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Citizens promoting the environmentally safe operation of the Alyeska terminal and associated tankers.

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September 9, 2021

Senator Josh Revak
State Capitol Building
Juneau, AK. 99810

SUBJECT: Support for Section 2 of SB 3002

Dear Senator Revak:

The Prince William Sound Regional Citizens' Advisory Council (PWSRCAC) is an independent nonprofit corporation whose mission is to promote the environmentally safe operation of the Valdez Marine Terminal and associated tankers. Our work is guided by the Oil Pollution Act of 1990 (OPA 90) and our contract with the Alyeska Pipeline Service Company. PWSRCAC's 18 member organizations are communities in the region affected by the 1989 Exxon Valdez oil spill, as well as commercial fishing, aquaculture, Alaska Native, recreation, tourism, and environmental groups.

PWSRCAC strongly supports section 2 of SB 3002, the amendment that increases the refined fuel tax that will support the Spill Prevention and Response (SPAR) Division of ADEC. PWSRCAC has not taken a position on other aspects of SB 3002 that fall outside of the organization's mission and mandate.

The SPAR operating budget is designed to be self-sustaining and not dependent upon Undesignated General Fund (UGF) appropriations. The Division's operating funds come from a 4 cents per barrel surcharge on oil produced in Alaska, a .95 cents surcharge on refined fuel products, and a combination of penalties, cost recovery, and investment income. SPAR expenditures exceed revenues by over \$1 million per year and the SPAR account balance is projected to be in the red by FY 2025. The immediate budget deficits can be traced to decreased oil production and the fact that electric cooperatives and municipalities were determined to be exempt after the refined fuel surcharge was adopted in 2015.

The SPAR Division has absorbed the loss of 22 positions since 2015, with five of those eliminated in this year's FY 2022 Operating Budget. The cumulative impacts of these on-going staffing reductions have serious consequences that include high staff turnover, difficulty filling vacant positions, and the loss of institutional knowledge. The Division now must make difficult decisions about what to prioritize and how to do less with less while still meeting statutory responsibilities. While this is taking place, the workload has remained steady

and even increased in some areas. For example, SPAR presently has a caseload that includes 2,400 active contaminated sites.

SPAR does the critical work of observing exercises and enforcing the regulations that prevent oil spills, responding if a spill occurs, and protecting Alaska's economy, people, and environment. It is important to ensure that the Division has a budget and staffing levels that are adequate and sustainable enabling it to fulfill its statutory responsibilities. Increasing the surcharge on refined fuel products by a half cent would sustainably fund SPAR and be consistent with the intent of the Legislature when the surcharge was enacted in 2015.

For your reference, attached is the Council's legislative priority briefing sheet which speaks directly to the challenges within SPAR and the need to provide the revenue adjustment contained in SB 3002.

Please do not hesitate to contact us if you have any questions or desire more information.

Sincerely,



Donna Schantz
Executive Director



Robert Archibald
Board President

Enclosure: PWSRCAC Oil Haz Fund Legislative Briefing Sheet 2021



Prince William Sound Regional Citizens' Advisory Council

The Council is an independent nonprofit corporation guided by its mission: Citizens promoting the environmentally safe operation of the Alyeska terminal and associated tankers.

THE OIL AND HAZARDOUS SUBSTANCES RELEASE PREVENTION AND RESPONSE FUND IS UNSUSTAINABLE AND REVENUE ADJUSTMENTS ARE NECESSARY.

Problem Statement

Reduced revenue from several financing sources has resulted in a chronic and continuing revenue shortfall for the Oil and Hazardous Substances Release Prevention and Response Fund (Oil Haz Fund). This revenue shortfall diminishes the ability of the State to prevent oil spills and hazardous substance releases, maintain an adequate level of readiness, and adequately respond should a spill occur. The Oil Haz Fund is currently unsustainable and the problem cannot be fixed through budget cuts alone. The Legislature is encouraged to take proactive action by making financing adjustments that ensure the sustainability of the Oil Haz Fund.

Background on the Oil Haz Fund

The Oil Haz Fund was designed to be self-sustaining to ensure that the Department of Environmental Conservation (DEC) has adequate funds on hand for immediate response to oil spills and hazardous substance releases, and for maintaining an effective prevention program, without the need for annual General Fund appropriations. The Oil Haz Fund is comprised of two separate accounts with separate revenue streams: the Prevention Account and the Response Account.

The Prevention Account provides most of the operational funding for the DEC Spill Prevention and Response (SPAR) Division. It is funded by a 4 cents per barrel surcharge on crude oil produced in Alaska, which is paid by the producers; a .95 cent surcharge on refined fuel products, which is paid by dealers or users of refined fuels; and a combination of settlement penalties, cost recovery, and investment income.

Prevention Account expenses exceed total revenues by over \$1 million every year, with the balance projected to be depleted by FY 2025. Revenues have been less than originally expected for two main reasons. In 2015, when the surcharge on refined fuel was enacted, it was not anticipated that municipalities and electric cooperatives would be exempt. The second reason is that oil throughput in the pipeline has steadily decreased.

The Response Account is primarily funded by a 1 cent per barrel surcharge on crude oil produced in Alaska, paid by the producers. Settlement penalties, cost recovery, and investment income provide supplemental funding. The Response Account is generally used to respond in emergency situations to oil spills and hazardous substance releases. Again, due to decreased oil production, this account is declining.

In recent years, the Response Account has been used to respond to the release of hazardous substances in areas where it is uncertain if cost recovery will ever occur. For example, \$9.4 million has been appropriated to address Per-and Polyfluoroalkyl (PFAS) substance contamination at state airports and adjacent communities and \$17.6 million was spent to address the Wrangell junkyard contaminated site. In both situations the polluter has not paid, contributing to a continuing decline in the balance of the Response Account (currently \$31 million) along with Alaska's ability to respond adequately to a major oil spill or hazardous substance release.

Oil Haz Fund: Bottom Line

The lack of sustainable funding for the SPAR Division through the Prevention Account is a critical and immediate problem, and a declining balance in the Response Account creates greater risk to Alaska's ability to respond to an oil spill or hazardous substance release. The Oil Haz Fund is a critical program that is no longer being funded at levels necessary to sustain it.

Challenges within the SPAR Division

The SPAR Division has absorbed the elimination of 22 positions since 2015, including five positions that were cut from the Governor's FY 2022 Operating Budget. Four of the five most recent cuts were senior level positions. The elimination of positions, combined with a high personnel turnover rate due to budget instability and difficulty filling vacant positions, has serious consequences including stress and increased workload for the employees that remain and the loss of experience and institutional knowledge. The SPAR Division currently has a caseload that includes 2,400 active contaminated sites.

Additional oversight duties such as railroads, contaminated sites, and non-tank vessels have been added without corresponding budget increases. Over the years the types of spills the SPAR Division responds to have changed. Recently, the predominate types have been small spills from unregulated sources due to aging infrastructure and tank overfills.

The Division is beyond doing more with less and is now having to make difficult choices about how to do less with less and still meet its statutory responsibilities.

SPAR Division: Bottom Line

The State must be able to adequately engage in oil spill and hazardous substance release prevention activities and robustly respond if pollution occurs, which is critical to protecting the environment, economy, and health, safety, and welfare of Alaskans. It is imperative that the SPAR Division maintain the ability to carry out its responsibilities and that the future sustainability of the Prevention Account is ensured. This situation requires an immediate response by the Legislature.

Council Recommendations

Raise the .95 cent per gallon surcharge on refined fuel products to 1.5 cents as proposed in SB 3002. This amount will be sufficient to close the revenue gap for the Prevention Fund and meet the original Legislative intent when the surcharge was enacted.