources that the people of the region depend upon for their food and livelihoods.

As a senior project manager, I manage the day-to-day operation and budget of several key PWSRCAC projects. I work with board members and volunteers on committees and project teams and represent the council in working groups and other forums focused more recently on scientific research. In the past, I also focused on the areas of spill prevention and response issues such as regulation development, contingency planning, oil spill drills and response, and response technology. One key project that I led resulted in the contractual use of fishermen and their fishing vessels by the oil industry response organization. I have worked extensively on projects involving oversight and understanding of the implementation of Oil Pollution Act of 1990 and of the state of Alaska’s legal and regulatory framework for spill prevention and response.

Socio-economic Impacts of the Exxon Valdez Oil Spill, Lessons Learned and Techniques for Coping with Technological Disasters

The socio-economic effects of the Exxon Valdez Oil Spill have been very well documented by researchers such as Dr. Steve Picou. Immediately following the spill he found a “general pattern of social disruption” for Cordova residents. Picou states:

“For example in 1989, Cordova residents reported: 38 percent had family relations disrupted, 52 percent had changed their plans for the future, 68 percent reported work changes, and 96 percent stated that their community had changed. Furthermore, extremely high levels of spill-related psychological stress were observed. In 1989 and 1990, mean IES stress levels for commercial fishermen were moderate to severe, indicating clinical levels of impairment.”

“Four years after the EVOS, sociological research clearly documented that commercial fishermen and Alaska Natives were the two groups who were at high risk for chronic social and psychological impacts.”

Picou further reported that “Commercial fishermen who had experienced ‘income loss spirals’ following EVOS manifested increased ‘symptoms of depression, anxiety, and PTSD.’” These patterns continued to be documented in some form up to the present day through on-going survey methods. They were further exacerbated by the “litigation stress” I discussed earlier.

A significant resource developed by the council after the Exxon Valdez Oil Spill to help address socio-economic impacts and stresses is its “Coping with Technological Disaster Guidebook” and its companion “Peer Listener Training Program.”¹ A team of council volunteers, staff and contractors worked together for over two years to develop this very detailed document that provides lessons learned by individuals, families, businesses and communities as a result of the impacts of the Exxon Valdez Oil Spill. Dr. Picou was the technical expert for the team. The lessons learned in the Guidebook are combined with advice on potential problems and how to deal with them. The Peer Listener Training Program component of the Guidebook is designed to directly address the socio-economic and mental health stresses of a technological disaster through community education, peer to peer counseling, and improved relations.

There is a marked difference between communities that suffer *natural* disasters and those who go through *technological* disasters. While communities usually work together to bounce back from a natural disaster, communities going through a disaster that has a responsible party have a harder time. Technological disasters and the associated stresses from them can create corrosive communities that lose their sense of connection and experience increases in divisiveness, alcohol and drug use, domestic violence and even suicide. Our Peer Listener Training Program is a tool that can help people listen to a peer

¹ The PWSRCAC’s “Coping with Technological Disasters Guidebook,” its appendices, and the “Peer Listener Training Program” can be found at <http://pwsrcac.info/community-impacts/>.

and begin to understand and deal with the stresses that are taking place as a result of a technological disaster.

As an example, the Guidebook says businesses can expect to lose employees to better paying jobs related to the cleanup, cities may need to hire people to deal strictly with spill-related issues, families may experience separations due to oil-related jobs and government offices may be swamped with requests for information. The Peer Listener Training Program was designed to help people deal with these very real stresses and strains.

Recently, in May of 2010, I traveled to the Gulf Coast region at the request of the Mississippi-Louisiana Sea Grant Consortium to meet with local residents and to share with them lessons learned from the *Exxon Valdez* Oil Spill. To see the major oil spill in the Gulf Coast has been very upsetting to us in Alaska having lived through a similar spill ourselves. Our hearts go out to the people down there affected by that massive oil spill. We can relate to their unfortunate losses and the uncertainty of not knowing what the future holds.

We have been able to work with Dr. Picou, the Mississippi-Louisiana Sea Grant Consortium and others to help make available the Peer Listener Training Program to those in the Gulf who may benefit from it. We have also made available copies of the "Coping With Technological Disasters Guidebook" to people in the Gulf region who have requested it. It is our genuine hope that some of the hard lessons learned by people in the Exxon Valdez oil spill region can be helpful to those who have been harmed from the impacts of the BP Deepwater Horizon Spill.

Ms. Chairman, I have brought a copy of a book entitled, "The Spill: Personal Stories from the *Exxon Valdez* Disaster" for the committee's hearing record if you would like. This book contains the remarkable recollections of 65 people closely involved in the spill in a variety of ways. For each, the spill was a transforming event. The hope of those of us who lived through the Exxon Valdez oil spill is that no one else would have to suffer through such an ordeal. It is very painful for us to bear witness to what is now being repeated in the Gulf of Mexico. We are hopeful that Congress will do for the Gulf what it did for the people, the marine life and resources of the waters of Prince William Sound as well as for the safe transport of oil through Alaska waters when it authorized the Prince William Sound Regional Citizens' Advisory Council. That action was the most effective step that Congress could have taken to help prevent another devastating oil spill such as the Exxon Valdez oil spill in those waters in the future.

In closing, thank you for the opportunity to tell some of my story, which is but one of thousands. As a victim of the Exxon Valdez Oil Spill, I have suffered not only significant financial losses, but the loss of a way of life. Unfortunately, many others have experienced considerable, and in some cases, more losses than my family and I did.

I have tried to use these experiences to help make a difference, working to ensure that such a spill will never impact Prince William Sound again through the work of the

Prince William Sound Regional Citizens' Advisory Council. From that work and experience, we have developed a body of knowledge that we believe can help those in the Gulf living through the Gulf oil spill cope with and address effectively the unfortunate realities and stresses of the current oil spill and its aftermath, as well as any future spills or similar national disasters.