

§ 1474b. Natural Resource Damage Assessment and Restoration Fund; availability of assessments

Notwithstanding any other provision of law, in fiscal year 1991 and thereafter, sums provided by any party, including sums provided in advance or as a reimbursement for natural resource damage assessments, may be credited to this appropriation and shall remain available until expended.

(Pub. L. 102-154, title I, Nov. 13, 1991, 105 Stat. 994.)

REFERENCES IN TEXT

This appropriation, referred to in text, probably means appropriations under the heading "NATURAL RESOURCE DAMAGE ASSESSMENT AND RESTORATION FUND" of the annual Department of the Interior and Related Agencies Appropriations Act.

INVESTMENT OF EXXON VALDEZ OIL SPILL COURT RECOVERY IN HIGH YIELD INVESTMENTS AND IN MARINE RESEARCH

Pub. L. 106-113, div. B, §1000(a)(3) [title III, §350], Nov. 29, 1999, 113 Stat. 1535, 1501A-207, provided that:

"(1) Notwithstanding any other provision of law and subject to the provisions of paragraphs (5) and (7), upon the joint motion of the United States and the State of Alaska and the issuance of an appropriate order by the United States District Court for the District of Alaska, the joint trust funds, or any portion thereof, including any interest accrued thereon, previously received or to be received by the United States and the State of Alaska pursuant to the Agreement and Consent Decree issued in *United States v. Exxon Corporation, et al.* (No. A91-082 CIV) and *State of Alaska v. Exxon Corporation, et al.* (No. A91-083 CIV) (hereafter referred to as the 'Consent Decree'), may be deposited in—

"(A) the Natural Resource Damage Assessment and Restoration Fund (hereafter referred to as the 'Fund') established in title I of the Department of the Interior and Related Agencies Appropriations Act, 1992 (Public Law 102-154; 43 U.S.C. 1474b);

"(B) accounts outside the United States Treasury (hereafter referred to as 'outside accounts'); or

"(C) both.

Any funds deposited in an outside account may be invested only in income-producing obligations and other instruments or securities that have been determined unanimously by the Federal and State natural resource trustees for the Exxon Valdez oil spill ('trustees') to have a high degree of reliability and security.

"(2) Joint trust funds deposited in the Fund or an outside account that have been approved unanimously by the Trustees for expenditure by or through a State or Federal agency shall be transferred promptly from the Fund or the outside account to the State of Alaska or United States upon the joint request of the governments.

"(3) The transfer of joint trust funds outside the Court Registry shall not affect the supervisory jurisdiction of the district court under the Consent Decree or the Memorandum of Agreement and Consent Decree in *United States v. State of Alaska* (No. A91-081-CIV) over all expenditures of the joint trust funds.

"(4) Nothing herein shall affect the requirement of section 207 of the dire emergency supplemental appropriations and transfers for relief from the effects of natural disasters, for other urgent needs, and for the incremental cost of 'Operation Desert Shield/Desert Storm' Act of 1992 (Public Law 102-229; 42 U.S.C. 1474b note [43 U.S.C. 1474b note]) that amounts received by the United States and designated by the trustees for the expenditure by or through a Federal agency must be deposited into the Fund.

"(5) All remaining settlement funds are eligible for the investment authority granted under this section so

long as they are managed and allocated consistent with the Resolution of the Trustees adopted March 1, 1999, concerning the Restoration Reserve, as follows:

"(A) \$55 million of the funds remaining on October 1, 2002, and the associated earnings thereafter shall be managed and allocated for habitat protection programs including small parcel habitat acquisitions. Such sums shall be reduced by—

"(i) the amount of any payments made after the date of enactment of this Act [Nov. 29, 1999] from the Joint Trust Funds pursuant to an agreement between the Trustee Council and Koniag, Inc., which includes those lands which are presently subject to the Koniag Non-Development Easement, including, but not limited to, the continuation or modification of such Easement; and

"(ii) payments in excess of \$6.32 million for any habitat acquisition or protection from the joint trust funds after the date of enactment of this Act and prior to October 1, 2002, other than payments for which the Council is currently obligated through purchase agreements with the Kodiak Island Borough, Afognak Joint Venture and the Eyak Corporation.

"(B) All other funds remaining on October 1, 2002, and the associated earnings shall be used to fund a program, consisting of—

"(i) marine research, including applied fisheries research;

"(ii) monitoring; and

"(iii) restoration, other than habitat acquisition, which may include community and economic restoration projects and facilities (including projects proposed by the communities of the EVOS Region or the fishing industry), consistent with the Consent Decree.

"(6) The Federal trustees and the State trustees, to the extent authorized by State law, are authorized to issue grants as needed to implement this program.

"(7) The authority provided in this section shall expire on September 30, 2002, unless by September 30, 2001, the Trustees have submitted to the Congress a report recommending a structure the Trustees believe would be most effective and appropriate for the administration and expenditure of remaining funds and interest received. Upon the expiration of the authorities granted in this section all monies in the Fund or outside accounts shall be returned to the Court Registry or other account permitted by law."

DEPOSIT OF FUNDS FROM SETTLEMENT OF LITIGATION

Pub. L. 102-229, title II, §207, Dec. 12, 1991, 105 Stat. 1715, provided that: "Notwithstanding any other provision of law, amounts received by the United States for restitution and future restoration (including replacement or acquisition of equivalent natural resources) in settlement of *United States v. Exxon Corporation and Exxon Shipping Company* (Case No. A90-015-1CR and 2CR), hereinafter the Plea Agreement, *United States v. Exxon Corporation et al.* (Civil No. A91-082 CIV) and *State of Alaska v. Exxon Corporation et al.* (Civil No. A91-083 CIV), hereinafter referred to together as the Agreement and Consent Decree, as approved by the United States District Court for the District of Alaska on October 8, 1991, in fiscal year 1992 and thereafter shall be deposited into the Natural Resource Damage Assessment and Restoration Fund established by Public Law 102-154 [105 Stat. 994]. Such amounts, and the interest accruing thereon, shall be available to the Federal Trustees identified in the Agreement and Consent Decree for necessary expenses for assessment and restoration of areas affected by the discharge of oil from the T/V EXXON VALDEZ on March 23-24, 1989, for fiscal year 1992 and thereafter in accordance with the Plea Agreement and the Agreement and Consent Decree: *Provided*, That such amounts (and accrued interest) shall remain available until expended: *Provided further*, That such amounts may be transferred to any account, as authorized by section 311(f)(5) of the Federal Water Pollution Control Act (33 U.S.C. 1321(f)(5)), to

carry out the provisions of the Plea Agreement and the Agreement and Consent Decree: *Provided further*, That herein and hereafter any amounts deposited into the Natural Resource Damage Assessment and Restoration Fund shall be invested by the Secretary of the Treasury in interest bearing obligations of the United States to the extent such amounts are not, in his judgment, required to meet current withdrawals: *Provided further*, That interest earned by such investments shall be available for obligation without further appropriation: *Provided further*, That, for fiscal year 1992, the Federal Trustees shall provide written notification of the proposed transfer of such amounts to the Appropriations Committees of the House of Representatives and the Senate thirty days prior to the actual transfer of such amounts: *Provided further*, That, for fiscal year 1993 and thereafter, the Federal Trustees shall submit in the President's Budget for each fiscal year the proposed use of such amounts."

§ 1474b-1. Transfer of funds from Natural Resource Damage Assessment and Restoration Fund

Notwithstanding any other provision of law, any amounts appropriated or credited in fiscal year 1992 and thereafter, may be transferred to any account, including transfers to Federal trustees and payments to non-Federal trustees, to carry out the provisions of negotiated legal settlements or other legal actions for restoration activities and to carry out the provisions of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended (42 U.S.C. 9601, et seq.), Federal Water Pollution Control Act, as amended (33 U.S.C. 1251, et seq.), the Oil Pollution Act of 1990 (Public Law 101-380) [33 U.S.C. 2701 et seq.], and subchapter II of chapter 1007 of title 54 for damage assessment activities: *Provided further*, That sums provided by any party heretofore and hereafter are not limited to monetary payments and may include stocks, bonds or other personal or real property, which may be retained, liquidated or otherwise disposed of by the Secretary and such sums, to remain available until expended, or properties shall be utilized for the restoration of injured resources, and to conduct new damage assessment activities.

(Pub. L. 103-138, title I, Nov. 11, 1993, 107 Stat. 1383; Pub. L. 104-134, title I, §101(c) [title I], Apr. 26, 1996, 110 Stat. 1321-156, 1321-160; renumbered title I, Pub. L. 104-140, §1(a), May 2, 1996, 110 Stat. 1327; Pub. L. 105-83, title I, Nov. 14, 1997, 111 Stat. 1547; Pub. L. 113-287, §5(l)(4), Dec. 19, 2014, 128 Stat. 3271.)

REFERENCES IN TEXT

The Comprehensive Environmental Response, Compensation, and Liability Act, referred to in text, probably means the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, Pub. L. 96-510, Dec. 11, 1980, 94 Stat. 2767, as amended, which is classified principally to chapter 103 (§9601 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 9601 of Title 42 and Tables.

The Federal Water Pollution Control Act, referred to in text, is act June 30, 1948, ch. 758, as amended generally by Pub. L. 92-500, §2, Oct. 18, 1972, 86 Stat. 816, which is classified generally to chapter 26 (§1251 et seq.) of Title 33, Navigation and Navigable Waters. For complete classification of this Act to the Code, see Short Title note set out under section 1251 of Title 33 and Tables.

The Oil Pollution Act of 1990, referred to in text, is Pub. L. 101-380, Aug. 18, 1990, 104 Stat. 484, as amended, which is classified principally to chapter 40 (§2701 et seq.) of Title 33. For complete classification of this Act to the Code, see Short Title note set out under section 2701 of Title 33 and Tables.

CODIFICATION

Provisions of this section preceding the proviso are from title I of Pub. L. 103-138, as amended, and the proviso is from section 101(c) [title I] of Pub. L. 104-134, as amended.

PRIOR PROVISIONS

Provisions similar to those in this section were contained in the following prior appropriation acts:

Pub. L. 103-332, title I, Sept. 30, 1994, 108 Stat. 2503.
Pub. L. 103-138, title I, Nov. 11, 1993, 107 Stat. 1383.

AMENDMENTS

2014—Pub. L. 113-287, which directed that this section be "omitted" by substituting "subchapter II of chapter 1007 of title 54" for "the Act of July 27, 1990 (Public Law 101-337)", was executed by amending this section by making the substitution, to reflect the probable intent of Congress.

1997—Pub. L. 105-83 inserted ", including transfers to Federal trustees and payments to non-Federal trustees," after "account" and ", to remain available until expended," after "and such sums" and substituted "heretofore and hereafter" for "in fiscal year 1996 and thereafter".

§ 1474c. North American Wetlands Conservation Fund; availability of fines or forfeitures

In fiscal year 1992 and thereafter, amounts received during the immediately preceding fiscal year under section 707 of title 16 as penalties or fines or from forfeitures of property or collateral, to remain available until expended.

(Pub. L. 103-138, title I, Nov. 11, 1993, 107 Stat. 1384.)

PRIOR PROVISIONS

Provisions similar to those in this section were contained in the following prior appropriation acts:

Pub. L. 102-381, title I, Oct. 5, 1992, 106 Stat. 1381.
Pub. L. 102-154, title I, Nov. 13, 1991, 105 Stat. 995.

§ 1474d. Environmental Improvement and Restoration Fund

(a) Fund

One half of the amounts awarded by the Supreme Court to the United States in the case of *United States of America v. State of Alaska* (117 S.Ct. 1888) shall be deposited in a fund in the Treasury of the United States to be known as the "Environmental Improvement and Restoration Fund" (referred to in this section as the "Fund").

(b) Investments

(1) In general

The Secretary of the Treasury shall invest amounts in the Fund in interest bearing obligations of the United States.

(2) Acquisition of obligations

For the purpose of investments under paragraph (1), obligations may be acquired—

- (A) on original issue at the issue price; or
- (B) by purchase of outstanding obligations at the market price.