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

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Cordova District Fishermen United

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Oil Spill Region Environmental Coalition

Port Graham Corporation

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May 1, 2023

The Honorable Cathy Giessel
Alaska State Senate
State Capitol Room 427
Juneau, Alaska 99801

SUBJECT: Support for SB 137 relating to the refined fuels surcharge

Dear Senator Giessel:

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 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 SB 137, "An Act Relating to the Refined Fuels Surcharge," that would increase the surcharge to support the Spill Prevention and Response (SPAR) Division of the Alaska Department of Environmental Conservation. Without legislative action, the identified funding sources for the SPAR Division will be inadequate in the coming years, seriously jeopardizing the ability to perform their responsibilities mandated in statutes and regulations.

The SPAR operating budget was designed to be self-sustaining and not dependent upon Undesignated General Fund (UGF) appropriations. SPAR's revenue has been steadily decreasing, while the cost of doing business has been increasing. The Division's original operating funds came from a per barrel surcharge on oil produced in Alaska and a combination of penalties, cost recovery, and investment income. This funding stream was augmented in 2015 by a .0095 cent surcharge on refined fuel products. The looming budget deficits can be traced to decreased oil production and the fact that the 2015 state legislation creating the refined fuels surcharge seriously overestimated the amount of funds that would be generated on a yearly basis.

The SPAR Division has undergone significant budget cuts since 2015 due to fiscal constraints, resulting in the loss of 23 positions. The cumulative impacts of these on-going staffing reductions have serious consequences including high staff turnover, difficulty filling vacant positions, and the loss of institutional knowledge. At the same time, the Division's workload has remained steady and even increased in some areas. For example, SPAR presently has a caseload that includes 2,400

active contaminated sites. The Division is beyond doing more with less and is now having to make difficult choices about how to do less with less while still meeting its statutory responsibilities.

To avert further diminishment of SPAR capabilities to prevent oil and hazardous substance releases and adequately respond should a major spill occur, unrestricted general fund (UGF) dollars were added to the FY2023 budget. While PWSRCAC appreciates the commitment of limited state general funds, the most current SPAR account balance projects the Division to still be in deficit by FY2029, or sooner if UGF is not made available in the coming years.

SPAR does the critical work of performing observation of exercises and enforcing regulations that prevent oil spills, providing response if a spill occurs, and protecting Alaska's economy, people, and environment. With the desire to increase oil production in Alaska, it is imperative 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 137.

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 SPAR Funding Legislative Briefing Sheet 2023



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 – www.pwsrcac.org.

LACK OF SUSTAINABLE FUNDING THREATENS STATE'S ABILITY TO PREVENT AND RESPOND TO OIL SPILLS.

Problem Statement

Without legislative action, the Spill Prevention and Response (SPAR) Division, within the Alaska Department of Environmental Conservation (ADEC), will not have the funds needed in the coming years to perform their responsibilities mandated in statutes and regulations.

Background

Following the Exxon Valdez oil spill, the Alaska Legislature established a recurring revenue stream to ensure the state would have adequate funds to promote prevention of, and be prepared to respond to, catastrophic spills of oil and hazardous substances – through the SPAR Division.

The Oil and Hazardous Substances Release Prevention and Response Fund (Oil Haz Fund) was designed to be self-sustaining without the need for annual General Fund appropriations. The Oil Haz Fund is comprised of two separate accounts: the Prevention Account and the Response Account. The Prevention Account provides a significant portion of the annual operational funding for the SPAR Division. The Response Account is generally used to respond in emergency situations to oil spills and hazardous substance releases across the State.

Initially, most of the state funds for SPAR were generated by a fee assessed on the volume of oil flowing in Trans Alaska Pipeline System (TAPS). However, as throughput in TAPS declined, additional revenue from a per gallon surcharge on refined fuels was added to ensure adequate funding.

The Office of Management and Budget FY2024 summary for the SPAR function, within the ADEC budget, succinctly identifies the problem with financial sustainability of the “prevention” revenue stream:

“The Prevention Account of the Oil and Hazardous Substance Release Prevention and Response Fund [Oil Haz Fund] is heading towards an imminent revenue shortfall. The Prevention Account is funded by a four-cent surcharge per/barrel of oil, which has taken a hit with declining oil production. In 2015, the Legislature passed a 0.95-cent surcharge on refined fuel, intended to maintain the Prevention Account. Collections of the refined fuel surcharge fell short of the estimates provided by the Department of Revenue, and it is bringing in roughly \$1 million less on an annual basis than what was anticipated. To avoid significant operational

impacts, the shortfall must be addressed by increasing revenue and/or reducing positions and as a result services and response capability within Alaska. Revenue from an adjustment to either surcharge would not be available until one year out from passage, so measures to fill the gap in the near term may also be necessary.”

As a result of the annual shortfall in the intended funding mechanisms and to avoid program collapse, the reduced SPAR function now requires an annual infusion of unpredictable General Fund dollars and a drawdown from the limited SPAR fund balance.

The Prince William Sound Regional Citizens’ Advisory Council (PWSRCAC or Council) has advocated for an adjustment to the refined fuels surcharge to bring that identified funding stream more closely in line with the projected estimate relied on in 2015 when the surcharge was established.

Since 2015, 23 positions have been eliminated from the SPAR Division due to budget reductions. Uncertainty stemming from the reduced program funding has triggered high personnel turnover, difficulty filling vacant positions, and the loss of experience and institutional knowledge. At the same time, the workload and areas of responsibility have increased for the remaining staff. The Division is beyond doing more with less and is now having to make difficult choices about how to do less with less while still meeting its statutory responsibilities.

State Oil Spill Prevention and Response: Bottom Line

The SPAR function within ADEC is a critical program that is no longer self-sustaining, as was originally intended by the Legislature. Without vigilance on this matter, the passage of time will dim the memories and lessons learned from the Exxon Valdez disaster. Action must be taken to prevent the complacency that led to that spill and keep the state from slipping into a situation of unpreparedness once again.

The State must be able to adequately engage in oil spill and hazardous substance release prevention activities and be able to robustly respond if pollution occurs. The lack of sustainable funding for the SPAR Division through the Prevention Account is a critical and immediate problem.

PWSRCAC is continuing to request that the state enact legislation to resolve the projected revenue shortfall in order to secure a certain and sustainable funding stream for the important ADEC Spill Prevention and Response functions. These functions are critical to protecting the environment, economy, and health, safety, and welfare of Alaskans. The Council is providing this briefing as we anticipate the possibility of requesting our member entities support that effort in the coming year, likely prior to the 2024 session.