

**ALASKA STATE LEGISLATURE
SENATE RESOURCES STANDING COMMITTEE**

May 5, 2023

3:30 p.m.

MEMBERS PRESENT

Senator Click Bishop, Co-Chair
Senator Cathy Giessel, Co-Chair
Senator Bill Wielechowski, Vice Chair
Senator Scott Kawasaki
Senator James Kaufman
Senator Forrest Dunbar
Senator Matt Claman

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

SENATE BILL NO. 68

"An Act relating to public notice for a sale, appropriation, or removal of water, or for filing a declaration of a right of water; and providing for an effective date."

- MOVED CSSB 68(RES) OUT OF COMMITTEE

SENATE BILL NO. 137

"An Act relating to the refined fuel surcharge; and providing for an effective date."

- HEARD & HELD

CS FOR HOUSE BILL NO. 104(RES) am

"An Act relating to salvage sales of timber, negotiated timber sales for local manufacture of wood products, and expedited timber sales; and providing for an effective date."

- SCHEDULED BUT NOT HEARD

PREVIOUS COMMITTEE ACTION

BILL: SB 68

SHORT TITLE: PUBLIC NOTICE FOR WATER RIGHTS

SPONSOR(S): SENATOR(S) GIESSEL

02/10/23 (S) READ THE FIRST TIME - REFERRALS
02/10/23 (S) RES
03/15/23 (S) RES AT 3:30 PM BUTROVICH 205
03/15/23 (S) Heard & Held
03/15/23 (S) MINUTE(RES)
03/24/23 (S) RES AT 3:30 PM BUTROVICH 205
03/24/23 (S) <Bill Hearing Canceled>
04/19/23 (S) RES AT 3:30 PM BUTROVICH 205
04/19/23 (S) Heard & Held
04/19/23 (S) MINUTE(RES)
04/21/23 (S) RES AT 3:30 PM BUTROVICH 205
04/21/23 (S) Heard & Held
04/21/23 (S) MINUTE(RES)
04/26/23 (S) RES AT 3:30 PM BUTROVICH 205
04/26/23 (S) -- MEETING CANCELED --
05/01/23 (S) RES AT 3:30 PM BUTROVICH 205
05/01/23 (S) Scheduled but Not Heard
05/05/23 (S) RES AT 3:30 PM BUTROVICH 205

BILL: SB 137

SHORT TITLE: REFINED FUEL SURCHARGE
SPONSOR(s): SENATOR(s) GIESSEL

04/24/23 (S) READ THE FIRST TIME - REFERRALS
04/24/23 (S) RES, FIN
05/05/23 (S) RES AT 3:30 PM BUTROVICH 205

WITNESS REGISTER

JULIA O'CONNOR, Staff
Senator Cathy Giessel
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Presented the changes from version U to version D for SB 68.

TIFFANY LARSON, Director
Division of Spill Prevention & Response
Department of Environmental Conservation (DEC)
Fairbanks, Alaska

POSITION STATEMENT: Answered questions and provided information during the initial hearing on SB 137.

DONNA SCHANTZ, Executive Director
Prince William Sound Regional Citizens Advisory Council
Valdez, Alaska

POSITION STATEMENT: Provided invited testimony in strong support of SB 137.

BRANDON SPANOS, Deputy Director
Tax Division
Department of Revenue
Anchorage, Alaska

POSITION STATEMENT: Responded to a question during the hearing on SB 137.

JASON WERNER, CFO
Petro Marine Services
Anchorage, Alaska

POSITION STATEMENT: During the hearing on SB 137, requested a wording change in the current fuel surcharge exemption.

ACTION NARRATIVE

[3:30:46 PM](#)

CO-CHAIR CLICK BISHOP called the Senate Resources Standing Committee meeting to order at 3:30 p.m. Present at the call to order were Senators Wielechowski, Claman, Kawasaki, Co-Chair Giessel, and Co-Chair Bishop. Senators Kaufman and Dunbar arrived soon thereafter.

SB 68-PUBLIC NOTICE FOR WATER RIGHTS

[3:31:41 PM](#)

CO-CHAIR BISHOP announced the consideration of SENATE BILL NO. 68 "An Act relating to public notice for a sale, appropriation, or removal of water, or for filing a declaration of a right of water; and providing for an effective date."

He solicited a motion to adopt the proposed committee substitute (CS).

[3:31:45 PM](#)

CO-CHAIR GIESSEL moved to adopt the committee substitute (CS) for SB 68, work order 33-LS0412\D, as the working document.

[3:31:58 PM](#)

CO-CHAIR BISHOP objected for purposes of discussion. He invited the sponsor's staff to present the changes in the CS.

[3:32:11 PM](#)

SENATOR KAUFMAN joined the committee.

[3:32:14 PM](#)

JULIA O'CONNOR, Staff, Senator Cathy Giessel, Alaska State Legislature, Juneau, Alaska. presented the changes from version U to version D for SB 68. She

1. Section 1, page 2, lines 6-8:
 - a. Amends the public notice requirements for recreational facility development to be via the Alaska Online Public Notice System but may also be published in a newspaper at the judgement of the commissioner.

2. Section 2, page 2, lines 16-18:
 - a. Amends the public notice requirements for solicitation of proposals for leasing land for recreational facility development to be via the Alaska Online Public Notice System but may also be published in a newspaper at the judgement of the commissioner.

3. Section 3, page 2, line 29 to page 3, line 1:
 - a. Amends public notice requirements for the recording of the location and a mineral lease to be via the Alaska Online Public Notice System but may also be published in a newspaper at the judgement of the commissioner.

4. Section 4, page 3, line 26 to page 5, line 1:
 - a. Amends public notice requirements for public comment period to be via the Alaska Online Public Notice System but may also be published in a newspaper at the judgement of the commissioner.

5. Section 11, page 8, lines 5-8:
 - a. Amends public notice requirements for waters rights to be via the Alaska Online Public Notice System but may also be published in a newspaper at the judgement of the commissioner.

6. Section 12, page 8, lines 15-17:
 - a. Amends public notice requirements for the sale, appropriation, or removal of water to be via the Alaska Online Public Notice

System but may also be published in a newspaper at the judgement of the commissioner.

[3:32:55 PM](#)

CO-CHAIR BISHOP removed his objection. Finding no further objection or questions, he solicited a motion.

[3:33:00 PM](#)

CO-CHAIR GIESSEL moved to report the CS for SB 68, work order 33-LS0412\D, from committee with individual recommendations and attached fiscal note(s).

[3:33:14 PM](#)

CO-CHAIR BISHOP found no objection and CSSB 68(RES) was reported from the Senate Resources Standing Committee.

[3:33:20 PM](#)

At ease

SB 137-REFINED FUEL SURCHARGE

[3:35:15 PM](#)

CO-CHAIR BISHOP reconvened the meeting and announced the consideration of SENATE BILL NO. 137 "An Act relating to the refined fuel surcharge; and providing for an effective date."

He invited the sponsor to introduce the legislation.

[3:35:25 PM](#)

CO-CHAIR GIESSEL introduced SB 137 speaking to the sponsor statement.

In 1990, the Alaska State Legislature passed the Oil and Hazardous Substance Release Prevention and Response Act, which established the Department of Environmental Conservation's Spill, Prevention, and Response (SPAR) division. The Act requires the oil and gas industry operating in Alaska to pay a tax on oil and gas production to fund the program's spill prevention and response activities.

SPAR is responsible for developing and enforcing regulations related to the prevention, preparedness, and response to oil spills and other hazardous substance releases in Alaska's waters. The program also provides training and technical assistance to

local communities, businesses, and agencies to help them prepare for and respond to spills.

SPAR has two primary funding accounts: the Prevention Account and the Response Account. The funds from the Response Account are used to respond to spills or threats of spills that pose an imminent and substantial threat. The Prevention Account is used to respond, contain, clean up, and monitor spills; address existing contamination; and pay for the operating costs of the division. Unfortunately, the Prevention Account has a revenue shortfall.

The Prevention Account is funded by \$0.04 per barrel of crude oil produced and \$0.0095 per gallon of refined fuel. The refined fuel surcharge was implemented in 2015 but since then the annual expenditures exceed the annual revenue. The balance has been decreasing for years and its solvency has been extended by the addition of General Funds. Currently, the Prevention Account is projected to run a deficit.

In hopes of keeping the Prevention Account solvent, SB 137 would increase the refined fuel surcharge from \$0.0095 to \$0.015. Keeping the account solvent will help SPAR's ability to carry out its mission of protecting Alaska's waters from oil spills and other hazardous substance releases. SPAR plays a critical role in ensuring that the state's oil and gas industry operates safely and responsibly.

CO-CHAIR BISHOP asked if there were questions.

[3:38:50 PM](#)

SENATOR KAWASAKI asked how successful the department had been in recouping the costs associated with cleaning up spills.

SENATOR DUNBAR joined the committee.

[3:39:46 PM](#)

TIFFANY LARSON, Director, Spill Prevention & Response, DEC, Fairbanks, Alaska, stated that the department recovered about 85 percent of the costs incurred last year to clean up spills. She noted that this information was in the department's annual report to the legislature and was on the DEC website.

SENATOR KAWASAKI asked if the money that's recouped goes back to the general fund.

MS. LARSON directed attention to the chart in the bill packets that shows that revenue relating to spill prevention and response goes into the general fund (GF), passes to the oil and hazardous substance release prevention and response fund, and is then distributed to DEC operating appropriations.

SENATOR KAWASAKI asked whether the 85 percent cost recovery was net revenue.

MS. LARSON responded that the legal and other associated costs of a spill cleanup are also recoverable. She acknowledged that the department typically does not recover all the costs associated with a spill. It depends on who is responsible for the spill, but private citizens typically do not have as many liquid funds as large industries.

CO-CHAIR BISHOP asked Ms. Larson if she had anything to add as an invited testifier.

[3:43:00 PM](#)

MS. LARSON again directed attention to the chart, "How the Oil and Hazardous Substance Release Prevention and Response Fund Works" and mentioned that the red boxes represent the response account which is generally for emergency responses. The green boxes represent the prevention account, which provides 70 percent of SPAR's operating budget. She agreed with the sponsor that declining oil production has resulted in less revenue from the \$0.04/barrel surcharge. The \$0.0095/gallon refined fuel surcharge brings in about \$1 million, which is less than was anticipated. She noted that there were other miscellaneous fund sources.

MS. LARSON explained the salient reason for increasing the refined fuel surcharge from \$0.0095 to \$0.015 is that the majority of spills and contaminated sites requiring long-term monitoring are associated with refined fuels. These fuels represent 70-75 percent of the total oil and hazardous substances released in the calendar years 2021 and 2022.

[3:45:00 PM](#)

SENATOR WIELECHOWSKI recalled that in 2015 when an increase was proposed to the per barrel tax, the oil industry said taxes deter investment and that the oil tax reform that passed the previous year provided the opportunity for Alaska to realize

more oil production than ever before. The legislature responded by passing the tax on to the people of Alaska in the form of increased gas taxes. He said the prediction of increased production hasn't happened and he wonders why the legislature shouldn't increase the per barrel surcharge to the oil industry.

MS. LARSON said that's a policy call for the legislature. She added that the refined fuel surcharge collects the spiller fee at the point of sale.

CO-CHAIR BISHOP talked about his experience with midnight dumpers and then posed a hypothetical example of somebody spilling 20 gallons of fuel when they're filling their vehicle. The spill wasn't noticed immediately so nobody knew the identity of the responsible party. He asked whether SPAR would use funds from the emergency response account to pay for the cleanup.

MS. LARSON replied that every attempt is made to identify the responsible party and recover the costs. In Alaska that includes not just the person who spilled the fuel but also the person who owns the land where the spill occurred and the owner of a business where the spill occurred. If this fails and the spill poses an imminent risk to human health and the environment, that is the threshold for accessing the emergency response account.

[3:49:18 PM](#)

SENATOR KAWASAKI asked if she was familiar with the sulfolane spill in Fairbanks on property formerly owned by Williams Alaska Petroleum, Inc.

MS. LARSON said yes, she lives in Fairbanks.

SENATOR KAWASAKI asked who eventually paid for that response.

MS. LARSON replied that it was Flint Hills that paid, but the department was awaiting the Alaska Supreme Court decision for the ultimate disposition of funding.

[3:50:20 PM](#)

CO-CHAIR GIESSEL described a former homestead in Anchorage that had buried fuel tanks that leaked. The property owner was deceased. She asked whether the emergency response fund would have been used for that cleanup.

MS. LARSON said yes; the state picks up the cost when the responsible party can't be found. That's the reason for taking the fee at the point of sale.

CO-CHAIR BISHOP invited Donna Schantz to provide her testimony.

[3:51:57 PM](#)

DONNA SCHANTZ, Executive Director, Prince William Sound Regional Citizens Advisory Council, Valdez, Alaska, stated that the council is a nonprofit that was created following the Exxon Valdez oil spill. It has a congressional mandate to involve citizens in decisions that impact the safe transportation and storage of oil at the Valdez terminal and onto the tankers that call there. She stated strong support for increasing the refined fuel surcharge as proposed in SB 137. She said this additional revenue is necessary to close the revenue gap. The reduced revenue that has been discussed has resulted in a continued shortfall within the prevention account within the oil hazardous and substance release prevention and response fund. This greatly diminishes the ability of the state to prevent oil spills and hazardous substance releases, maintain adequate readiness, and respond rapidly should a spill occur. The Council believes the division is beyond doing more with less; it has had to make difficult choices about how to do less with less and continue to meet its statutory responsibilities. She emphasized the importance of being able to adequately engage in prevention and response activities to protect the environment, economy, and the health safety and well-being of Alaskans. Without legislative action, the existing funding sources will remain inadequate to maintain preparedness. The state cannot afford to further diminish the important mission of preventing another Exxon Valdez type of oil spill disaster. She clarified that the Council receives no funds from the prevention account. Their support for SB 137 is solely to ensure that SPAR has access to adequate financial resources.

[3:54:54 PM](#)

CO-CHAIR GIESSEL asked her to comment on the report on the Alyeska facility in Valdez that highlighted potential risks at the facility.

MS. SCHANTZ said the Council commissioned that report. She continued that the refined fuel surcharge funds the SPAR division, which is the agency primarily responsible for overseeing oil spill prevention measures for the Trans Alaska Pipeline and the Valdez Marine Terminal. She described the plans for the facility as the most complex in the state, and said the increase in the refined fuel charge will help ensure that the state is fit, willing, and able to oversee that facility.

CO-CHAIR GIESSEL offered her understanding that Alyeska would be responsible for an uncontained leak at the Valdez terminal but the SPAR fund would provide resources for an immediate and perhaps ongoing response. She asked if that was an accurate portrayal.

MS. SCHANTZ said that's correct; the SPAR division requires resources to maintain preparedness to respond rapidly when there's a need. Recovering those costs comes later.

CO-CHAIR BISHOP referenced the hypothetical spill at the Valdez tank farm and clarified that by having adequate funds, DEC will have the manpower and expertise to hopefully eliminate problems on the front end so you don't get to problems on the back end.

MS. SCHANTZ responded that SB 137 increases revenue for the prevention account. The goal is to prevent accidents from happening, but it's necessary to have an adequate response mechanism in case the prevention measures fail.

CO-CHAIR BISHOP agreed; prevention and emergency response are both needed.

[3:58:56 PM](#)

SENATOR DUNBAR referenced Senator Wielechowski's point about prevention and response and said he wonders whether it might be beneficial to increase both the refined fuel surcharge and the per barrel surcharge. He said it seems that the majority of the expense for prevention is more directly attributable to the efforts in Prince William Sound or other places that have oil industry infrastructure. He asked if that was correct.

CO-CHAIR BISHOP suggested the director of the SPAR division respond.

MS. LARSON responded that the prevention account funds 70 percent of the operational costs of the entire division, which is comprised of administrative staff, contaminated site staff, and prevention preparedness and response staff. The activities include all the oversight required for successful prevention activities in the state, attending drills, visiting contaminated sites, assessing sites, and cooperating with the responsible parties to figure out the best way to help them solve the issue. She said most of the response and response funding is the red side of the chart and the bill is generally about funding the prevention account which is the green side of the chart.

SENATOR DUNBAR asked if there has been any growth in the costs for the traditional prevention activities that are closely related to the pipeline and activities on the North Slope, particularly Prince William Sound and the Valdez terminal,

MS. LARSON said she didn't know whether there had been growth in those costs but recovery is generally high from the oil industry. She noted that her phone a friend lifeline just texted that cost recovery for crude oil last year was 99 percent.

[4:02:49 PM](#)

SENATOR WIELECHOWSKI referenced the 2015 Alaska Oil and Gas Conservation Commission (AOGCC) position paper in the bill packet that shows that 29 percent of the spill volume was from oil and gas exploration and production and 33 percent was from all other facilities. He asked what was included in "other facilities" and whether she had an updated breakdown of spill volume by facility.

MS. LARSON said she'd be happy to provide that information.

CO-CHAIR BISHOP asked her to send the information to the committee and he'd see that it was distributed. He continued that he'd like to invite her back next year to give a comprehensive overview of what SPAR does in different scenarios.

SENATOR WIELECHOWSKI said his reading of the fiscal note is that the bill will generate \$3.6 million. He asked how much the per-barrel surcharge would need to be increased to generate a similar amount.

[4:04:54 PM](#)

BRANDON SPANOS, Deputy Director, Tax Division, Department of Revenue, Anchorage, Alaska, stated that he would do that analysis and provide the information to the committee.

CO-CHAIR BISHOP asked him to send the information to the committee and he'd distribute it.

[4:05:24 PM](#)

CO-CHAIR BISHOP opened public testimony on SB 137.

[4:05:41 PM](#)

JASON WERNER, CFO, Petro Marine Services, Anchorage, Alaska, stated that Petro Marine has no position on the increase to the refined fuel tax proposed in SB 137, but he wanted to call attention to the wording in the current fuel surcharge exemption

and how it impacts his company. He explained that Petro Marine operates a US flagged tug and barge that brings fuel from US refineries in Puget Sound into Skagway where it's then trucked into the Yukon and distributed. He said this fuel currently is subject to the fuel surcharge because the fuel is refined in the US, not Canada. By comparison, a Canadian flagged tug and barge could bring fuel from Vancouver refineries into Skagway and truck it into the Yukon and not be subject to the fuel surcharge.

MR. WERNER explained that the fuel that Petro Marine delivers into Skagway that goes into the Yukon is competing with fuel that is trucked from Edmonton, Alberta into the Yukon. The current fuel surcharge and proposed increase puts Petro Marine's export business at a competitive disadvantage with Canadian companies. He said Petro Marine would like to level the playing field with a wording change in the exemption that aligns with the motor fuel tax exemption for fuel consigned to foreign countries.

[4:07:33 PM](#)

CO-CHAIR GIESSEL asked who would pay for the cleanup if a Petro Marine barge were to spill fuel into the water or on land while in Skagway.

MR. WERNER answered that Petro Marine would pay and they have insurance to cover that.

CO-CHAIR GIESSEL asked what trucking firm takes the fuel from the Skagway harbor into the Yukon.

MR. WERNER said it's a sister company called North 60 Petro, which is an Alaska corporation that does business in the Yukon

CO-CHAIR GIESSEL asked if North 60 Petro would be responsible for the cleanup if they were to have a spill while in transit to the Yukon.

MR. WERNER said that's correct.

[4:08:58 PM](#)

SENATOR DUNBAR asked if he said the Canadian firm is not subject to the fuel surcharge because the fuel stays in Canada the entire time or if it was that the fuel passes through Skagway enroute to the Yukon but isn't subject to the charge.

MR. WERNER said a US flagged vessel can't export Canadian fuel into Canada; it has to be US fuel so the company has to pay the surcharge.

SENATOR DUNBAR asked whether the fuel surcharge could be imposed on a Canadian tug and barge.

MR. WERNER said he wasn't aware of anybody currently bringing Canadian fuel through Skagway, but it was a possibility.

[4:11:14 PM](#)

CO-CHAIR BISHOP closed public testimony on SB 137 and held the bill in committee.

[4:11:38 PM](#)

There being no further business to come before the committee, Co-Chair Bishop adjourned the meeting at 4:11 p.m.