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SENATE FINANCE COMMITTEE REPORT

DATE: 3/30/90

FURTHER:

DATE TURNED INTO OFFICE: 4/4/90

The Finance Committee considered

SB 503

Oil and hazardous substance release response fund for declared disasters; expanding the role of the division of emergency services during oil spill-related declared disasters; establishing the AK State Emergency Response Commission; efd.

and recommended:

replace with _____ CS SB 503 (Fix)
 same title
 or adopt _____ CS _____
 new title
 attached amendment(s)
 technical title change (HB only)
 _____ letter of intent adopted

do pass

do not pass

no recommendation

individual recommendations

further referral to _____

ATTACHES NEW FISCAL NOTE(S):

APPROVES PREVIOUS:

Dept/Date:
 2 fiscal note(s) _____
DEC 485.3 4/2/90
DMVA 2111.8 4/2/90

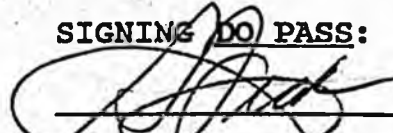
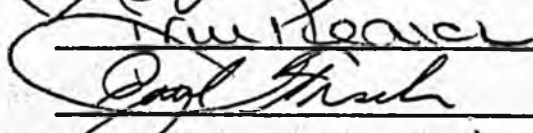
Dept/Date:
 fiscal note(s) _____

zero fiscal note(s) DO Law 4/2/90

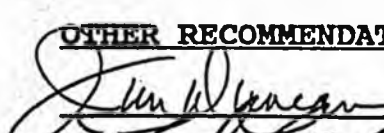
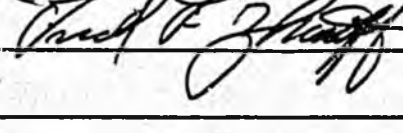
zero fiscal note(s) _____

appropriation-no fiscal note

SIGNING DO PASS:

OTHER RECOMMENDATIONS:

 Do not pass
 O+G CS
 with DMVA as lead agency
 Do Not Pass
 with DMVA as
 lead agency

1. John B... Do Not Pass

2. Paul Al...

Co-Chairs: Signatures and Recommendations

STATE OF ALASKA
1990 LEGISLATIVE SESSION

FISCAL NOTE

REVISED
BILL VERSION: CSSB 503 (Fin)
PUBLISH DATE: _____

REQUEST:

Revision Date: 4/4/90 Agency Affected: Environ. Conservation
Title: An act concerning Response BRU: Environmental Quality
Fund expenditures/transferring authority to DES...
Sponsor: Rules/Governor Components: Environmental Quality
Requestor: S Finance

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES	0.0	0.0	0.0	0.0	0.0	0.0
TRAVEL	88.3	88.3	88.3	88.3	88.3	88.3
CONTRACTUAL	347.0	327.0	227.0	227.0	227.0	227.0
SUPPLIES	0.0	0.0	0.0	0.0	0.0	0.0
EQUIPMENT	0.0	0.0	0.0	0.0	0.0	0.0
LAND&STRUCTURES	0.0	0.0	0.0	0.0	0.0	0.0
GRANTS,CLAIMS	0.0	0.0	0.0	0.0	0.0	0.0
MISCELLANEOUS	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	435.3	415.3	315.3	315.3	315.3	315.3
CAPITAL	0.0	0.0	0.0	0.0	0.0	0.0
REVENUE	0.0	0.0	0.0	0.0	0.0	0.0

FUNDING: (Thousands of Dollars)

GENERAL FUND	435.3	415.3	315.3	315.3	315.3	315.3
FEDERAL FUNDS	0.0	0.0	0.0	0.0	0.0	0.0
OTHER	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL	445.3	415.3	315.3	315.3	315.3	315.3

POSITIONS:

FULL-TIME	0.0	0.0	0.0	0.0	0.0	0.0
PART-TIME	0.0	0.0	0.0	0.0	0.0	0.0
TEMPORARY	0.0	0.0	0.0	0.0	0.0	0.0

ANALYSIS: (Attach a separate page if necessary)

Prepared by: Lynn Kent
Division: Environmental Quality

Phone: 465-2630
Date: 4/4/90

Approved by Commissioner: *A. D. Hylleberg*
Agency: Environmental Conservation

Date: 4/4/90

Distribution (by preparer) :
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

Sections 1-22

These sections of the bill will not require any additional money for the Department.

Section 23

This section of the bill requires the Department to adopt regulations regarding oil and hazardous substance containment and cleanup technologies and products. There is contractual money included (\$20.0) in FY 91 for assistance in writing the regulations.

Section 24

This section will not require any additional money for the Department.

Section 25

This section establishes the State Emergency Response Commission (SERC) in statute. The scope of the SERC, currently established under administrative order, is broadened to include ultimate responsibility for regional and statewide contingency planning for oil spill response, as well as housing the Oil and Hazardous Substance Spill Technology Review Council.

While the SERC is established under the purview of the Division of Emergency Services, Department of Military and Veterans' Affairs, it is established within DEC statutes. Therefore, funding is included for travel expenses and per diem for commission members attending quarterly SERC meetings (6-8 persons) and quarterly subcommittee meetings (6-8 persons). There are currently four subcommittees. Based on an air fare of \$360 and one day per diem at \$80/day, travel and per diem amount to \$70.4.

This legislation will require the commission to establish LEPCs for each emergency planning district. Approximately 12 Local Emergency Planning Committees (LEPC) are in the process of being established at an estimated cost of \$20.0 to each community. Contractual services monies in the amount of \$120.0 (\$10.0 per LEPC) will be necessary to help insure that LEPCs are established, members receive appropriate training, and that the requirements of this proposed statute and SARA Title III are complied with. This cost will recur in subsequent fiscal years as additional LEPCs are established.

Based on the past year's expenditures, annual costs to advertise quarterly SERC meetings in newspapers will require approximately \$5.0. Annual cost to transcribe audio tapes of quarterly SEFC meetings is \$2.0.

The Hazardous Substance Spill Technology Review Council is also established under this section of the bill. This is established under the SERC, which is established under the purview of the Division of Emergency Services, Department of Military and Veterans' Affairs, but is established within DEC's statutes. Therefore funding is included for travel costs for seven commission members, based on four meetings per year, three days per meeting at \$80 per diem (\$6.7) and \$400 average per airfare (\$11.2). Funds (\$200.0) are included for technical assistance contracts which may include data collection, analysis of response technologies, and technical research. These funds are reduced to \$100.0 after the first two fiscal years.

Sections 26-30

These sections will not require any additional money for the Department.

FY 91 fiscal detail

<u>Position</u>	<u>100</u>	<u>200</u>	<u>300</u>	<u>400</u>	<u>500</u>	<u>Total</u>
Travel/per diem (SERC)		70.4				\$ 70.4
Contractual (SERC)			127.0			127.0
Contractual (Regs)			20.0			20.0
Council members		17.9				17.9
Contractual (Tech asst)			200.0			200.0
TOTALS		88.3	347.0			\$435.3

FISCAL NOTE

REQUEST:

Revision Date: April 2, 1990
Title: Oil and hazardous substance response.
Sponsor: Governor
Requestor: Senate Oil and Gas Committee

Agency Affected: DMVA
BRU: Disaster Planning & Control
Components: Oil & Hazardous Substance Response Office

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES	443.4	443.4	443.4	443.4	443.4	443.4
TRAVEL	115.4	115.4	115.4	115.4	115.4	115.4
CONTRACTUAL	1427.0	1327.0	1327.0	1327.0	1327.0	1327.0
SUPPLIES	59.0	59.0	59.0	59.0	59.0	59.0
EQUIPMENT	67.0	67.0	67.0	67.0	67.0	67.0
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	2111.8	2011.8	2011.8	2011.8	2011.8	2011.8
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER	2111.8	2011.8	2011.8	2011.8	2011.8	2011.8
TOTAL						

POSITIONS:

FULL-TIME	9	9	9	9	9	9
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

SEE ATTACHED

Prepared by: Jeff Morrison, Director Phone: 465-4600
Division: Administrative & Support Services, DMVA Date: 4/2/90

Approved by Commissioner J. Morrison Date: 4/2/90
Agency: Department of Military & Veterans Affairs

Distribution (by preparer):

Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

Changes in CSSB 503 (Fin)
have no fiscal impact.
This fiscal note is
appropriate. 4/4/90

FISCAL NOTE FOR CSSB 503 (O&G)
Department of Military and Veterans Affairs

This bill does two things that have a fiscal impact: 1) it transfers the Oil and Hazardous Substance Response Office created by Ch 113, SLA 1989 from the Department of Environmental Conservation to the Department of Military and Veterans Affairs; and 2) it establishes the State Emergency Response Commission (SERC) in statute. Passage of the act would create a new component in the Disaster Planning and Control BRU: Oil and Hazardous Substance Response Office.

The fiscal note for DMVA for these two purposes is derived from the fiscal notes prepared by the Department of Environmental Conservation for SB264 (Ch 113, SLA 1989) [for the costs associated with the Oil and Hazardous Substance Response Office], and for the initial Governor's submission of SB 503 [for the costs associated with the SERC].

Due to the short response time to prepare this fiscal note, it may be necessary to revise it after consultation with the Department of Environmental Conservation. There was not ample time to work closely with DEC prior to the deadline for submission of the fiscal note.

TRANSFER OF OIL AND HAZARDOUS SUBSTANCE RESPONSE OFFICE

The response office would consist of a full-time staff of nine agency personnel: a deputy director, six response specialists, one administrative assistant, and one clerk typist. The contractual line includes the following: 1) the second of two years of office set-up costs (\$100,000); 2) training contracts (\$200,000); 3) contracts with local governments (\$500,000); 4) wages and per diem for volunteer training (\$300,000); 5) contracts with private response specialist (\$100,000); and contracts for oil spill response research (\$100,000). These funds are currently budgeted in the Department of Environmental Conservation, in the Environmental Quality Projects component of the Environmental Quality BRU.

Funding for this office is from the Oil and Hazardous Substance Release Response Fund, established by A.S. 46.08.010. Including the personal services costs and contractual services costs specifically addressed above, the total costs of this portion of the fiscal note are:

Personal services	443.4
Travel	45.0
Contractual Services	1300.0
Supplies	59.0
Equipment	67.0
Total	1914.4

ESTABLISHMENT OF STATE EMERGENCY RESPONSE COMMISSION (SERC)

The staff of the Oil and Hazardous Substance Response Office will serve as staff to the SERC under terms of this bill, providing the following services: serve as technical support to the SERC, coordinate SERC meetings, coordinate establishment of the Local Emergency Planning Committees (LEPCs), provide technical information to LEPCs and other duties required by statute. This legislation will not require additional new positions. Costs of the SERC will consist chiefly of travel and per diem of SERC members, and costs of establishing Local Emergency Planning Committees (LEPCs).

Travel expenses and per diem for Commission members attending quarterly meetings (6-8 persons) and quarterly subcommittee meetings (6-8 persons) will be paid by the fiscal note to this bill. There are four subcommittees. Assuming air fare of \$360.00 and per diem of \$80.00 per member on an average, the total cost of travel and per diem are estimated to be \$70,400.

The legislation will require the SERC to establish LEPCs for each emergency planning district. Approximately 12 LEPCs are in the process of being established at an estimated cost of \$20,000 to each community. Contractual services monies in the amount of \$120,000 (\$10,000 per LEPC) will be necessary to help ensure that LEPCs are established, members receive appropriate training, and that the requirements of this proposed statute and SARA Title III are complied with. This cost will recur in subsequent fiscal years as additional LEPCs are established.

Based on past experience, annual costs to advertise quarterly SERC meetings in newspapers will require approximately \$5,000. Annual cost to transcribe audio tapes of quarterly SERC meetings is \$2,000.

Including the travel and contractual services costs specifically addressed above, the total costs of this portion of the fiscal note are:

Personal services	0.0
Travel	70.4
Contractual Services	127.0
Supplies	0.0
Equipment	0.0
Total	197.4

The combined annual cost of the fiscal note is \$2,111,800. This drops by \$100,000, to \$2,011,800, in the second year due to the end of office start-up costs. Since this fiscal note was prepared rather hastily, we welcome the critical review of the legislative finance committees.

FISCAL NOTE

REQUEST:

Revision Date: _____ Agency Affected: Department of Law
 Title: "...transferring the oil and hazardous substance
response office to the Dept. of Military & Veterans' BRU: Legal Services
Affairs
 Sponsor: Senate Oil and Gas Components: Operations
 Requestor: Senate Oil and Gas

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL						
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REVENUE						
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FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME	-0-	-0-	-0-	-0-	-0-	-0-
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Please see the attached analysis.

Richard L. Pegues

Prepared by: Richard L. Pegues, Director
 Division: Administrative Services

Phone: 465-3672
 Date: April 2, 1990

Approved by Commissioner: Richard L. Pegues (FOR)
Douglas B. Raily, Attorney General
 Agency: Department of Law

Date: April 2, 1990

Distribution (by preparer):

Legislative Finance
 Legislative Sponsor
 Requestor
 Office of Management and Budget
 Impacted Agency(ies)

Changes in CSSB 503 (Fin)
 have no fiscal impact.
 This fiscal note is
 appropriate. 4/4/90 RL

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. CSSB 503 (Oil and Gas)

This bill amends various statutes to provide that when an actual or imminent oil or hazardous substance discharge develops into a catastrophic oil discharge, or becomes a declared disaster emergency, the division of emergency services, Department of Military and Veterans' Affairs, shall exercise the authority of the Department of Environmental Conservation and direct a person or persons to take action necessary to meet the emergency, and protect the public health, welfare and environment. The division would establish an oil and hazardous substance response office to perform related duties.

The bill would also provide that the attorney general shall immediately seek to recover money expended by the division of emergency services for containment and cleanup. Because the Department of Law already provides this service on behalf of DEC, there will not be a fiscal impact for the Department of Law if the division of emergency services is included in this provision. Law's costs for this purpose are normally reimbursable from the hazardous substance release response fund, as a necessary part of containment and cleanup.

Section 25 of the bill establishes an Alaska State Emergency Response Commission, within the Department of Military and Veterans' Affairs, to oversee state and regional plans for hazardous substance response, and to prepare, review, and revise the statewide and regional master oil and hazardous substance discharge and prevention contingency plans. The commission would be responsible for overseeing local planning committee activities.

A Hazardous Substance Spill Technology Review Council would also be established within the commission. The council would be responsible for reviewing and recommending oil and hazardous substance spill technology research topics to DEC; establishing testing protocols to be used by DEC to evaluate the effectiveness of hazardous substance spill technologies for use in the state; identifying sources of money that may be available for discharge related research; and making proposals to the governor and the commission to encourage and fund prevention, response, cleanup, and mitigation of future discharges of hazardous substances.

The council would serve as a central repository of hazardous substance discharge information and compile and maintain information relating to available containment and cleanup technology, including ways to improve hazardous substance spill response technology and procedures, steps that should be taken by government and industry to ensure proper management, handling, and transportation of hazardous substance, and the steps that should be taken to improve the ability of industry and government to respond to discharges of hazardous substances. The council would also compile and maintain information on the extent to which industry practices and governmental practices or laws should be changed to reduce or minimize the potential for hazardous substance discharge and on hazardous substance spill technology research conducted by the Department of Environmental Conservation.

Finally, the council would be given investigative and hearing powers and would be able to issue subpoenas, administer oaths, and conduct investigations related to its duties. The council would be empowered to compel the attendance of witnesses and production of papers, books, records, accounts, documents, and testimony, and could have the depositions of witnesses taken in a manner prescribed by court rule or law for the taking of depositions in civil actions when it is consistent with the duties assigned to the council. The failure,

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. CSSB 503 (Oil and Gas)

refusal, or neglect to obey a subpoena would be punishable by law or court rule. The superior court would be able to compel obedience to the council's subpoena in the same manner as prescribed for obedience to a subpoena issued by the court.

These latter powers are substantial and could require considerable attorney legal services if the council conducted extensive investigations. Unfortunately, there is no way to predict the extent to which investigations might be conducted. For instance, if the council's investigations are merely incidental, existing staff who normally assist the Department of Environmental Conservation would suffice. Conversely, if the council undertook an indepth investigation involving complex issues, substantial evidence, or numerous witnesses, additional attorney resources would be required before the work could be undertaken. Consequently, it is likely that an appropriation for legal services will be required at some point after the bill is implemented and the actual workload becomes known.

4/4/90 Conceptual Amendment

P. 8 + 9, Secs. 16-17

5:10pm. Approved by Janice in Sen. Binkley's office

4/5/90 Telephoned approval by both Kirsten + Judy
in Sen. Pearce's office, 8:10 am. AM

9005205J
Lauterbach
4/4/90

8002205J

Original sponsor(s): Rules/Governor

IN THE SENATE

BY THE FINANCE COMMITTEE

CS FOR SENATE BILL NO. 503 (Finance)

IN THE LEGISLATURE OF THE STATE OF ALASKA

SIXTEENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act authorizing the governor to spend money from the oil and hazardous substance release response fund for declared disasters; transferring the oil and hazardous substance response office to the Department of Military and Veterans' Affairs; relating to the duties of the Department of Environmental Conservation and the Department of Military and Veterans' Affairs in relation to oil, hazardous substances, and radioactive material; providing that the Department of Military and Veterans' Affairs has final state decision-making authority in responses to catastrophic oil discharges and emergency disasters declared by the governor that relate to oil or hazardous substances; establishing the Alaska State Emergency Response Commission and the Hazardous Substance Spill Technology Review Council; transferring the responsibility for the statewide and regional master oil and hazardous substance discharge and prevention contingency plans to the Alaska State Emergency Response Commission; and providing for an effective date."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

* Section 1. AS 26.23.020(g) is amended by adding a new paragraph to read:

1 (11) use money from the oil and hazardous substance release
2 response fund, established by AS 46.08.010, to respond to a declared
3 disaster emergency related to an oil or hazardous substance discharge.

4 * Sec. 2. AS 26.23.040 is amended by adding a new subsection to read:

5 (f) The Alaska division of emergency services shall establish
6 the oil and hazardous substance response office and perform related
7 duties under AS 46.08.100 - 46.08.190.

8 * Sec. 3. AS 26.23.050(b) is amended to read:

9 (b) Whenever, and to the extent that, money is needed to cope
10 with a disaster, the first recourse shall be to funds regularly appro-
11 priated to state and local agencies. The second recourse shall be to
12 funds available in the disaster relief fund or, for oil or hazardous
13 substances discharges, the oil and hazardous substance release re-
14 sponse fund, as the governor determines appropriate. If money avail-
15 able from these sources is insufficient, and if the governor finds
16 that other sources of money to cope with the disaster are not avail-
17 able or are insufficient, the governor may, notwithstanding any limi-
18 tation imposed by AS 37.07.080(e), transfer and spend money appropri-
19 ated for other purposes or, in situations involving natural disasters,
20 borrow from the United States government or other public or private
21 sources for a term not to exceed two years.

22 * Sec. 4. AS 26.23 is amended by adding a new section to read:

23 Sec. 26.23.215. RELATIONSHIP TO OTHER PLANNING STATUTES. To the
24 extent that the state emergency plan, interjurisdictional plans, and
25 local plans prepared under this chapter relate to action required to
26 avert damage from a release of oil or a hazardous substance, the plans
27 must be substantially equivalent in relevant respects to the emergency
28 plans prepared or approved by the Alaska State Emergency Response
29 Commission under AS 46.04.200 - 46.04.210 and AS 46.13 and use the

same incident command system used in those plans.

* Sec. 5. AS 39.50.200(b) is amended by adding a new paragraph to read:
(50) Hazardous Substance Spill Technology Review Council
(AS 46.13.110).

* Sec. 6. AS 44.66.010(a) is amended by adding a new paragraph to read:
(17) Hazardous Substance Spill Technology Review Council
(AS 46.13.110) -- June 30, 1994.

* Sec. 7. AS 46.03.020 is amended by adding a new paragraph to read:
(14) enter into agreements with agencies of the state and federal government, political subdivisions, the University of Alaska, or private entities to conduct research into oil and hazardous substances spill technology; the department shall include in the research topics for which it conducts or contracts for research, the research topics recommended to it by the Hazardous Substance Spill Technology Review Council under AS 46.13.120.

* Sec. 8. AS 46.03.865(a) is amended to read:

(a) When the department finds that an actual or imminent discharge of oil, a hazardous substance, or low level radioactive materials to the air, water, land, or subsurface land of the state poses an immediate threat to the public health or welfare [,] or the environment of the state, it may issue an order declaring an emergency and directing a person or persons to take action the department believes necessary to meet the emergency, and protect the public health, welfare, or environment. The department may also exercise the authority granted to the oil and hazardous substance response office under AS 46.08.140. However, if the situation for which the department declares an emergency develops into a catastrophic oil discharge, as defined in AS 46.04.900, or becomes a declared disaster emergency under AS 26.23, the division of emergency services, Department of

Military and Veterans' Affairs, shall exercise the authority of the department under this subsection and the department's activities shall be subject to the approval of the division.

* Sec. 9. AS 46.03.865(c) is amended to read:

(c) During a period of emergency declared under (a) of this section, each state agency, including, when appropriate, the division of emergency services, Department of Military and Veterans' Affairs [UNDER THE AUTHORITY CONFERRED BY AS 26.20], shall take whatever action the department finds necessary to meet the emergency [,] and to protect the public health, welfare, or environment. However, if the situation for which the department declared an emergency develops into a catastrophic oil discharge, as defined in AS 46.04.900, or becomes a declared disaster under AS 26.23, each state agency, including the department, shall take whatever action the division of emergency services finds is necessary to meet the disaster and to protect the public health, welfare, or environment.

* Sec. 10. AS 46.04.080(a) is amended to read:

(a) The actual or imminent occurrence of a catastrophic oil discharge constitutes a disaster emergency under AS 26.23 without a declaration of disaster by the governor under AS 26.23.020. The [. HOWEVER, THE] department shall augment and support [PERFORM THE DUTIES OF] the Alaska division of emergency services, Department of Military and Veterans' Affairs, in the performance of the division's duties under AS 26.23.040 and AS 46.08.100 - 46.08.190 as they apply to catastrophic oil discharges. During a response to a catastrophic oil discharge, the [THE] department shall consult and coordinate its duties [UNDER THIS SECTION] with the Alaska division of emergency services and act under directives of the division.

* Sec. 11. AS 46.04.090(a) is amended to read:

(a) The department, when feasible, shall enter into contracts with persons or private organizations to provide the personnel, equipment, or other services or supplies that [WHICH] may be required to carry out this chapter. Contracts under this section are governed by AS 36.30 (State Procurement Code). When private contracting is not feasible, the department may establish and maintain at ports, harbors, or other locations in the state, the cleanup personnel, equipment, and supplies that [WHICH], in its judgment, are necessary to carry out this chapter. When exercising its authority under this subsection, the department shall coordinate with the oil and hazardous substance response office in the Department of Military and Veterans' Affairs to avoid duplication of efforts.

* Sec. 12. AS 46.04.200 is amended to read:

Sec. 46.04.200. STATE MASTER PLAN. (a) The Alaska State Emergency Response Commission [DEPARTMENT] shall prepare and annually review and revise a statewide master oil and hazardous substance discharge and prevention contingency plan.

(b) The state master plan prepared under this section must

(1) take into consideration the elements of an oil discharge contingency plan approved or submitted for approval by the Department of Environmental Conservation under AS 46.04.030;

(2) include an incident command system consistent with the requirements of AS 46.13.090(b) that clarifies and specifies [CLARIFY AND SPECIFY] the respective responsibilities of each of the following in the assessment, containment, and cleanup of a [CATASTROPHIC OIL DISCHARGE OR OF A SIGNIFICANT] discharge of oil or a hazardous substance into the environment of the state:

(A) the Department of Environmental Conservation, the division of emergency services in the Department of Military and

Veterans' Affairs, and other agencies of the state;

(B) municipalities of the state;

(C) appropriate federal agencies;

(D) operators of facilities;

(E) private parties whose land and other property may be affected by the oil or hazardous substance discharge; and

(F) other parties identified by the commission [COMMISSIONER] as having an interest in or the resources to assist in the containment and cleanup of an oil or hazardous substance discharge;

(3) include an incident command system consistent with the requirements of AS 46.17.090(b) that specifies [SPECIFY] the respective responsibilities of parties identified in (2) of this subsection in an emergency response under AS 26.23, AS 46.03.865, or AS 46.04.-080; and

(4) identify actions necessary to reduce the likelihood of catastrophic oil discharges and significant discharges of hazardous substances.

(c) In preparing and annually reviewing the state master plan, the commission [COMMISSIONER] shall

(1) consult with municipal and community officials, and with representatives of affected regional organizations;

(2) submit the draft plan to the public for review and comment;

(3) submit to the legislature for review, not later than the 10th day following the convening of each regular session, the plan and any annual revision of the plan; and

(4) require or schedule unannounced oil spill drills to test the sufficiency of an oil discharge contingency plan approved

under AS 46.04.030 or of the cleanup plans of a party identified under (b)(2) of this section.

* Sec. 13. AS 46.04.210(a) is amended to read:

(a) For any region of the state, the boundaries of which are determined by the commission [COMMISSIONER] by regulation, in which the department is required to review and approve an oil discharge contingency plan submitted by a person under AS 46.04.030, the commission [DEPARTMENT] shall prepare and annually review and revise a regional master oil and hazardous substance discharge and prevention contingency plan.

* Sec. 14. AS 46.04 is amended by adding a new section to article 2 to read:

Sec. 46.04.220. DEFINITION. In AS 46.04.200 - 46.04.210, "commission" means the Alaska State Emergency Response Commission established under AS 46.13.

* Sec. 15. AS 46.08.040 is amended by adding new subsections to read:

(b) When the governor declares a disaster related to an oil or hazardous substance discharge emergency under AS 26.23.020(c), the governor may, during the effective period of the disaster emergency, use money from the fund to respond to the disaster emergency.

(c) The adjutant general of the Department of Military and Veterans' Affairs may use money from the fund to pay costs incurred by the division of emergency services, Department of Military and Veterans' Affairs, to

(1) establish and maintain the oil and hazardous substance response office and for the expenses of the oil and hazardous substance response corps and the oil and hazardous substance response depots established by that office; and

(2) contain, clean up, and take other necessary action to

address a release or threatened release of oil or a hazardous substance.

(d) The Alaska State Emergency Response Commission may use money from the fund to prepare, review, and revise the state and regional master oil and hazardous substance discharge and prevention contingency plans required under AS 46.04.200 - 46.04.210.

* Sec. 16. AS 46.08.060(a) is amended to read:

(a) The commissioner shall submit a report to the legislature not later than the 10th day following the convening of each regular session of the legislature. The report may include information considered significant by the commissioner but must include:

(1) the amount of money expended by the department under AS 46.08.040(a) [AS 46.08.040] during the preceding fiscal year;

(2) the amount and source of money received and money recovered by or on behalf of the department during the preceding fiscal year as specified in AS 46.08.020;

(3) a summary of municipal participation in the department's responses that were funded by the fund;

(4) a detailed summary of department activities in responses funded by the fund during the preceding fiscal year, including response descriptions and statements outlining the nature of the threat; and

(5) the projected cost to the department for the next fiscal year of monitoring, operating, and maintaining sites where response has been completed or is expected to be continued during the fiscal year.

* Sec. 17. AS 46.08.060 is amended by adding a new subsection to read:

(c) In addition to the department's report required under (a) of this section, the governor, the Department of Military and Veterans'

Affairs, and the Alaska State Emergency Response Commission shall each submit a report about their use of the fund during the previous fiscal year to the legislature not later than the 10th day following the convening of each regular session of the legislature. The report by the Department of Military and Veterans' Affairs must include information about its activities that is the same as the information required under (a) of this section for activities of the Department of Environmental Conservation as well as a detailed explanation of its use of the fund for the oil and hazardous substance response office, corps, and depots under AS 46.08.040(c)(1). In the governor's report, the governor shall describe in detail the governor's use of money from the fund, with separate explanations, by agency, of the activities that were funded under the authority of AS 46.08.040(b). The commission's report must include an explanation of its expenditures under the authority of AS 46.08.040(d).

* Sec. 18. AS 46.08.070(a) is amended to read:

(a) The commissioner and the adjutant general shall seek reimbursement promptly under this section, AS 46.03.760(e), or federal law for the cost incurred in the cleanup or containment of oil or a hazardous substance that has been released.

* Sec. 19. AS 46.08.070(b) is amended to read:

(b) The attorney general, at the request of the commissioner or the adjutant general, shall immediately seek to recover money expended by the department or the division of emergency services under AS 46.-08.005 - 46.08.080 or other law to contain and clean up oil or a hazardous substance that has been released or to control the threatened release of oil or a hazardous substance.

* Sec. 20. AS 46.08.100 is amended to read:

Sec. 46.08.100. OFFICE ESTABLISHED. There is established in the

division of emergency services, Department of Military and Veterans' Affairs, [DEPARTMENT] the oil and hazardous substance response office. The office shall include a director and employees who are specially trained in programs and technologies related to the containment and cleanup of releases or threatened releases of oil and hazardous substances.

* Sec. 21. AS 46.08.110(c) is amended to read:

(c) Members of the corps are entitled to per diem and expenses as determined by the division [COMMISSIONER] for training and for days spent in service to the state in containment and cleanup actions.

* Sec. 22. AS 46.08.130(b) is amended to read:

(b) The office may respond under (a) of this section to an oil or hazardous substance discharge only if:

(1) the oil discharge is a catastrophic oil discharge that constitutes a disaster [AN] emergency under AS 46.04.080(a);

(2) the discharge of oil or a hazardous substance is declared to be an emergency under AS 46.03.865;

(3) the governor declares the discharge an emergency under AS 26.23; or

(4) the division director or the commissioner of environmental conservation reasonably believes that there has been a discharge of oil or a hazardous substance, or that there is a potential discharge of oil or a hazardous substance, and the discharge may qualify under (1) - (3) of this subsection; or

(5) the office is requested by the commissioner of environmental conservation to assist the department because the commissioner reasonably believes that the discharge or potential discharge poses an imminent and substantial threat to public health or welfare or to the environment.

* Sec. 23. AS 46.08.130 is amended by adding a new subsection to read:

(c) When the office responds to an oil or hazardous substance discharge under this section, its activities are governed by the incident command system applicable to the type of discharge to which it is responding, as required under AS 46.13.090(b).

* Sec. 24. AS 46.08.190 is amended by adding a new paragraph to read:

(4) "division" means the division of emergency services, Department of Military and Veterans' Affairs.

* Sec. 25. AS 46.08 is amended by adding new sections to read:

ARTICLE 3. RESPONSE TECHNOLOGIES.

Sec. 46.08.200. APPROVAL PROCESS FOR RESPONSE TECHNOLOGIES. (a)

The department shall, by regulation, adopt procedures and criteria it will use for approving or disapproving equipment, substances, and other technologies for use in containment and cleanup of a release of oil or a hazardous substance. The regulations must include the protocols developed by the Hazardous Substance Spill Technology Review Council under AS 46.13.120 and provide that the approval process will take no longer than six months after the date the department receives an application for approval.

(b) A person may apply to the department for approval of equipment, a substance, or other technology for use in containment or cleanup of a potential release of oil or a hazardous substance. An application under this subsection must be in written form and include information requested by the department.

Sec. 46.08.210. PROHIBITION. A person may not use equipment, a substance, or other technology for containment or cleanup of a release of oil or a hazardous substance unless the equipment, substance, or other technology has been approved by the department for that use.

* Sec. 26. AS 46.09.030 is amended to read:

Sec. 46.09.030. DISASTER EMERGENCIES. The commissioner of environmental conservation or the director of the division of emergency services, Department of Military and Veterans' Affairs, may request the governor to determine that an actual or imminent release of a hazardous substance constitutes a disaster emergency under AS 26.23. If the governor declares a disaster emergency under AS 26.-23, the commissioner shall [MAY] assist the division of emergency services, Department of Military and Veterans' Affairs, [ADJUTANT GENERAL] in the relief of the emergency.

* Sec. 27. AS 46 is amended by adding a new chapter to read:

CHAPTER 13. ALASKA STATE EMERGENCY RESPONSE COMMISSION.

Sec. 46.13.010. ALASKA STATE EMERGENCY RESPONSE COMMISSION ESTABLISHED. (a) There is established in the Department of Military and Veterans' Affairs the Alaska State Emergency Response Commission.

(b) The oil and hazardous substance response office established under AS 46.08.100 shall serve as staff for the commission.

Sec. 46.13.020. COMPOSITION OF THE COMMISSION. The commission consists of the commissioners of community and regional affairs, environmental conservation, fish and game, health and social services, labor, natural resources, public safety, and transportation and public facilities, or the designees of the commissioners, the adjutant general of the Department of Military and Veterans' Affairs or a designee, and seven public members to be appointed by the governor. To the extent practicable, the commission must include members with expertise in the emergency response field.

Sec. 46.13.030. OFFICERS, TERMS, AND COMPENSATION. The adjutant general of the Department of Military and Veterans' Affairs, or the adjutant general's designee, shall chair the commission. The commissioner of environmental conservation, or the commissioner's designee,

shall serve as vice-chair. Members of the commission other than those from the designated state departments serve at the pleasure of the governor for staggered terms of three years. Members of the commission serve without compensation but are entitled to per diem and travel expenses authorized for members of boards and commissions under AS 39.20.180.

Sec. 46.13.040. POWERS AND DUTIES OF COMMISSION. The commission shall

(1) serve as the state emergency response commission required under 42 U.S.C. 11001 - 11005;

(2) designate, and revise as necessary, the boundaries of emergency planning districts, using the boundaries of political subdivisions if appropriate;

(3) review, oversee, and facilitate the preparation and implementation of emergency plans for hazardous substance response, including the statewide and local plans prepared under AS 26.23;

(4) prepare, review, and revise the statewide and regional master oil and hazardous substance discharge and prevention contingency plans required under AS 46.04.200 - 46.04.210;

(5) establish a local emergency planning committee for each emergency planning district, and appoint, and revise as necessary, the membership of each committee;

(6) supervise and coordinate the activities of local emergency planning committees;

(7) establish procedures for receiving and processing requests from the public for information under 42 U.S.C. 11044, including tier II information under 42 U.S.C. 11022;

(8) perform other coordinating, advisory, or planning tasks related to hazardous substance emergency planning and preparedness,

community right-to-know reporting, toxic chemical release reporting, or management of hazardous substances;

(9) provide procedures and oversight to integrate, as appropriate, hazardous substance response planning under 42 U.S.C. 11001 - 11005, federal contingency planning under 33 U.S.C. 1321 and other federal laws applicable to hazardous substance discharges, and state, regional, and local hazardous substance contingency planning under AS 26.23 and AS 46.04.200 - 46.04.210;

(10) to the extent consistent with the constitution and law of the state, perform all other functions prescribed for state emergency response commissions under 42 U.S.C. 11001 - 11005; and

(11) adopt regulations necessary to carry out the purposes of this chapter and 42 U.S.C. 11001 - 11005.

Sec. 46.13.050. AGENCY COOPERATION. The commission may request data, reports, or other information from a state agency. To the extent feasible and not otherwise prohibited by laws making specific information confidential and nondisclosable, a state agency shall cooperate with the commission and furnish the commission with the information and assistance necessary to accomplish the purposes of 42 U.S.C. 11001 - 11005 and this chapter.

Sec. 46.13.060. EMERGENCY PLANNING DISTRICT BOUNDARIES. Boundaries for emergency planning districts are the regions designated by the division of emergency services, Department of Military and Veterans' Affairs unless otherwise designated by the commission.

Sec. 46.13.070. LOCAL EMERGENCY PLANNING COMMITTEES. The commission shall establish and appoint the members of a local emergency planning committee for each emergency planning district. Each committee must include, at a minimum, representatives from each of the following groups or organizations: elected state and local officials;

law enforcement; civil defense; fire fighting; first aid; health; local environmental, hospital, and transportation personnel; broadcast and print media; community groups; and owners and operators of facilities subject to the requirements of 42 U.S.C. 11001 - 11005.

Sec. 46.13.080. DUTIES OF LOCAL EMERGENCY PLANNING COMMITTEES. Each local emergency planning committee shall

(1) establish procedures for receiving and processing requests from the public for information under 42 U.S.C. 11044, including tier II information under 42 U.S.C. 11022;

(2) appoint a chair and establish rules by which the committee shall function, including provisions for public notification of committee activities, public meetings to discuss the emergency plan, public comments, response to the comments by the committee, distribution of the emergency plan, and designation of an official to serve as coordinator for information;

(3) prepare and periodically review an emergency plan in accordance with 42 U.S.C. 11003(a);

(4) evaluate the need for resources necessary to develop, implement, and exercise the emergency plan, and make recommendations with respect to additional resources that may be required and the means for providing the additional resources;

(5) to the extent consistent with the constitution and law of the state, perform all other functions prescribed for emergency planning committees in 42 U.S.C. 11001 - 11005; and

(6) participate as a local advisory committee in the preparation of statewide regional contingency plans.

Sec. 46.13.090. EMERGENCY PLANS. (a) Each emergency plan must include

(1) identification of facilities subject to the

requirements of 42 U.S.C. 11001 - 11005 that are within the emergency planning district, identification of routes likely to be used for the transportation of substances on the list of extremely hazardous substances referred to in 42 U.S.C. 302(a), and identification of additional facilities contributing or subjected to additional risk due to their proximity to facilities subject to the requirements of 42 U.S.C. 11001 - 11005 such as hospitals or natural gas facilities;

(2) methods and procedures to be followed by facility owners and operators and local emergency and medical personnel to respond to a release of hazardous substances, and to a release of substances on the list of extremely hazardous substances referred to in 42 U.S.C. 302(a);

(3) designation of a community emergency coordinator and facility emergency coordinators, who shall make determinations necessary to implement the emergency plan;

(4) procedures providing reliable, effective, and timely notification by the facility emergency coordinators to persons designated in the emergency plan, and to the public, that a release has occurred, consistent with the emergency notification requirements of 42 U.S.C. 11004;

(5) methods for determining the occurrence of a release, and the area or population likely to be affected by that release;

(6) a description of emergency equipment and facilities in the community and at each facility in the community subject to the requirements of 42 U.S.C. 11001 - 11005, and an identification of the persons responsible for the equipment and facilities;

(7) evacuation plans, including provisions for a precautionary evacuation and alternative traffic routes;

(8) training programs, including schedules for training of

local emergency response and medical personnel; and

(9) methods and schedules for exercising the emergency plan.

(b) Each emergency plan must incorporate within it an incident command system. The incident command system must provide that final state decision-making authority in situations involving a response to a release of a hazardous substance lies with the Department of Environmental Conservation unless the release is a declared disaster emergency under AS 26.23 or a catastrophic oil discharge under AS 46.-04.080, in which case the incident command system must provide that final state decision-making authority lies with the division of emergency services, Department of Military and Veterans' Affairs.

Sec. 46.13.100. FINDINGS AND PURPOSE. The legislature

(1) finds and declares that there exists a lack of scientific knowledge concerning the availability, properties, and effectiveness of various hazardous substance containment and cleanup technologies; and

(2) concludes that it is in the best interest of the state and its citizens to establish a Hazardous Substance Spill Technology Review Council in the Alaska State Emergency Response Commission to assist in the identification of containment and cleanup products and procedures for arctic and sub-arctic hazardous substance releases and make recommendations to the departments and agencies of the state regarding their use and deployment.

Sec. 46.13.110. HAZARDOUS SUBSTANCE SPILL TECHNOLOGY REVIEW COUNCIL. (a) There is established in the Alaska State Emergency Response Commission the Hazardous Substance Spill Technology Review Council.

(b) The council consists of the adjutant general of the

Department of Military and Veterans' Affairs, the commissioner of environmental conservation, a representative of the University of Alaska appointed by the governor, the governor's senior science advisor, a representative of the Prince William Sound Science Center in Cordova appointed by the governor, and four other members, one from each judicial district of the state, appointed by the governor, with broad experience or expertise in one or more of the following areas: physical or biological science; oil technology, transportation, or management; fisheries; economics; environmental engineering; or law. The U.S. Coast Guard and the Environmental Protection Agency may each appoint a federal employee to the council to represent their agencies as nonvoting members. Appointed state members of the council serve overlapping three-year terms.

(c) The council members shall elect from among themselves a chair and vice-chair.

(d) The oil and hazardous substance response office established under AS 46.08.100 shall serve as staff for the council.

(e) State and federal members of the council serve without compensation, but are entitled to per diem and travel expenses authorized for boards and commissions under AS 39.20.180.

(f) The council shall meet regularly at the call of the commission or the chair of the council.

(g) State members of the council are subject to AS 39.50.

Sec. 46.13.120. DUTIES OF THE COUNCIL. The council shall

(1) review and recommend to the Department of Environmental Conservation research topics for it to pursue under its authority in AS 46.03.020(a)(14);

(2) establish testing protocols to be used by the Department of Environmental Conservation to evaluate the effectiveness of

hazardous substance spill technologies for use in the state;

(3) identify sources of money that may be available for discharge-related research;

(4) make proposals to the governor and commission to encourage and fund prevention, response, cleanup, and mitigation of future discharges of hazardous substances;

(5) compile and maintain information relating to

(A) containment and cleanup technology that is available in the event of a hazardous substance discharge, the extent to which current containment and cleanup technology is available and may be applied in the state, and ways to improve hazardous substance spill response technology and procedures;

(B) steps that should be taken by government and industry to ensure proper management, handling, and transportation of hazardous substances and to improve the statewide ability of industry and governmental agencies to respond to discharges of hazardous substances;

(C) the extent to which industry practices and governmental practices or laws should be changed to reduce or minimize the potential for hazardous substance discharges;

(D) hazardous substances spill technology research conducted by the Department of Environmental Conservation; and

(6) perform other functions as may be requested by the commission.

Sec. 46.13.130. INVESTIGATIONS; HEARINGS. (a) The council may issue subpoenas, administer oaths, and conduct investigations related to its duties.

(b) The council may compel the attendance of witnesses and production of papers, books, records, accounts, documents, and

testimony, and may have the deposition of witnesses taken in a manner prescribed by court rule or law for the taking of depositions in civil actions when consistent with the duties assigned to the council.

(c) On a majority vote of the council, subpoenas and subpoenas duces tecum may be issued and served in the manner prescribed by AS 44.62.430(b) and (c) and court rule. The failure, refusal, or neglect to obey a subpoena is punishable as contempt in the manner prescribed by law or court rule. The superior court may compel obedience to the council's subpoena in the same manner as prescribed for obedience to a subpoena issued by the court.

(d) State agencies shall, to the extent permitted by law, cooperate with the council and provide it with information it requests for carrying out its duties.

Sec. 46.13.900. DEFINITIONS. In this chapter,

(1) "commission" means the Alaska State Emergency Response Commission;

(2) "council" means the Hazardous Substance Spill Technology Review Council;

(3) "hazardous substance" has the meaning given in AS 46.-03.826.

* Sec. 28. TRANSITIONAL PROVISION. The Alaska State Emergency Response Commission established under AS 46.13, enacted by sec. 27 of this Act, is a continuation of the Alaska State Emergency Response Commission established by Administrative Order No. 103. The terms of the public members of the commission who are serving terms on the effective date of this section continue until the date that was scheduled for their expiration before the effective date of this section.

* Sec. 29. TESTING PROCEDURES. (a) The Hazardous Substance Spill Technology Review Council shall establish the initial testing protocols
CSSB 503(Fin)

required under AS 46.13.120(2), enacted by sec. 27 of this Act, by January 1, 1991.

(b) The Department of Environmental Conservation shall adopt the initial regulations required under AS 46.08.200(a), enacted by sec. 25 of this Act, by July 1, 1991.

* Sec. 30. AS 46.08.040(2), 46.08.040(5), and 46.08.150(3) are repealed.

* Sec. 31. AS 46.08.210, enacted by sec. 25 of this Act, takes effect July 1, 1992.

* Sec. 32. Except as provided in sec. 31 of this Act, this Act takes effect July 1, 1990.

4/4/90

DP
Moved
Adoption
Adopted
#1
go0520sHb.
Lauterback

A M E N D M E N T

OFFERED IN THE SENATE

BY SEN. PEARCE

TO: CSSB 503 (Oil & Gas)

Page 3, line 12:

Delete "give priority to"

Insert "include in the research topics for which it conducts or contracts for research, the"

This amendment would require DEC to conduct or contract for research on topics recommended to it by the Hazardous Substance Spill Technology Review Council, which is established in this CS. Current CS language only requires that DEC give priority to these recommended topics. Under the amendment, DEC would still be able to pursue topics in addition to those recommended by the council.

4/4/90
DP Moved go0520sHa
Lauterbach

2

Adopted

Sec. Amend. to
Amendment.
p. 2 (conceptual
Sen. Binkley)
BY SEN. PEARCE
Adopted.

A M E N D M E N T

OFFERED IN THE SENATE

TO: CSSB 503 (Oil & Gas)

Page 8, after line 5:

Insert new bill material to read:

"(e) The governor, the Department of Military and Veterans' Affairs, and the Alaska State Emergency Response Commission shall, by November 1 of each year, submit to the department sufficient information to enable the department to prepare the report required under AS 46.08.060(a) with respect to their expenditures from the fund and their activities in response actions for which fund money was used.

* Sec. 16. AS 46.08.060(a) is amended to read:

(a) The commissioner shall submit a report to the legislature not later than the 10th day following the convening of each regular session of the legislature. The report may include information considered significant by the commissioner but must include:

(1) the amount of money expended under AS 46.08.040 during the preceding fiscal year, with separate subtotals corresponding to the expenses incurred under each subsection and paragraph of AS 46.-08.040;

(2) the amount and source of money received and money recovered during the preceding fiscal year as specified in AS 46.-08.020;

(3) a summary of municipal participation in responses

funded by the fund;

(4) a detailed summary of department activities and activities of the division of emergency services, Department of Military and Veterans' Affairs, in responses funded by the fund during the preceding fiscal year, including response descriptions and statements outlining the nature of the threat; and

(5) the projected cost for the next fiscal year of monitoring, operating, and maintaining sites where response has been completed or is expected to be continued during the fiscal year."

Renumber the following bill sections accordingly.

Page 19, line 12:

Delete "25"

Insert "26"

Page 19, line 20:

Delete "25"

Insert "26"

Page 19, line 23:

Delete "23"

Insert "24"

Page 19, line 27:

Delete "23"

Sen. Binkley: (conceptual amend.)

Include provisions under AS 46.08.060 requiring that each dept. or entity with access to the 470 fund report individually to the legislature.

p. 2, Sec. 4

Require that each dept. provide a detailed summary of activity.

Insert "24"

Page 19, line 29:

Delete "29"

Insert "30"

This amendment reflects the fact that, under the CS, DEC is no longer the only agency making use of the response fund. The amendment keeps with DEC the responsibility for making a report to the legislature about uses of the fund, but requires the other spending agencies to give DEC the information it needs to make the report.

STATE OF ALASKA
THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU ALASKA 99811
707 465 3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

March 29, 1990

SUBJECT: Summary of Major Changes
(CSSB 503(Oil & Gas))

TO: Senator Drue Pearce, Chair
Senate Special Committee on Oil & Gas

FROM: Terri Lauterbach *TLL*
Legislative Counsel

Enclosed in a new draft of CSSB 503(Oil & Gas).

The major changes in the CS, compared to the CS in front of the committee on Tuesday, March 27, are as follows:

- (1) CSSB 468(Oil & Gas), with changes, has been rolled into this CS;
- (2) Numerous sections of the CS have been changed, and new sections have been added, to clarify that DEC retains authority to handle "small" spills while DMVA is in charge of catastrophic oil discharges and disaster emergencies declared by the governor that involve releases of oil or a hazardous substance; under this CS, the oil & hazardous substance release response office in DMVA still retains the authority to respond to more than these two types of releases, but, depending on the type of release, the office may be operating under the directives of DEC; the incident command language crucial to this issue is found at AS 46.-13.090(b), which is referred to in other sections of the CS;
- (3) Authority for research into hazardous substance spill technology has been returned to DEC and removed from both DMVA and the Alaska State Emergency Response Commission; under the CS, DEC must give priority to research topics suggested by the Hazardous Substance Spill Technology Review Council;
- (4) Authority for the statewide and regional master oil and hazardous substance contingency plans has been transferred to the Alaska State Emergency Response Commission;

Senator Drue Pearce
Page 2
March 29, 1990

(5) DEC is directed to approve spill technologies under protocols developed by the Hazardous Substance Spill Technology Review Council; effective July 1, 1992, use of an unapproved technology is prohibited; however, the CS contains no penalty for violating this prohibition;

(6) Federal members have been added to the council as non-voting members.

Please let me know if I can be of further assistance.

TL:pl
WKP3/111

Enclosure

cc: David Rogers

**Testimony before the Alaska Senate
Special Committee on Oil and Gas
on SB 503 and SB 504**

**Walter B. Parker, Chairman
Alaska Oil Spill Commission**

1 March 1990

SB 503

In general, SB 503 reflects several of the major thrusts of recommendations by the Alaska Oil Spill Commission. Mainly, it brings oil spill response into the state's emergency response network and mandates strong cooperation between those state agencies concerned with emergency response to hazardous substances, including crude oil and refined petroleum products. Most important, it concentrates on establishing immediate response at the local level, something addressed by several of the commission's recommendations, most strongly Recommendations 27 and 49.

Section 1, 2 and 4

Recommendations 52 and 53 address the need for an immediately available oil or hazardous substance response fund. Broadening the use of the 470 fund and providing the governor with the flexibility to use those funds in addressing oil spills and other emergencies is directly consistent with the commission's intent in these recommendations.

Section 3

The problem the commission wrestled with in the relationships between the Department of Environmental Conservation and Division of Emergency Services was ultimately the determination of who would be in charge of a catastrophic spill response and at what level the response authority of DES would be implemented. Our recommendation on the use of the Incident Command System (Recommendation 48) is our major response to this problem. The key element is having an on-scene commander in each emergency response district that has the authority to bring the Incident Command System into operation.

The bill recognizes DES expertise in communications, logistics, equipment procurement, manpower and community liaison. This is supported by our Recommendations 50 and 51. DEC expertise in providing measurement and evaluations of environmental conditions is in the bill, but their role in directing initial response and later cleanup is not absolutely clear. The commission believed that use of the ICS would clarify the difference between oversight roles and management roles in a response mobilization at any level. It also would clarify federal and private participation in response, beyond the responsibilities outlined in the district contingency plan. In the best of worlds, each district will have a contingency plan that is absolutely clear on what role each party will play. We found that the Incident Command System does the best job of this.

Each district may have different structures that reflect the differences in state agency structure, federal agency structure, local government capabilities and private capabilities. We felt that maximizing the use of existing governmental and private capabilities through the ICS would be the most cost-effective and efficient way to achieve an oil spill response system that can meet the target of responding to a worst-case situation within 72 hours.

The commission did not address the formation of the State Emergency Response Commission. The SERC does carry out the intentions of Recommendations 27 and 49 on local involvement and Recommendations 45 and 50 on allocation of state response authority. Most importantly, it provides the structure for developing effective regional response plans. These plans are the most critical element of the entire response structure because it is in the region that the ability to respond quickly and effectively must be lodged.

SB 504

Section 1

Our Recommendation 55 should be considered. We feel that contingency plans should be based on the ability to respond to a "worst-case spill" within 72 hours. The language in the bill of a "realistic maximum" oil discharge and to remove that discharge "within the shortest possible time" does not provide a firm mandate for private contingency plans. It does not do enough to mitigate the risk oil shipment imposes on residents of adjacent coasts. It is not in line with our overall policy Recommendations 1, 2 and 3.

The requirement that contingency plans be properly implemented is a longstanding loophole that needs to be closed. If private plans are not implemented the government will have to take up the slack or we will have regional response plans whose effectiveness is as suspect as those that failed last March 24.

Section 2

The commission did not address in its report any amounts for financial responsibility. We did make the point in Recommendation 21 that the state should require the shipping industry to insure the state and its citizens against risk and this section carries out that idea.

Section 4

Providing DEC with the authority to inspect tankers, terminals, exploration and production facilities is, in many ways, the most important regulatory prevention measure that must be undertaken if the system is to truly improve. We address this in Recommendation 14, with other aspects addressed in Recommendations 11 and 13.

Recommendations not contained in SB 502, SB 503 or SB 504

Recommendation 9—Tank farm capacity at Valdez.

Recommendation 12—A citizens advisory council to oversee the safe transportation of oil, gas and other hazardous substances.

Recommendation 16—State licensing of private personnel involved in oil transportation.

Recommendation 25—Harbor Administration.

Recommendation 47—A system for emergency economic maintenance.

Recommendation 57—In-state research institute.

TESTIMONY TO THE
SENATE FINANCE
COMMITTEE

Walter B. Parker
Chairman
Alaska Oil Spill
Commission

4 April 1990

This testimony is in response to the request of the Alaska Senate Finance Committee to provide clarification on the intent of the Alaska Oil Spill Commission on various sections of CS SB503, most particularly in regard to the roles of the Departments of Military Affairs and of Environmental Conservation in response to various levels of oil spills. In arriving at the restatements of our previous positions contained in this statement I have consulted with the Alaskan Commissioners of the AOSC. I wish to emphasize that nothing in this statement should be construed as changing anything that is in the Commission's final report. The intent here is to simply clarify the relevant recommendations of the final report as they apply to CS SB503.

The Commission's basic guidelines in arriving at its final recommendations were that nothing in its recommendations on response should be construed as weakening its basic emphasis that prevention of future oil spills should be where the primary policy and budgetary emphasis of future actions of the State of Alaska should lie. Where budget priorities are necessary response should always be sacrificed to prevention. Thus, the most important element is the family of oil spill bills being considered in the legislature is not present in CS SB503, but is in SB504 as presented by the Governor which assigns the Department of Environmental Conservation a strong mandate and authority to inspect tankers and terminals to ensure compliance with a strict regime aimed at prevention of future spills.

Page Two

The fiscal aspect of this is funding those inspectors at Valdez, Nikiski and along the pipeline to ensure that this strong regulatory regime is carried out.

Because we wanted to spend the state money primarily on prevention, our recommendations for dealing with oil spill response were aimed at maximizing the efforts of existing state organizations in response rather than setting up a completely separate cadre that would wait for the next catastrophic spill. We felt that such an organization would eventually decay through disuse in the hopefully long period between major and catastrophic spills.

This led us to our major decision - that oil spill response should be incorporated into the state's overall emergency response system when it is necessary to bring state response organizations into play. Recommendation 50 spells out the relationship between ADEC and ADMVA.

"The State Department of Environmental Conservation should continue to insure spill response capability. For smaller spills this responsibility can be carried out or supported through private contract. In a major spill, where mobilization of private resources and multigovernmental agency response is required, the Department of Military and Veterans Affairs, with the advice of DEC, may determine that the spill be taken over by the state." This recommendation was based on the assumption that the responsibility for emergency response would remain in ADMVA. As shown in Recommendation 55 it is also clear that we intend that responsibility for approval of private contingency plans and their oversight would remain with DEC.

The AOSC identified five levels of response that must be covered in a catastrophic spill, namely:

vessel salvage and recovery of the cargo remaining on board

immediate recovery and containment of spilled oil

protection of environmentally sensitive areas and pursuit of oil that has escaped immediate recovery

beach cleanup

mitigation of social and economic impacts on affected populations

The Commission also identified four major elements of an effective response:

trained practiced teams with a single command to meet each of the major objectives detailed above

a pre-determined course of action through known common regional contingency plans

use of a common system of training as outlined in the Incident Command System

continued research and systematic pre-approval of response methods to ensure use of the most effective means known

CS SB503 addresses some of our major elements:

that a proven form of emergency response structure be adopted using the Incident Command System (R48)

local response groups (R49)

In reviewing CS SB503 it seemed to us that parallel structures were being developed in that DEC continued its responsibilities for and response to spills which are not catastrophic and can use the oil and hazards response fund for that purpose and exercise ...

Page 4

the authority of the hazardous substance response office. But when a spill becomes a declared disaster emergency then DMVA exercises the powers of the response office and may make expenditures from the fund. It was the intent of the AOSC in its recommendations that emergency funds should be immediately available for an oil spill as they are for other emergencies. (R52)

The role assigned to the Alaska State Emergency Response Commission is overall planning for oil spills was not considered by the AOSC. We knew that the planning group already existed as an interagency group and we did not either recommend or foresee its expansion by addition of 7 public members. We wish to emphasize that this group does not take the place of the group which we recommended in R12 for a small public commission reporting to the Governor or the legislature to provide oversight on all aspects of oil and gas. HB578 embodies this recommendation of the Commission and we strongly support Senate consideration of the provisions of HB578 as a part of CS SB503.

The Commission believes that the DMVA would usually be the best agency to care for standby equipment in depots, maintain supply warehouses and conduct deployment and readiness exercises (R51). The DEC, on the other hand, should evaluate the readiness of emergency services personnel and the effectiveness of its training exercises in the same manner as it evaluates the effectiveness of private spill response training drills. DEC should continue its oversight role over government and private resources to ensure that the state and regional response plans will work. SB503 gives these oversight powers

Page 5

to the Response Commission which will be controlled by DMVA. It has been difficult for us to trace the effect this will have on the enforcement and oversight role we viewed as paramount to a successful long term prevention role for DEC. The same personnel will often be involved in prevention and in response oversight.

In reaching our decisions we examined the differences between those agencies whose responsibilities are primarily regulatory (DEC) and those with primarily operational goals (DMVA) DEC as a regulatory agency conducts environmental and operational audits to establish the first line of prevention. most of its employees are scientists or technicians trained in measurement, oversight and evaluation. They are oriented towards enforcement and the Commission's recommendations support strongly enhancement of that audit and enforcement role. (R13 & R14).

DMVA employees are experienced in command structures, emergency procurement procedures, equipment operation, logistics and personnel direction. DMVA experience in training is another key element that governs their role.

It is imperative to remember that most oil and hazardous substance response will be taken care of by the spiller unless the private contingency plan structure is a failure. DEC's enforcement capabilities is the assurance of quality of the private contingency plans. In a major spill where the regional response mechanism takes over, the quality of the constituent elements of that plan, private, state, local and federal will be a joint determination of DEC and either EPA or the Coast Guard. The operation of the response will be the responsibility of DMA on the

Page Six

state side with or without federal assistance, hopefully with substantial federal assistance. The Incident Command System will provide operational coordination, command and control.

Thus the ultimate problem becomes one of where are the personnel who do the state and regional planning to be located. What kind of personnel are best suited to this level of planning? What are their ancillary duties? The Commission did not get into this level of detail in its recommendations and there was no real way that it could...

Since DEC is still responsible ^{for} the elements of the oil discharge contingency plan under AS 46.04.030, we assume that the employees presently engaged in that process must remain in the DEC. We do not have enough information to determine whether extra personnel must be added in DMA to undertake its role as leader of the Response Commission.

In summation, the AOSC hoped that its recommendations would lead to a response organization that could effectively carry out its role without adding substantial numbers of new positions. If new positions are to be funded dealing with oil transportation we prefer that they be focussed on prevention.

4/3/90
Harrald

Alaska Emergency Response Efforts
A Comparison of Organizational Strengths and Weaknesses

Dennis M. Dooley
December, 1989

There has been considerable discussion regarding the relative merits of different organizational frameworks and how to best structure an organization to respond to an emergency event. The purpose of this monograph is to examine traits of different organizations to determine if there exists a general model for developing an organizational framework for rapidly deploying an effective field organization to deal with widespread emergencies.

Some attention was given by the Alaska Oil Spill Commission (AOSC) in discussing the framework of developing high reliability organizations. The major points were made by Dr. Todd LaPorte, University of California, in his presentation to the Alaska Oil Spill Commission. Dr. LaPorte's report dealt primarily with technologies and corresponding organizations to prevent a major failure. Additional work performed for the National Science Foundation by Harrald, Marcus and Wallace, The Management of a Maritime Crisis: The integration of Planning, Prevention, and Response, October, 1989 (Harrald) extended still further, considerations of the Commission in its review of organizational capabilities.

NOTE: The following comments are taken almost verbatim from the National Academy Report. Suffice it to say that countless hours of testimony from individuals and communities to the AOSC confirmed the central thesis of the report pertaining to organizational performance.

The Harrald paper described the evolution of society's response to marine casualties--from the days when rescue and salvage organizations first evolved in a professional manner and the development of casualty costs being absorbed by a complex series of underwriters and indemnity clubs. The turning point in history is identified to be March 18, 1967 when the 117,000 DWT super tanker TORREY CANYON stranded. The inability of existing maritime response organizations to deal with the 100,000 tons of escaped crude oil was readily evident. Thus, society realized it must somehow protect itself and the environment from cargo released during a maritime casualty.

The report goes on to indicate that progress in dealing with the problem was slow at best. The National Research Council of the National Academy of Sciences stated that, "little attention has been paid to how government and industry would respond to a major maritime casualty involving hazardous cargo...". In a 1984 Management Science article, the authors stated that "the problem of providing an immediate response (to an oil spill) in areas where major environmental damage may be done in less than 6-12 hours has not been solved or extensively studied. The environmental damage caused by oil spill could be massive and the public interest would be intense. In these areas, the national strategy fails."

The authors of the National Academy study found that decision making in the early hours of the EXXON VALDEZ response effort was constrained by inadequate planning in several ways:

i) the most obvious symptom of inadequate planning was the lack of immediately available response resources;

ii) equally serious was the failure to anticipate the decisions and actions which a major incident would require;

iii) the failure to develop information and decision aids which would support the actions above, and,

iv) decision makers did not have a clear and consistent set of goals.

The report goes on to state that federal, state and corporate organizations which evolved ... did not conform to any organizational structures anticipated in the contingency planning process with the concomitant result of hampering spill response and inter-organizational cooperation. No one anticipated that the affected company would actually direct the pollution response. No one anticipated that the federal on-scene coordinator and the state organization would not become a stable, smoothly functioning organization(s) until well after the opportunity to deal with the free oil had elapsed. No one took seriously the threat of "federalization". Decision making during the incident was reactive rather than proactive -- e.g. mobilization of beach cleaning forces after the oil was ashore.

The nature of the state/federal relationships during a spill has never been resolved by the National Contingency Plan. The tenuous relationships between the federal, state and intra-state stakeholders was acerbated in the EXXON VALDEZ incident. The state response organization did not work smoothly with the federal OSC until well into spill response. Thus, for a variety of reasons, the management Troika of Exxon, Alaska Department of Environmental Conservation and the U.S. Coast Guard were not able to focus their

respective resources in a coordinated approach to solving their main problem -- getting oil out of the water.

The report concludes,

Catastrophic spills have occurred very infrequently, and have historically been geographically distributed throughout the world. Effective risk reduction actions will reduce the probability of their occurrence even further. Government and industry must be ready to deliver hundreds of millions of dollars worth of clean-up services anywhere in the world within hours of an incident. THIS MEANS MORE THAN FLOODING THE AFFECTED AREA WITH PEOPLE AND EQUIPMENT. (emphasis added) It means creating functional organizations, capable of making and implementing decisions and operating according to doctrine.

There were several success stories regarding different aspects and features of the oil spill despite the Troika's inability to focus on immediate goals in the early days. Among these successes were:

1. Exxon's use of its worldwide directory to marshal resources from around the world.
2. The emerging sense of international community response as illustrated by the arrival of a Russian oil skimmer.
3. The arrival and successful utilization of the US Corps of Engineers dredges in retrieving oil from the surface of the Sound.
4. The organizational abilities of the Cordova Fishermen, the Seldovia community, and other local groups, to organize and implement deployment of booms and other devices to protect fish hatcheries and other areas of high local concern independently of the Troika.
5. The telling efforts of the Alaska Incident Command Team in taking a major role in organizing and coordinating the response of state, federal, borough and city agencies from the city of Seward in advance of the oil spill, relying almost exclusively upon local assets and expertise.
6. The Division of Emergency Services responding to housing, communications and logistic needs in advance of the Troika's acknowledgment that such commodities needed attention.

7. The recognition by VECO, the Exxon labor contractor, for the need to provide orientation and training for laborers prior to dispatching them to beach cleanups.

8. The attempt by Exxon to quickly reimburse those individuals most adversely impacted economically -- although this effort suffered from some flaws in administration and guidelines. The company was generally recognized for endeavoring to promptly remedy a wide variety of claims without the benefit of any prevailing governmental guidelines.

9. The lightering and salvage success in preventing an additional 40,000,000 gallons of oil from escaping.

The AOSC examined the activities of the various agencies and their respective goals, concerns, successes and failures. One striking feature was everyone believed their respective area of concern should be first priority for implementation. Such priority concerns included salvage of the ship and the remaining amount of cargo, containment and pollution abatement of the oil at sea, protection of habitat and/or investments in renewable resources, and whose beach should receive treatment and to what degree ("treatment" became the operative term instead of "clean-up")?

While reviewing the adequacy of the tools and techniques for oil spill cleanup, the Commission came to the conclusion there was more than just a trace element of truth to everyone's priority concerns. In order to be successful, salvage operations, pollution abatement and resource protection ALL REQUIRE IMMEDIATE AND INDEPENDENT RESPONSES. Further, the response mechanisms and organizations can, and probably should, be considered independent of one another in developing a regional response plan. It is entirely conceivable given the size, location, weather conditions and proximity of critical habitats, that a conscious decision be made to concentrate primarily upon protection of high value resource areas rather than to pursue pollution abatement at sea.

For instance, the USCG, Exxon and the salvors were able to effect a successful salvage operation with little or no appreciable contribution being made by state or local expertise. On the other hand, local expertise was ignored in many instances by the USCG, Exxon and others with respect to impacts local tides, currents and winds would have upon oil flows and boom strategies. Contests of will, determining equipment utilization for the sole purpose of salvaging the vessel or, to deliver a modicum of resource protection at particular beach sites were a chronic problem in the early days. Problems such as these coupled with a pronounced lack of perception by the Troika that the pollution abatement problem was a dynamic situation requiring a mindset to think and organize resources three days to a week (or more) in advance, contributed

in sending to stakeholders and the public at large the clear message, "We don't know what we are doing, but trust us anyway!"

Once the task was defined -- salvage, pollution abatement or habitat protection -- it was necessary to examine the range of successes and failures various organizations had in coping with their respective missions. Many times there were mixed reviews - the success in salvaging the Exxon Valdez may have been due in large part to the linear preoccupation of the Coast Guard and Exxon before attempting to realistically deal with pollution abatement at sea. And, pollution abatement activities may have precluded adequate preparation(s) for resource protection in advance of the spill.

Further considerations included:

- * What assets did the respective organizations bring to bear on these problems?
- * Did the organization bring a quality of institutional zeal coupled with real management skills for a tactical exercise?
- * Or, false bravado presented under a veneer of purported expertise?
- * Does the agency possess a real commitment in training personnel for emergency and/or catastrophic events?
- * To what degree, does the agency develop leadership expertise for tactical exercises?
- * Does the agency provide a proven and reliable history of communicating with a variety of stakeholders?
- * What is the agency's past and probable future ability to deal with unscheduled events which will require the marshalling and allocation of myriad resources from a wide variety of public and private agencies?
- * Is the agency involved in an adequate number of unscheduled events to provide the real-life crucible for development of "team management expertise"?

These are a few of the substantive questions to which answers may determine the appropriate designation and allocation of resources to particular agencies.

Seldom is an analysis in the world of preparing a report such as

this, allowed to proceed as a rigorous academic exercise in reviewing organizational approaches. This effort was no exception.

The AOSC, through its public hearing process, became comfortable with the notion(s) that local expertise, given proper goals, was best able to attain those goals. This was true of the fishing captain whose knowledge of local currents, riptides, etc. enabled him to better position himself in advance of the oil for containment and recovery. It was also true of local governments' whose knowledge of the respective strengths and weaknesses within themselves, avoided the problems inherent in stereotyping all communities into a collective group.

Simultaneously, the AOSC was being apprised of requirements for developing high-reliability response teams. Teams which possess a common knowledge of each member's foibles, collected over a history of repetitive shared experiences, are key to mounting effective response to an unscheduled event. How is management to be trained and given the repetitive exercises required to mold such management teams given the infrequency of catastrophic spills? Perhaps the answer lay in utilizing other emergency response systems. e.g. fire and police agencies, Division of Emergency Services.

Inquiries regarding the development of expertise in these groups showed a higher than normal willingness for intense training and incorporating into its responses the experience basis for its management teams. There exists within the organization(s) opportunity for career development while specializing in specific elements concerning emergency response. The individuals in charge know the line organizations under them -- their normal capacities, their unusual strengths and weaknesses. These same individuals know how to best incorporate these assets in a given situation not only because they are in charge, but also because for the most part they have been "through the chairs" in their individual development as leaders. Thus, the line organization through a working familiarity, also know the merits of its leadership.

What expertise is required in the development of a response to an oil spill which is unique from other emergencies? The answer was surprising -- there is nothing in oil spill expertise that distinguishes it from weather expertise, chemical expertise, or unusual architectural expertise when it comes to quickly incorporating such knowledge into a professionally trained and managed emergency corps. Such oil spill expertise cannot be ignored, but for the most part it is not the critical knowledge upon which effective response is built. Rather, it is the effectiveness of preparation and management in dealing with unscheduled events. Most agencies are evaluated upon how well routine events are dealt with a minimum of disturbance. Few

agencies (private or public) are measured for their effectiveness in successfully coping with unusual and/or unexpected occurrences. The cadre of public safety agencies are alone in this regard.

The AOSC then queried whether there existed a framework or discipline which para-response agencies utilized that took advantage of local expertise and/or assets. Did such a system deal with a sufficient number of incidents annually to develop the qualities inherent in team management?

There does appear to be such a system. It is called the Incident Command System (ICS). The ICS had its roots in a group of counties in California that needed a process by which they could augment each other's emergency efforts. The system spread -- ultimately the entire state of California incorporated it as the basis for multi-agency response to emergencies. It is now an integral feature of the Federal Emergency Management System and there is a federal requirement that fire departments receiving federal funds must also have training in the system.

There are at least three organizations in Alaska utilizing the ICS structure when responding to major incidents. The Bureau of Land Management and the Alaska Division of Forestry rely upon ICS as the primary organizational structure for their responsibilities in wildfire protection. The Department of Military Affairs, Division of Emergency Services utilize the ICS methodology as their organizational structure to respond to a wide variety of disaster incidents -- floods, earthquakes, mega-fires and hazardous material accidents. In addition, the ICS system is mimicked throughout the United States. Therefore, in the event an emergency requires additional management resources, teams can be quickly imported to the scene and readily assimilated into the structure without confusion about role definition(s) and/or mission.

ELEMENTS OF AN INCIDENT COMMAND SYSTEM (ICS)

There are three very important components in the ICS approach which allows all agencies to interchange forces and effect a positive managerial and operational control of line and support activities -- organization structure, training, and certification. This system in its various forms has vastly improved the effectiveness of emergency response organizations in a wide variety of activities. It is especially effective in offering a coherent management system to cope with delivering management expertise from diverse sources to immediately bear on solving issues in combating unscheduled calamities.

The standard ICS organizational structure identifies positions which are specific to various duties and identifies the job responsibilities each position will perform in the organization.

The structure utilizes an Incident Commander as the person in charge supported by a staff of section chiefs for Operations (actual line activities), Plans (information and planning), Service (all logistical support, Finance (cost accounting) and Safety (assures operations are safe). When there are large, diverse interests and stakeholders, the system readily incorporates a broad Management Advisory Committee (MAC) composed of representatives from public and private agencies whose primary mission is to provide the ICS team provisional guidance with regard to priorities for action.

The hallmark of the ICS system is the requirement for pre-qualification of individuals to perform specific jobs. The curriculum of courses blends experience with formal training. The basic criteria in each course is standard nationwide with adjustments made for special local area situations.

The training courses, experience, physical fitness and actual performance are evaluated by management. Once the qualifications are determined, each individual is issued a card indicating what jobs that person can perform, nationwide. The employees carry the cards as validation of their qualifications. During interagency mobilization of forces, the receiving agency uses this as valid confirmation of an individual's qualifications.

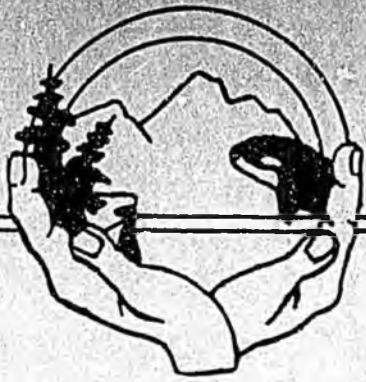
CONCLUSION

The AOSC determined it is not necessary to create a stand-alone oil spill response organization to effectively cope with major and catastrophic incidents. Rather, it is necessary to ensure that an existing system be augmented in training and development to deal effectively with such oil spill incidents along with responding to a wide variety of emergency incidents. The management talent of responding coherently to emergencies is not created overnight, or even over the span of a couple years. The concept of tactically deploying resources in advance of emerging problems is a skill that is created by individual commitment honed in repetitive group exercises over a long period of time.

The existing system which appears to have a proven capacity to blend local organizations into its responses and to call upon state and federal resources is the Department of Military and Veterans' Affairs through the Division of Emergency Services. The activity schedule appears to be hectic and varied enough to incorporate the frequency of occurrence required for management team development. The institutions are already in place for immediate funding to be warranted and required waivers of personnel and contracting procedures if necessary. It has a demonstrated success in preparing advance contractual support services from the private sector and if necessary can draw upon additional state and private

assets quickly and efficiently. Moreover, the Department of Military and Veterans' Affairs has a proven record of dealing effectively with federal command systems.

The Incident Command System allows for the expertise of the various resource agencies to be readily incorporated into a response effort. This allows all affected agencies to do what they do best: The Department of Fish and Game to provide knowledgeable advice from seasoned biologists in regards to the living resources; The Department of Natural Resources to provide guidance utilizing professional land managers regarding land and park resources; The Department of Environmental Conservation to audit environmental quality standards with professional environmental auditors; The Department of Military Affairs to respond to another emergency, in a wide ranging series of natural and technological calamities, with individuals who bring the zeal of professionalism to the effort - not the ardor of altruism and political expediency. This suggestion appears to minimize disrupting the State agency mantle without encouraging growth of long-standing but little utilized oil spill divisions in different departments of state government.



Oil Reform Alliance

SB503 TESTIMONY BEFORE SENATE FINANCE

April 3, 1990

My name is Riki Ott. I am a commercial fisherman from Cordova. My training is in marine pollution: I have a masters in oil pollution and a doctorate in sediment pollution. I am testifying today as President of the Oil Reform Alliance.

For the purposes of testifying on SB503, it is important to understand who the Oil Reform Alliance is. After the Exxon Valdez spill, citizens from spill-impacted communities throughout southcentral Alaska met in Cordova to discuss how we could share information and work to restore our communities and environment. We were fishermen, friends, neighbors, recreational users, environmentalists, tourism and business people. We became the Oil Reform Alliance.

Since June of last year, we have steadily grown in membership and shifted our focus to work on strengthening legislation such as SB503.

The Oil Reform Alliance is totally opposed to the committee substitute version of SB503 - which is to say that the CITIZENS from the spill-impacted communities are opposed to the Senate Oil & Gas committee substitute.

We support the original draft of this bill. We support maintaining DEC as the lead state agency in response to catastrophic oil spills and expanding the division of emergency services' role as logistics and backup to DEC as originally set forth in SB503.

We have a good reason for supporting this. Many of us were on the frontlines fighting this spill all last summer. We worked with DEC, with DES, with industry. We witnessed the early chaos. There is no need to repeat these same mistakes again as we strongly believe would occur under this committee substitute.

Let me explain why. DEC currently reviews and approves contingency plans, requests and reviews drills, and has trained staff in place to respond to the hundreds of small, medium, and large spills that occur each year. It makes

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absolutely no sense to then switch the lead response agency during catastrophic spills, the next size up from large spills, to a totally different agency.

It also makes no sense, as many of us witnessed during the Exxon Valdez spill, to burden DEC with logistical functions normally carried out by the division of emergency services. Just as DEC must carry out its duties during any and all spills of oil and hazardous substances, so must DES be empowered to carry out its duties as backup during these same spills.

This is how we interpret the Oil Spill Commission's recommendations that Sen. Halford just read. Also during personal communications with Walt Parker yesterday, Mr. Parker expressed disappointment with the committee substitute for SB503. Mr. Parker told me that the Oil & Gas Subcommittee totally misinterpreted the Commission's recommendations and he is currently writing a memo to this effect.

Let me draw another parallel with the Dept. of Natural Resources. During a forest fire, the State Forester is in charge with DES providing backup and logistics. During a catastrophic spill, the Commissioner of DEC should be in charge with DES providing backup and logistics - as originally proposed by the Administration and recommended by the Oil Spill Commission.

I spent 12 years of higher education conducting experiments with oil and other hazardous substances. I grew sick of working with toxins, mutagens, carcinogens, and genotoxins. I shudder to think what would happen to the public and the environment if an agency with no basic understanding of these deadly compounds is put in charge of spill response.

The expertise to fight a huge forest fire lies within DNR just as the expertise to minimize impact to the public and the environment from a catastrophic spill lies within DEC. There is more to both fighting a huge forest fire and a catastrophic spill than providing emergency housing, transportation and communication services.

The Senate Oil & Gas Subcommittee made several other rather drastic revisions to SB503, none of which are supported by the Oil Reform Alliance. It makes absolutely no sense to switch the Oil & Hazardous Response Office to DES when this is DEC's JOB to respond to and minimize impact from these types of spills. It makes no sense to put the 470 Response Fund under DES as this fund provides the money for DEC to carry out its JOB during a spill emergency.

It makes no sense to have DES as chairman of the Statewide Emergency Response Commission as this should be a function of the lead agency which we believe should remain DEC.

It makes no sense to have the Hazardous Substances Spill Technology Review Council within DES as this type of scientific expertise is a valuable resource to DEC during the prevention, planning, and response stages to all spills. It is pretty clear to me, speaking as a scientist, that as structured in the committee substitute, the Council will be of limited use even to DEC.

For example, on page 10, lines 7-8, the approval process for new protocol is limited to six months after application. This is an unrealistic requirement because many of the test organisms, such as pink salmon fry and other young life stages which are necessary to test new protocol, are only available at certain times of the year.

This is exactly what happened during the Exxon Valdez spill. Many compounds could not be approved for widescale use as the test organisms were not available in late May and early June when the scientists finally initiated laboratory tests of different compounds. Approval process for testing protocol needs to be at least one year.

In summary, the Oil Reform Alliance strongly supports the original version of SB503 and the attached fiscal note. The experience of many of our members this past summer has shown that involvement of local communities in response is of critical importance to the success of the total operation. We are strongly in favor of establishing and funding the local emergency planning committees as provided for in the attached fiscal note.

Bills such as SB503 are supposed to be designed to better prepare us for the next catastrophic spill. The people who were most intimately involved with the last catastrophic spill support the original version of SB503. A vote for the committee substitute is a vote against everything we learned last summer.

It is time for you to listen to us.

The Oil Reform Alliance strongly feels that public input during Senate hearings on this bill have been purposely minimized. We are extremely disappointed that this bill was not heard in Sen. Resources. We are extremely disappointed that it was not teleconferenced today.

I understand that testimony from two concerned members of the public who were ready to teleconference today has been entered into the record and I respectfully request that the testimony of two others, Annie McKenzie and Tim Robertson, are also read into the record.

~~XXXXXX~~
April 3 1990

Testimony by Annie McKenzie, P.O. Box 72, Seldovia AK 99663
Senate Bill 503

My name is Annie McKenzie and I have been a Seldovia resident for the past ten years. I witnessed the Exxon Valdez oil spill from the perspective of a private citizen in a coastal town in Alaska and observed the interactions of the many state, federal, and private organizations to the spill. In the response we in Seldovia made to the spill, we interacted with these agencies and could observe first hand the conflicts and interactions, as well as the problems within each one.

The department of Environmental Conservation was the agency, in my opinion, which was most responsive to the spill in a knowledgeable way. I have confidence in their ability to understand the needs of responsible environmental agencies reactions to a spill and their ability to meet those needs. They have the most experience in spills and clean-up, they understand them, and they should be in charge of cleaning them up without obstruction by other agencies and organizations.

Please support the original version of Senate bill 503; in which the department of environmental conservations took primary responsibility for spills. Please do not pass the bill as it was changed by the special senate subcommittee on Oil and Gas.

- Testimony -

- Before the Senate Finance Committee -

~~April 3, 1990~~ April 3, 1990

Thank You for the opportunity to testify
on SB 503. My name is Tim Robertson and
I live in Seldovia, Alaska.

I support the original version of SB503
as submitted by the Governor. I don't
like the Committee Substitute turned out
by the Senate Oil + Gas Committee.

The proper people to run an oil spill
are the people who work with the oil
industry on a day to day basis. The
Department of Environmental Conservation is
responsible for reviewing and modifying oil
spill contingency plans. They understand
the plans and how oil spills can be cleaned
up. The Division of Emergency Services doesn't

If a spill can be picked up quickly
then a major disaster can be avoided.

If a spill response does turn into
a major disaster then the Division
of Emergency Services can be called
upon to provide the type of logistic
support they are good at.

Please change this Bill to let
the people ^{ADEL} with the knowledge about
oil spills + oil spill contingency
plans be in charge of managing
the spill response. Let the people
within the Division of Emergency Services
with the knowledge of mobilization
and logistics provide support. Thank
you for this opportunity to comment.

have the background to be in charge of this important technical process.

One thing that has become very clear in the wake of the EXXON VALDEZ oil spill is that the only ^{acceptable} way to respond to a spill is to get there as quickly as possible with as much organization and equipment as possible. Unless the

Division of Emergency Services is going to restructure and restaff in a major way, they are not capable of this type of response. ~~ADEC~~ ~~is~~ ~~not~~

~~capable~~ ADEC needs to be beefed up in order to accomplish this type of immediate response, but, they are clearly the people who have the working knowledge to ~~respond~~ ^{act} immediately with the appropriate response.



Laurie Ferguson Craig

April 3, 1990

TESTIMONY ON SENATE BILL 503

Thank you for the opportunity to testify.

I come to this table from a slightly different perspective. I am an average Alaskan, an unaffiliated member of the public who decided to do what the oil spill commission suggested: take a greater responsibility for what happens in my community and state. Recommendation #3 says "...citizens should be involved in oversight arrangements at every level of government."

Because Juneau is my home, it seemed that the appropriate point to enter was at the legislative level. I began attending hearings on January 16 and have continued to participate in an average of 6-8 hours' worth of hearings per week since then.

The reason I came to this building - for essentially the first time in the 21 years I have lived here - was to learn. It appeared that this would be an excellent forum to receive a well-balanced education in the workings of government as well as an opportunity to learn how to prevent another disaster like the Exxon Valdez. I came here to find out how this could occur in the first place and what was necessary to see that it never happen again.

The greatest shock was to learn that for all our governmental presence, we have very little legal ability to defend our

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natural resources. Much of the proposed legislation merely brings us up to a very minimal level of protection compared to other states. Alaska has the most to lose and yet some of the weakest regulations, primarily due to the loss of the Chevron vs. Hammond case in 1979.

In these hours of hearings, I have heard other Alaskans demand legislative action to protect their livelihoods, their homes, their areas of subsistence use and recreation, while industry representatives counter that they are unable or unwilling to fulfill the mandates of proposed legislation. In some cases, preventative measures have been implemented, and I commend Alyeska for taking recent steps to boom tankers during loading, provide escort vessels and have response equipment available. Yet, in the same breath, I deplore Alyeska for removing those protective steps in the first place several years ago which led them to be grossly unprepared for an accident that was virtually inevitable.

The apparent deadlock between environmental conservation and economic development prompted me to attend the recent Frontier Thinking Conference in Anchorage which set out to reconcile those two points of view. Environmentalists and developers seemed prepared to defend their opposing positions as the conference began, but three days later we all agreed that we must understand each other and work cooperatively to survive.

Speakers from around the world gathered on the eve of the anniversary of the wreck of the Exxon Valdez to chart a new course for the 1990s. Overwhelmingly they agreed that protection of air, water, soil and living things must become part of the cost of doing business. Representatives from the Middle East, Africa, Norway, England, Mexico and France shared their experiences with oil spills.

Jean-Baptiste Henry from the Brittany coast of France spoke to us about spending ^{the last} 12 years battling Amoco Oil in a Chicago court after the

Amoco Cadiz disaster sent six times more oil onto the beaches of his home region. That oil spill was caused by a defective steering mechanism, which the company had previous knowledge of, that allowed the ship to drift for 12 hours before hitting a reef in 1978. Scenes of their beaches resemble our own, but with ancient stone castles perched on the rocks.

Joan Bavaria, one of the formulators of The Valdez Principles, was another conference speaker. This set of 10 ethical guidelines - named after the Valdez oil spill - asks signatory companies to commit to conducting business in environmentally safe and responsible fashions. (I include a copy of The Valdez Principles with my testimony.)

On Saturday, March 24, I accompanied a group of the keynote speakers on a tour of Prince William Sound. En route from the Valdez airport to a tour of Alyeska's harbor facilities, another of the speakers - Manuel Guerra, an environmental activist from Mexico City - informed Joan Bavaria that the topic of his live morning radio broadcast that day from Anchorage was the Valdez Principles. To an audience of 21 million residents of Mexico City, at 4:30 AM on the anniversary of the oil spill, Señor Guerra translated the 10 principles into his native language to share with his countrymen. It was a very special moment, joined by a member of the World Bank, a Japanese journalist, a French geographer, a Norwegian news writer, and a British biotechnologist from a chemical company.

Earlier that week, Alaska's Permanent Fund Board of Trustees, at the request of Attorney General Doug Bailey, approved a resolution that the 607,000 Exxon shares held by the Permanent Fund be used in a proxy vote to recommend adoption of the Valdez Principles by Exxon Corporation at its annual meeting later this month.

The rest of the world is moving forward, but I question the direction

of Senate Bill 503. Its revised version appears to create more stumbling blocks to adequate response. Public testimony over the past weeks strongly recommends DEC as the agency in charge. DEC has been here in hearings consistently to answer questions and offer suggestions on spill prevention, response and recovery. This bill now gives the Department of Military and Veterans' Affairs sweeping powers to recreate its own equivalent in The Spill Response Commission. In Sect. 20, on page 9, The oil and hazardous substance response office is instructed to respond only in the case of a disaster emergency. It would be more prudent that the agency mandated to respond to a catastrophic event be the agency prepared by experience in responding to oil spills on a regular basis.

This bill further goes on to create a quasi-military institution which duplicates the duties of another agency currently engaged in those activities of oil spill response. As a member of the public, my experience has been that the military is not noted for its openness or receptiveness to public inquiry and participation. After reading through pages of new provisions for the commission, I almost expected to find it empowered to declare martial law.

I recognize the recommendations of the oil spill commission that DES play a greater role in spill response, ~~to~~ but I feel their abilities lie in managing logistics, not in managing hazardous materials. In the 2½ months of hearings, we have heard little, if anything, from the Department of Emergency ~~Services~~ Services. I would not like to think that that is a reflection of their interest in oil spill legislation. However, I am very concerned that it is indeed, the truth.

I urge you to reject this new version of SB 503. I am afraid this legislation does little to reinforce public trust in government. It brings to mind the bitter irony expressed by the Frenchman as he mused about the patron saint of his oiled region of Brittany who is also the patron saint of lawyers.



EARTH DAY 1990

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Valdez Principles Statement of Intent

With these Principles, The Coalition for Environmentally Responsible Economies, or CERES project of the Social Investment Forum, sets forth broad standards for evaluating activities by corporations that directly or indirectly impact the Earth's biosphere. The CERES Project has created the Valdez Principles to help investors make informed decisions around environmental issues. As representatives of the investment and environmental communities we are asking corporations to join with us by subscribing to these Principles.

Recognizing the complexity of the issues contained in these broad Principles, CERES has attempted to define the Principles as a long-term process rather than a static statement. CERES members hope that signatory companies will work with us on the elaboration of the specific requirements of the Principles. Our intent is to create a voluntary mechanism of corporate self-governance that will maintain business practices consistent with the goals of sustaining our fragile environment for future generations, within a culture that respects all life and honors its interdependence.

We ask for a long term commitment to the process of compliance with these Principles, and an additional commitment of assistance and cooperation in the further development of specific standards derived of these general principles.

Valdez Principles

Introduction

By adopting these principles, we publicly affirm our belief that corporations and their shareholders have a direct responsibility for the environment. We believe that corporations must conduct their business as responsible stewards of the environment and seek profits only in a manner that leaves the Earth healthy and safe. We believe that corporations must not compromise the ability of future generations to sustain their needs.

We recognize this to be a long term commitment to update our practices continually in light of advances in technology and new understandings in health and environmental science. We intend to make consistent, measurable progress in implementing these principles and to apply them wherever we operate throughout the world.

1. Protection of the Biosphere. We will minimize and strive to eliminate the release of any pollutant that may cause environmental damage to air, water, or earth or its inhabitants. We will safeguard habitats in rivers, lakes, wetlands, coastal zones and oceans and will minimize contributing to global warming, depletion of the ozone layer, acid rain or smog.

P.O. Box AA

Stanford University,

California 94309

415.321.1990

Fax: 421.321.2040

Econet: Earth Day

2. Sustainable Use of Natural Resources. We will make sustainable use of renewable natural resources, such as water, soils and forests. We will conserve nonrenewable natural resources through efficient use and careful planning. We will protect wildlife habitat, open spaces and wilderness, while preserving biodiversity.

3. Reduction and Disposal of Waste. We will minimize the creation of waste, especially hazardous waste, and wherever possible recycle materials. We will dispose of all wastes through safe and responsible methods.

4. Wise Use of Energy. We will make every effort to use environmentally safe and sustainable energy sources to meet our needs. We will invest in improved energy efficiency and conservation in our operations. We will maximize the energy efficiency of products we produce or sell.

5. Risk Reduction. We will minimize the environmental, health and safety risks to our employees and the communities in which we operate by employing safe technologies and operating procedures and by being constantly prepared for emergencies.

6. Marketing of Safe Products and Services. We will sell products or services that minimize adverse environmental impacts and that are safe as consumers commonly use them. We will inform consumers of the environmental impacts of our products or services.

7. Damage Compensation. We will take responsibility for any harm we cause to the environment by making every effort to fully restore the environment and to compensate those persons who are adversely affected.

8. Disclosure. We will disclose to our employees and to the public incidents relating to our operations that cause environmental harm or pose health or safety hazards. We will disclose potential environmental, health or safety hazards posed by our operations, and we will not take any action against employees who report any condition that creates a danger to the environment or poses health and safety hazards.

9. Environmental Directors and Managers. At least one member of the Board of Directors will be a person qualified to represent environmental interests. We will commit management resources to implement these Principles, including the funding of an office of vice president for environmental affairs or an equivalent executive position, reporting directly to the CEO, to monitor and report upon our implementation efforts.

10. Assessment and Annual Audit. We will conduct and make public an annual self-evaluation of our progress in implementing these Principles and in complying with all applicable laws and regulations throughout our worldwide operations. We will work toward the timely creation of independent environmental audit procedures which we will complete annually and make available to the public.

4/3/90
Haltford

Report of the Alaska Oil Spill Commission
Executive Summary

SPILL

The Wreck of the Exxon Valdez
Implications for Safe Marine Transportation

January 1990

FOREWORD

On March 24, 1989, Alaskans awoke to the shock of disaster. Shortly after midnight, the 987-foot-long supertanker Exxon Valdez had run hard aground on Bligh Reef, spilling 10.8 million gallons of crude oil into the unspoiled waters of Prince William Sound. The worst case had occurred.

This was the threatened tanker catastrophe residents of Prince William Sound had dreaded — but many had come to discount — ever since the trans-Alaska pipeline system was proposed in the late 1960s. A few of those scrambling to cope with the disaster knew something more chilling still. Though nearly 11 million gallons of crude oil already had escaped the fully-loaded *Exxon Valdez*, another 40 million gallons remained on board — and the ship was in considerable danger of capsizing. The spill that became the environmental disaster of the decade easily could have been five times worse.

The system that carried 25 percent of America's domestic oil production had failed. So had the regulatory apparatus intended to make it safe. The promises that led Alaska to grant its rights-of-way and Congress to approve the Alaska pipeline in June 1973 had been betrayed. The safeguards that were set in place in the 1970s had been allowed to slide. The vigilance over tanker traffic that was established in the early days of pipeline flow had given way to complacency and neglect. In the months following the spill, more than 1,000 miles of Alaska's coastline would be sullied by North Slope crude.

Communities touched by the effects of the spill staggered under the damage to land and water upon which they lived or the impact of the massive cleanup mobilization after the spill. Alaskans from walks of life as diverse as the oil industry and subsistence communities struggled with the economic losses, sorrow and dislocations as well as, for some, the opportunities that came with the spill and cleanup. Attitudes toward oil development, the land, the industry and the future were examined and re-examined as Alaskans searched for answers to the question of how things went wrong.

The Alaska Legislature created the Alaska Oil Spill Commission to provide some of the answers. Two months after the spill, the governor appointed an independent panel to study the event and recommend public policy remedies. The commissioners came to their work with broad experience in government and public affairs. Their sole purpose was to learn the causes of this disaster and propose changes that would prevent a recurrence of similar disasters anywhere. The mission was clear: Our report must show a path for Alaska, the United States and the world to a vastly improved system for transporting oil and other hazardous substances in the marine environment.

This disaster could have been prevented — not by tanker captains and crews who are, in the end, only fallible human beings, but by an advanced oil transportation system designed to minimize human error. It could have been prevented if Alaskans, state and federal governments, the oil industry and the American public had insisted on stringent safeguards. It could have been prevented if the vigilance that accompanied construction of the pipeline in the 1970s had been continued in the 1980s.

In 1977, when tanker operations began from Valdez, we thought we had created a system that offered guarantees against most disasters. As chairman of Alaska's Oil Tanker Task Force, I pulled together a team that provided the first full-scale simulation of marine operations ever done for a North American port.

Our simulation model demonstrated to the masters and pilots the conditions that would put their ships on the rocks. Tanker lanes into Port Valdez were set to insure the maximum feasible level of safety in tanker operations. Restrictions were imposed to limit operations in high winds. Agreements between the state, the industry and the Coast Guard established that when ice was encountered, the ships would slow down and proceed at minimum speed in the tanker lanes, rather than proceeding outside the lanes at sea speed, as did the *Exxon Valdez*.

The historical record developed by the commission is clear: The original rules were consistently violated, primarily to ensure that tankers passing through Prince William Sound did not lose time by slowing down for ice or waiting for winds to abate. Concern for profits in the 1980s obliterated the concern for safe operations that existed in 1977.

This disaster could have been prevented by simple adherence to the original rules. Human beings do make errors. The precautions originally in place took cognizance of human frailty and built safeguards into the system to account for it. This state-led oversight and regulatory system worked for the first two years, until the state was preempted from enforcing the rules by legal action brought by the oil industry. After that, the shippers simply stopped following the rules, and the Coast Guard stopped enforcing them.

This past year the Alaska Oil Spill Commission traveled to the coastal towns and villages of Prince William Sound and Southcentral Alaska to hear from the people most affected by the spill. We found communities and individuals whose lives and trust had been destroyed, but who had rededicated themselves to protecting their livelihood on water and land. Walter Meganack, Sr., traditional village chief of the Alaska Native subsistence community of Port Graham offered these words at a conference of mayors from spill-affected communities:

It is too shocking to understand. Never in the millennium of our tradition have we thought it possible for the water to die. But it is true. ... what we see now is death. Death — not of each other, but of the

source of life, the water. We will need much help, much listening in order to live through the long barren season of dead water, a longer winter than before. ... We have never lived through this kind of death. But we have lived through lots of other kinds of death. We will learn from the past, we will learn from each other, and we will live.

Port Graham is about 250 miles, by water, from Bligh Reef. To get there, the oil had to travel the length of Prince William Sound, past Green, Stesy, Knight, Montague and LaTouche islands, out into the Gulf of Alaska and along the rocky headlands of Kenai Fjords National Park. It had to round the corner at the end of the Kenai Peninsula, plastering Elizabeth Island and heading into Cook Inlet and the outer reaches of Kachemak Bay. Moving beyond Port Graham and the surrounding area, the oil fouled beaches down the Alaska Peninsula — in Katmai National Park, along the Shelikof Strait, on Kodiak Island and beyond. As the oil spread so, belatedly, did the impact of cleanup and containment efforts, with an army of workers and a navy of boats to move and house them.

To trace on a map the tortured routes of the oil spilled from the *Exxon Valdez* is to appreciate the vulnerability of every coastline on earth as supertankers of 500,000 deadweight tons and more carry crude oil to market. When the Alaska pipeline was being planned and built, the largest tankers in the U.S. flag fleet were about half that size. The world's oil shipping companies, to the benefit of consumers and corporate shareholders, have created a megasystem that carries oil from wellheads in the far corners of the earth to refineries in its major industrial centers. But this megasystem is fragile. It requires careful scrutiny from outside the industry in design, construction and operation. When it fails, as it has in tanker disasters around the world, entire coastlines are at risk. Had a spill the extent of the *Exxon Valdez* disaster occurred off the United States East Coast, the devastation would have stretched from Cape Cod to Chesapeake Bay.

This is not a fictitious risk. Alaskans assume such risks daily as supertankers carry 2 million gallons of North Slope crude through Prince William Sound and out into the Gulf of Alaska. Other Americans on three coasts face just as ominous a threat as the world tanker fleet delivers 43 percent of all U.S. oil consumption daily from overseas.

What will limit these risks? Obviously, the present system, providing minimum penalties for creating massive environmental damage, has not deterred the industry from putting the coasts and oceans of the world at constant hazard. The system calls out for reform. The mission of this commission is to explain what must be done and why.

**Walter B. Parker, chairman
Alaska Oil Spill Commission
January 5, 1990**

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INTRODUCTION

The evidence points to eight fundamental conclusions that form the basis of this report:

- I. Moving oil by sea involves a complex, high-risk megasystem whose breakdown can threaten the welfare of entire coastlines.*
- II. Risk is unavoidable in modern oil transportation. It can be reduced but not eliminated.*
- III. Prevention of major oil spills must be a fundamental goal in the oil trade since cleanup and response methods remain primitive and inadequate.*
- IV. In government as well as industry, enforcement zeal declined, alertness sagged and complacency took root in the years preceding the Exxon Valdez disaster. Prevention was neglected.*
- V. Without continuing focus on the safety of the entire system by government and industry leaders, the oil transportation system poses an increasing risk to the environment and people of Alaska.*
- VI. The State of Alaska has primary responsibility for protecting the resources of the state and the welfare of its people, who bear the risk of unsafe conditions in oil transportation.*
- VII. Privatization and self-regulation in oil transportation contributed to the complacency and neglect that helped cause the wreck of the Exxon Valdez.*
- VIII. The safety of oil transportation demands review and overhaul. Not just new technology, but new institutions and new attitudes in old institutions are required.*

These are the basic premises we believe policymakers should understand in designing remedies for a flawed system of oil transportation.

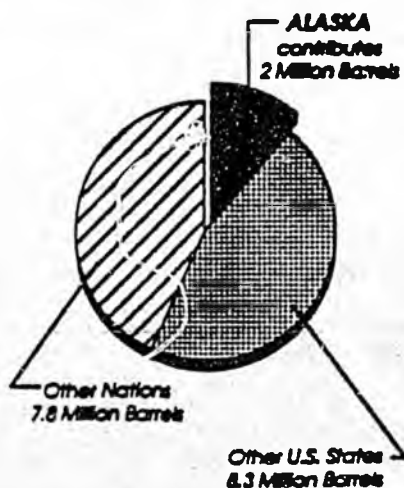
Tankers carrying North Slope crude oil from the Valdez terminal of the trans-Alaska pipeline had safely transited Prince William Sound more than 8,700 times by the time the *Exxon Valdez* left port at 2112 hours (9:12

"I warned the community that the possibility of an oil spill in Valdez was very high. Given the high frequency of tankers into Port Valdez, the increasing age and size of that tanker fleet, and the inability to quickly contain and clean up an oil spill in open water of Alaska, we felt that we were playing a game of Russian Roulette. We knew 'The Big One' was only a matter of time."

Dr. Riki Ott, Cordova District Fishermen United

House Committee on Interior and Insular Affairs hearing, May 1989

America uses 18.1 million barrels of oil every day



p.m., Alaska Standard Time) on March 23, 1989. This experience gave little reason to fear impending disaster. Yet less than three hours later, the *Exxon Valdez* grounded at Bligh Reef, rupturing eight of its 11 cargo tanks and spewing some 10.8 million gallons of crude oil into Prince William Sound.

No human lives were lost as a direct result of the *Exxon Valdez* disaster, and only one life was reported lost in the massive cleanup effort. Indirectly, however, the human and natural losses were immense—to fisheries, subsistence livelihoods, tourism, wildlife. The most important loss, for most Americans who will never visit Prince William Sound, was aesthetic—the sense that something sacred in the relatively unspoiled land and waters of Alaska had been defiled.

Experienced mariners express astonishment that a modern, well-equipped supertanker ran aground at Bligh Reef. The *Exxon Valdez* was traveling through well-charted waters in conditions of moderate weather and visibility. Bligh Reef was a well-known hazard, and all mechanical and navigational systems on the ship were working properly. Coast Guard Commandant Paul Yost engaged in only slight hyperbole when he said after inspecting the accident scene that his 10-year-old son could have steered the tanker safely through the area.

Yet the events leading to the grounding, and the institutions and procedures reflected in them, revealed a situation where the risk of disaster had increased steadily through years of relatively incident-free tanker trade. Success bred complacency; complacency bred neglect; neglect increased the risk—until the right combination of errors finally led to an accident of disastrous proportions.

The wreck of the *Exxon Valdez* was not an isolated, freak occurrence, but simply one possible (and disastrous) result of policies, habits and practices that for nearly two decades have infused the nation's maritime oil transportation system with increasing levels of risk. The *Exxon Valdez* was an accident waiting to happen, the link that broke first in a chain with many unreliable couplings. The specific lapses that permitted the *Exxon Valdez* to run aground on Bligh Reef are being remedied, but similar circumstances easily could be repeated in some other combination to allow some other disaster. What is required now is comprehensive action to reduce the risk in the system.

At one level it is obvious that a combination of human actions and errors led to the *Exxon Valdez* disaster. Many have been scrutinized in the public record, particularly the proceedings of the National Transportation Safety

Board. Not even the root of this disaster—departing from traffic lanes—was unique: The 1967 *Torrey Canyon* grounding off England took place when the captain left the traffic lanes to save time.

Yet behind all human actions in the Valdez tanker trade, supporting the men and women who load and operate the tankers, is a system—one whose design and function clearly failed that night in Prince William Sound.

The system includes hardware in the form of pipelines, terminals, storage tanks, loading facilities, tankers and all the associated gauges, meters and machinery that operate them. It also involves operating instructions in the form of technical and design standards, international protocols, capacity ratings, terminal procedures, loading instructions, contingency plans, pilotage rules, maritime rules of the road, local navigation regulations, vessel traffic monitoring and economic and career pressures on all participants. Finally, the system involves institutional oversight in the form of corporate management, private insurance systems, state inspection and enforcement, local port management and Coast Guard regulation.

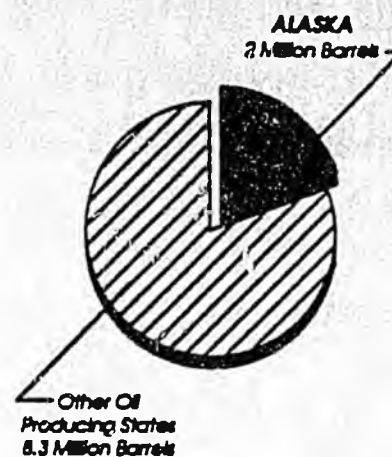
The objective is to move oil safely across the seas regardless of inevitable human error. System design must provide for redundancy—backup systems to prevent error from becoming disaster and overbuilding to provide for wider margins of error. Proper functioning requires constant testing, inspection vigilance, cooperation, discipline, expertise and commitment of organizations at every level of government and industry.

Yet for reasons of maritime tradition, economics, politics, public policy and modern practice, the maritime oil transport system is relatively more error-prone than safety-inducing. Industry tends to measure success as operating the biggest vessel with the thinnest hull and the smallest crew at the highest speed with the quickest port turnaround consistent with meeting minimum government requirements. Efficiency in a competitive world dominated by profit is all important in the oil transportation business, even in the Alaska trade where transportation competition is muted.

A comparison between the nation's passenger air transport system and the maritime transport system is instructive, if not exact. Air transport safety is better reinforced, backed up and institutionally safeguarded than maritime transport.

- Air pilots share responsibility with co-pilots and foster teamwork in the cockpit, while marine masters hold absolute authority,

Alaska produces 2 million barrels of oil every day



"It takes great strength to recognize the reflection in the mirror. Look in the mirror, and dig deep within yourself. Don't create an image that isn't there. Act on what you see. The environment is a reflection of who we are. We can't ignore the reflection we see. We have to live with it—today, tomorrow, and forever."

Dolly Refi, Kodiak native
Alaska Oil Spill Commission
hearing, 8/11/89

*"We in industry cannot
assume that all
regulation is bad; it's
not."*

*Jerry Aspland, President, ARCO
Marine, Inc.*

*Alaska Oil Spill Commission
hearing, 9/1/89*

sharing little command responsibility with other ship officers. Mistakes in the cockpit are more easily challenged than on the bridge;

- Air traffic control is mandatory, and ground controllers share responsibility with air pilots for safety of takeoffs, landings and approaches. There is no equivalent to ground control in marine transport, and vessel traffic systems are typically only advisory;
- The federal government imposes strict standards and enforcement carried out by the Federal Aviation Administration in air transport, while the federal presence is minor and interspersed among other Coast Guard duties in the marine environment;
- Strong international cooperation governs air transport practices, while international cooperation remains weak in the maritime field; and
- Working conditions in air transport are governed by strictly enforced limits on work hours, while overwork and long hours are routinely permitted to create fatigue among crew members in marine transport.
- Airline accident victims are identifiable and directly linked to the business of air travel, while the victims of marine accidents—seamen, fishermen, wildlife—are more likely to be anonymous.

The analogy to air transport is not perfect. The issues described here reflect institutional settings, demands and traditions that go beyond considerations of safety. But two points illustrate the relevance of the comparison.

First, there are approximately 17,000 airline departures per day in the United States. On most days, every single one of these departures safely arrives at its destination. The *Exxon Valdez* was a catastrophic failure—the oil transport equivalent of a major airliner crash. Studies performed for the commission indicate that a catastrophic failure such as the *Exxon Valdez* disaster can be expected to occur in the Valdez tanker trade approximately every 13 years, or about once every 11,600 transits. At a similar rate of catastrophic failure, the air transport system would produce 1.5 airliner disasters every single day, or 550 per year. If an average of 150 people died in each airline crash, such an accident rate would result in the loss of about 82,500 human lives per year—an unthinkable carnage that

is prevented by a tight, safety-reinforcing system of regulation and oversight.

Technological and human systems aren't perfect: Airliners occasionally do crash. But we have built a system that does not tolerate in air traffic anything like the catastrophic failure rate we can expect in the Valdez tanker trade. Because of that system, air travel can be considered safe and reliable. Risk cannot be eliminated, but it can be reduced—if we accept the costs involved.

Second, as vessels carrying oil and other hazardous materials impose higher and higher risks upon the world's oceans and coastlines, the environmental and social costs of marine transport accidents increase. The growth of a massive international system of transportation of oil by sea since World War II has not been accompanied by the development of organizations and active constituencies of those affected by the environmental hazards inherent in the trade. Those stakeholders, however, deserve increasing attention, for the risks they suffer are growing as the world's oil transportation system grows. And the marine transport system must become tighter and more safety inducing as the costs of failure grow more serious and more pervasive.

Alaska, like other states, has long relied on the National Contingency Plan to provide the manpower and resources to handle a catastrophic spill. But the *Exxon Valdez* response illustrated the emptiness of the NCP: It failed to provide the necessary resources, and indeed the record of the past decade shows that the federal government has relied on private industry to contain or clean up a major spill. The government provided no resources of its own to handle even moderate-sized spills adequately. Nor is there any indication that either the Environmental Protection Agency or the Coast Guard, the federal administrators of the NCP, made any effort to determine whether the oil industry actually had the capability to clean up a catastrophic spill.

The proposals in this report aim to revive the commitment of the state and nation to tanker safety and response preparedness. The basic premises behind these proposals are highlighted at the beginning of this chapter. The major recommendations for state, federal and industry actions are then divided by subject into seven sections.

The first section includes general prescriptions concerning prevention as a comprehensive policy goal of maritime oil transportation. It focuses on direct citizen oversight, improved industry and government attitudes,

"I think there's probably going to be reluctance from the management agencies that were involved, both at the state and federal levels, to take a hard look at their performance."

Dr. David G. Shaw, University of Alaska

Alaska Oil Spill Commission hearing, 9/21/89

knowledge of risk at all levels and regulatory vigilance as primary building blocks to a safer system.

The second section defines some commitments that must be made by the oil industry to provide better environmental protection, just as it would for human safety.

The third section addresses actions the State of Alaska should take to bolster its oil spill prevention and response systems. It provides insights on the state's relationship with the federal government and ideas on focusing the state's position on oil and gas transportation, expanding its regulatory position, creating interstate compacts, and adding greater local input to decision-making.

Recommendations to the federal government in section four, if adopted, would have considerable impact on tanker safety. Tanker design changes, including double hulls, improved traffic control systems and a increased emphasis on proper manning and crew training are the key elements. If adopted, these could decrease spill probabilities of the *Exxon Valdez* size more than four-fold. If further recommendations for increased federal oversight also were carried out, we could expect a five-fold improvement in oil tanker safety—and therefore a substantial decrease in the present devastation of our coasts and oceans.

"The level of inability to function in chaos that's going on out there is ridiculous. The amount of money that is being spent is obscene."

Dennis Holan, Cordova fisherman
Alaska Oil Spill Commission
hearing, 6/28/89

Section five describes what the commission believes should be the government's posture toward future spills—the response mechanisms of state, federal and local governments, and how they might fit together better to prepare for future spills. The private sector is included as a critical element of response, but not as the governing element. The key to a proper response system is speedy mobilization of manpower and resources immediately after a spill. The next element is to insure protection of key environmental areas if a spill cannot be contained. We recommend that the Incident Command System—currently familiar to many federal agencies for emergency response—be put into use widely to respond to natural disasters.

In section six we make recommendations on how to implement an oil spill response and how to integrate the Incident Command System into existing organizations. Our goal is to show how to use existing government systems in the most efficient manner while avoiding the creation of a separate spill response bureaucracy in every government agency concerned with oil spills. We have also emphasized an increased and structured role for local communities both to insure that local resources are available and that rapid mitigation of spill impacts occurs when

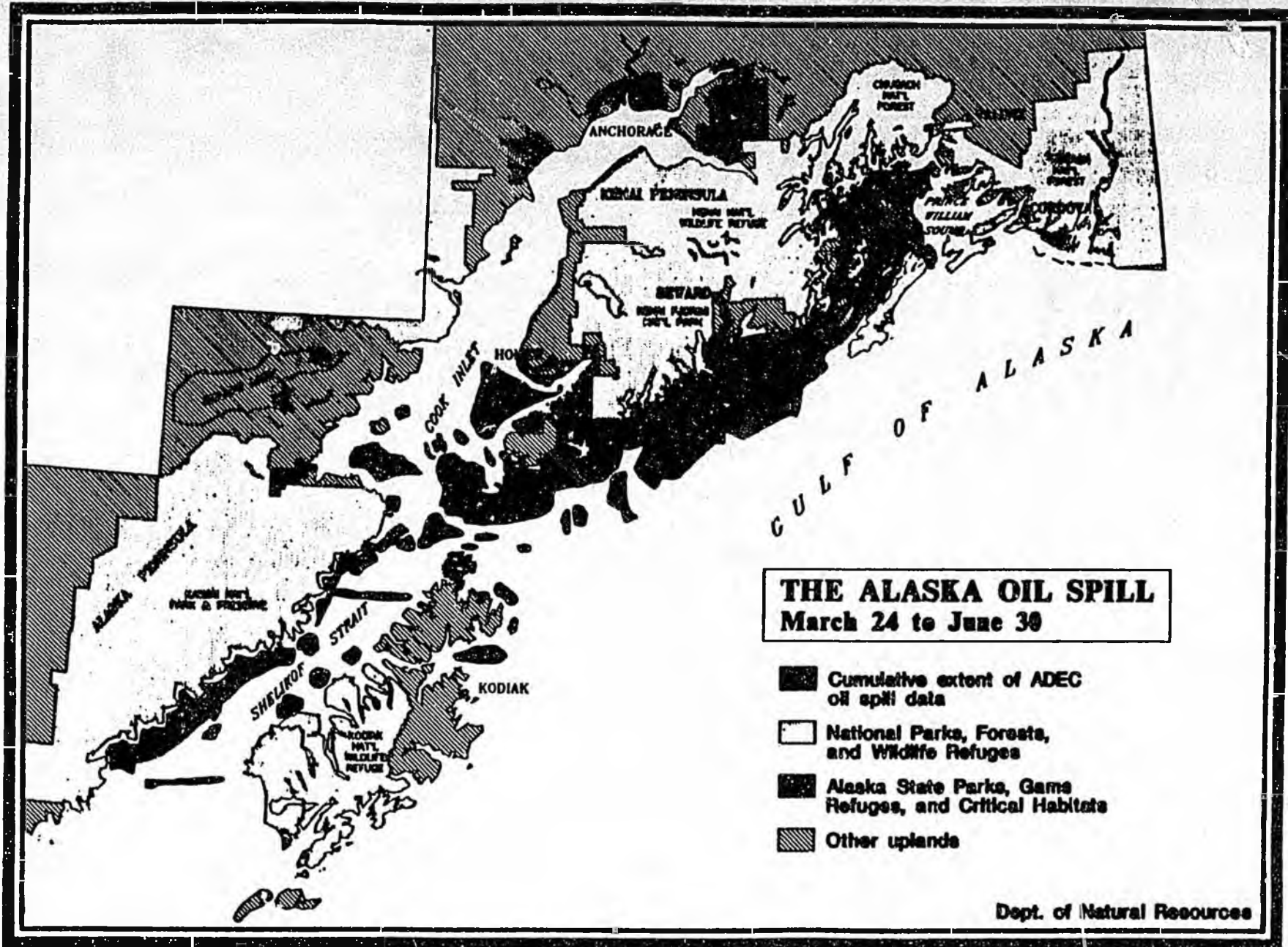
necessary. The role of private contingency plans also is defined in this section.

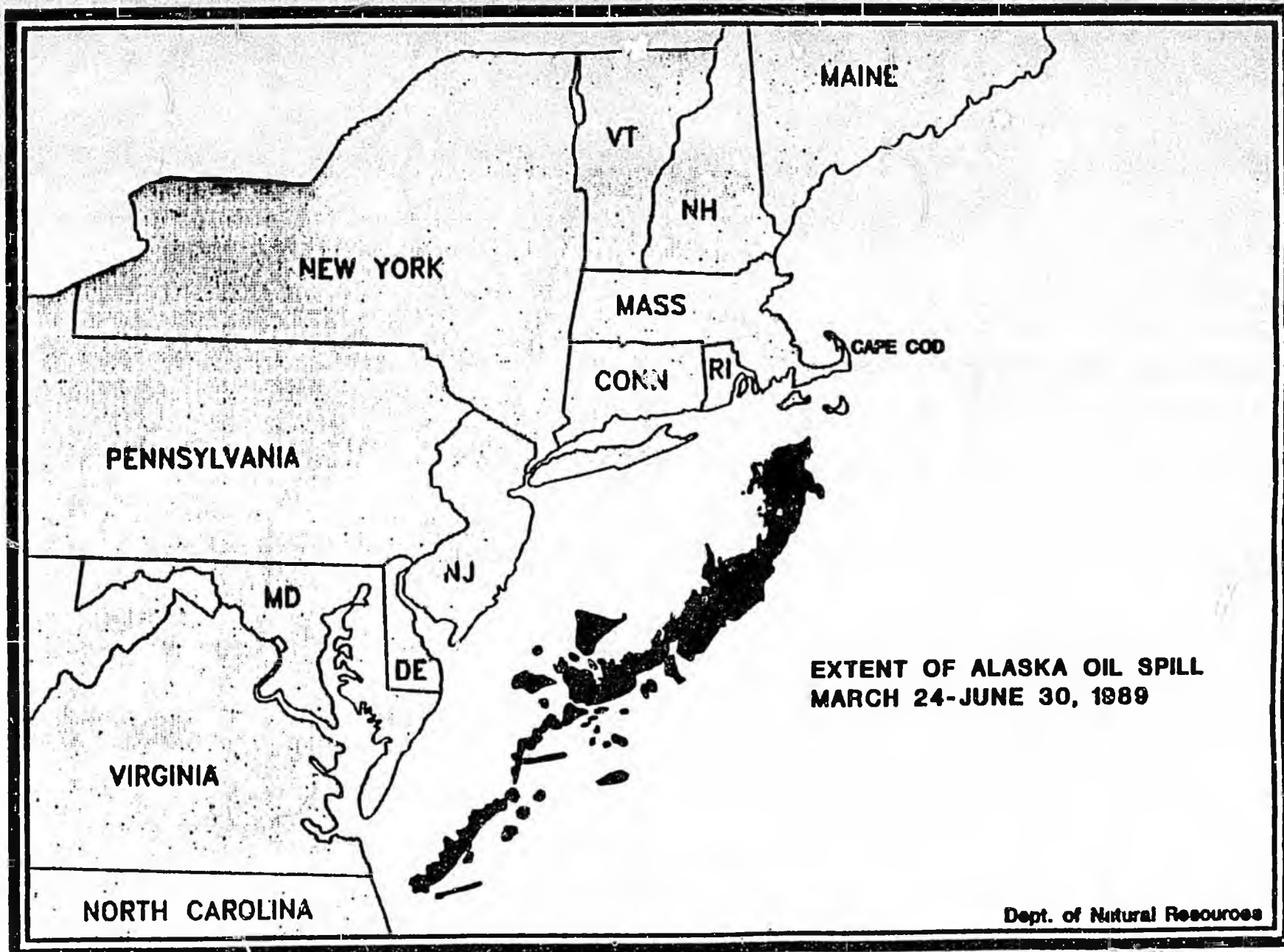
Section seven concludes this report with some ideas for improving research and development efforts toward oil spill prevention and response. We were able to use information gained from around the United States by the General Accounting Office and Office of Technology Assessment in their studies done after the *Exxon Valdez* spill. We also were able to obtain substantial information on advanced technologies in use by the U.S. Navy that were ignored in the *Exxon Valdez* incident. Finally, we have accumulated information on advanced spill response technology in Great Britain, the Netherlands, West Germany, Norway, France and South Africa. Information from the Middle East, the Soviet Union and Japan still remains to be gathered, a task we leave to our successors. In this section we also include our comments on the use of simulators in crew training.

If the commission's labors have been successful, the implementation of its proposals should considerably improve the safety of oil transportation by sea. But implementation rests in forums from the White House to local council halls, corporate board rooms to legislative chambers. Future vigilance rests in the hands of state and federal leaders, industry and public agency officials, terminal operators, tanker officers and crew, technical advisors and, perhaps most important of all, citizens exercising a watchdog presence and role.

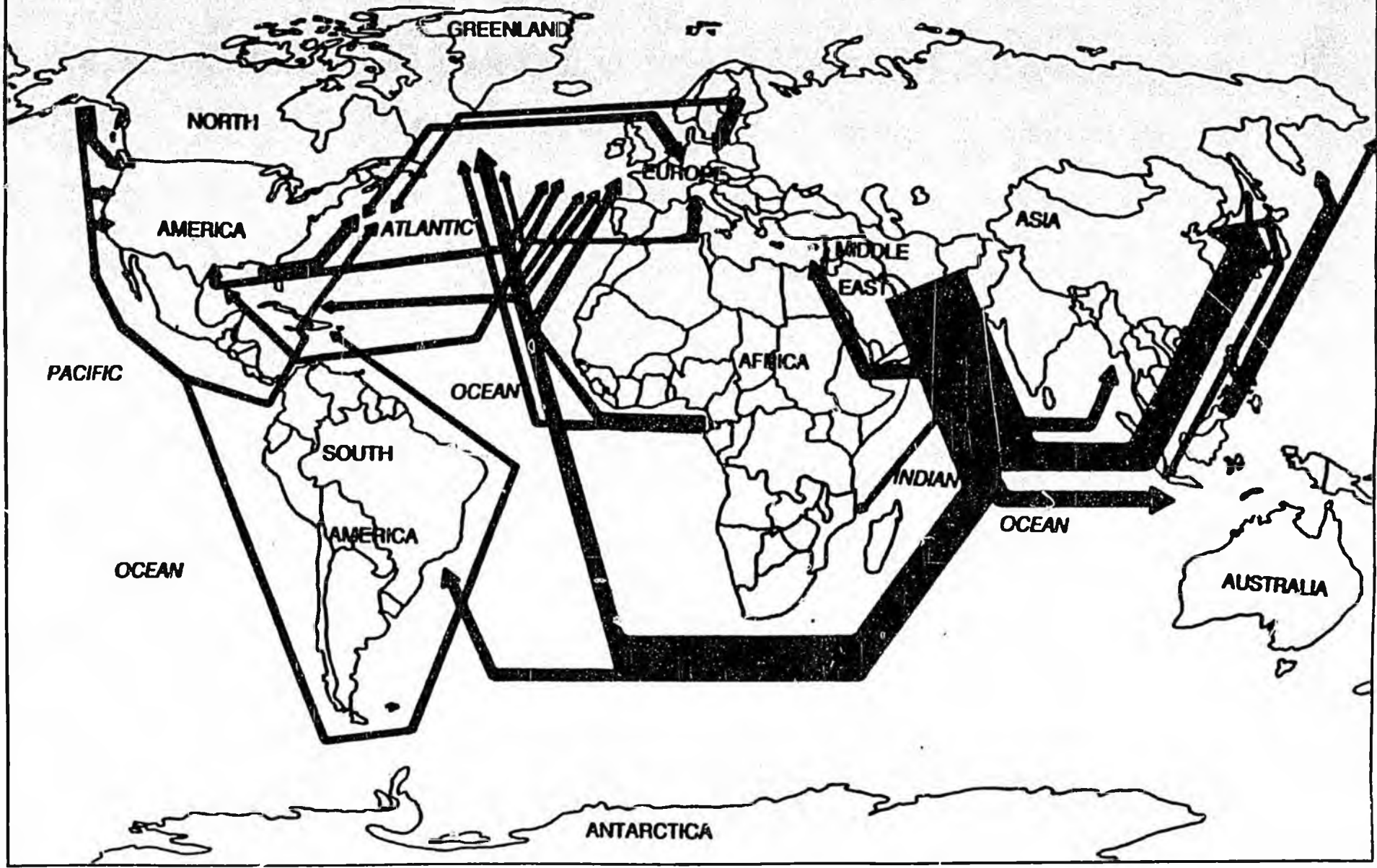
"What I'm afraid of is that the commission could end up being in such a defensive mode that it could end up making the world safe for oil spills."

*Mike Milligan, Kodiak
Alaska Oil Spill Commission
hearing, 8/11/89*





WORLD OIL TANKER ROUTES BY VOLUME



COMPREHENSIVE PREVENTION POLICY

Prevention is the only way to protect the oceans and coastlines from oil spills. Once it reaches the water, spilled oil is extremely difficult to contain and collect, even under ideal conditions. And the conditions under which oil is spilled are seldom ideal.

General Accounting Office data suggest no more than 10-15 percent of oil lost in a major spill is ever recovered. The Office of Technology Assessment estimates that only 3-4 percent of the oil spilled from the *Exxon Valdez* was recovered, despite Exxon's summer-long beach cleanup and oil skimming effort.

The urgency of establishing strong prevention policies for Alaska is also suggested by computer-assisted simulations done for the Alaska Oil Spill Commission by ECO, Inc., of Annapolis, Md. Its report notes that more tonnage of crude oil is shipped through the Valdez marine terminal than through any other port in the United States. Its simulations show that under typical winds and currents a catastrophic spill any time in Prince William Sound can be expected to coat the beaches of much of the sound and the Kenai Peninsula with oil. And its calculations indicate that under policies prevailing at the time of the *Exxon Valdez*, a similar occurrence can be expected in Prince William Sound approximately every 13 years.

Worldwide figures gathered by ECO show that during the past 20 years, tanker spills of the magnitude of the *Exxon Valdez* — more than 10 million gallons — have occurred approximately yearly. Spills of up to 1 million gallons have occurred approximately monthly. As this report goes to print, less than 10 months after the *Exxon Valdez* disaster, the *Khark-5* spill off the coast of Morocco has exceeded 30 million gallons, with the full cargo of 72 million gallons still at risk.

Both the frequency of oil spills and the failure of human capacity to clean them up argue for strong prevention regimes at every level.

"The die is cast, that Prince William Sound is going to recover pretty much at its own rate. And that no matter what we do, the rate isn't going to change a whole lot."

Professor David G. Shaw, University of Alaska

Alaska Oil Spill Commission hearing, 9/21/89

Recommendation 1
Prevention as policy

"The most telling remark, the president of Exxon, Mr. Stevens, said that the contingency plan cannot deal with a spill like this."

*Rep. George Miller, California
House Committee on Interior and
Insular Affairs hearing, May 1989*

Recommendation 2
Changed attitudes

Prevention of oil spills must be the fundamental policy of all parties in the maritime oil transportation system.

Worldwide experience has shown repeatedly that containing and collecting significant amounts of oil lost in a spill is beyond present technological capability except for relatively small amounts under optimum conditions. Data collected by the U.S. General Accounting Office suggests that no more than 10-15 percent of all spilled oil is ever recovered. Full repair of environmental and ecological damage caused by a major spill is similarly beyond human capabilities. Cleanup and containment technology remains primitive, although recent research and development initiatives offer promise of some improvement. With present technology, natural recovery often is the most effective recourse after a spill hits shore, but generations may lose the advantages of environmental quality during the recuperation.

These lessons were relearned in the response to the Exxon Valdez spill. Given the increasing capacity of supertankers carrying more and more oil through the world's oceans and the acknowledged shortcomings of cleanup methods, a sharpened focus on prevention is the key to environmental protection and, indeed, the only adequate response to the increasing risk in the system.

All parties must instill the attitude that spilled oil in the water is unacceptable into the approach of the maritime transportation industry in the United States and abroad.

The shipping industry historically has neglected the environmental costs to the public of oil spills. Maritime losses traditionally are measured only by the financial value of vessel and cargo. Economic calculations have emphasized short-term expenses over long-term protection. Attitudes in regulatory and response agencies, particularly the Coast Guard, tend to reflect a similar disregard for environmental costs. Protecting property has a long legal and practical tradition — witness the Coast Guard's longstanding focus on salvage of vessel and cargo — while protecting the environment still receives too little emphasis. Finally, cost-benefit analyses undertaken by public officials charged with regulating the maritime transportation industry sometimes assume that the costs and benefits accrue to industry alone, thus neglecting the interests of others affected by the risk of accident.

As public concern for environmental protection grows, industry and regulatory attitudes must change. The shipping industry has an incentive

to adopt stronger approaches to prevention as increasingly it is being required to pay for environmental costs previously borne by society.

Because many individuals and communities are placed at risk by modern oil transportation systems, citizens should be involved in oversight arrangements at every level of government.

Shipping oil involves inherent risk. The risk cannot be eliminated, only reduced. Citizens deserve to know and make informed social judgments about what constitutes an acceptable level of risk. Reducing the risk involves costs, both public and private. Citizens may or may not be willing to pay the incremental costs of reducing particular risks, but to make informed choices they should be made aware of the tradeoffs involved. Present federal committees for oversight and policymaking are made up of industry and government representatives. There are no equivalent state committees.

The nation and the state need strong, alert regulatory agencies fully funded to scrutinize and safeguard the shipment of oil.

The notion that safety can be insured in the shipping industry through self-regulation has proved false and should be abandoned as a premise for policy. Alert regulatory agencies, subject to continuous public oversight, are needed to enforce laws governing the safe shipment of oil.

National and state agencies formally vested with responsibility for overseeing the environmental safety of oil transportation frequently have been complacent. Regulatory authority has been weak, and there has been a dramatic decline in vigilance since 1981. State authority has been further impaired by conflict with federal authority. Funding ordinarily furnished to protection agencies has left broad areas of concern without oversight. Between disasters, appropriations have tended to decline. As federal administrations have changed, funding and commitment have fluctuated as well. Missions have been attenuated by the addition of further responsibilities without further funds, as in the case of the U.S. Coast Guard, whose duties have greatly expanded without a commensurate increase in budget.

In such an environment the nation's maritime oil transportation system becomes more, not less, prone to risk of accident. The nation's regulatory agencies must be committed to the safe shipment of oil and other

**Recommendation 3
Citizen knowledge of risk**

"We can't rely on government agencies to be the sole watchdog over industry."

Unidentified witness, Peter Graham, Alaska

**Recommendation 4
Regulatory vigilance**

"The best way to keep the oil from becoming a problem is to keep it in the ship, because historically ... we clean up very little of the oil. ... So I guess prevention is one of the things that we certainly would look at as the strongest avenue to avoid having a catastrophe."

Commander Dennis Rome, U.S. Coast Guard

Alaska Oil Spill Commission hearing, 8/31/89

**Recommendation 5
Foreign flag spill prevention**

hazardous substances, and they must be encouraged by the regular oversight of citizens who have the greatest stake in the relevant environments. Without such an invigoration of these agencies, accidents such as the Exxon Valdez are bound to increase.

State laws protecting the environment from oil spills should be applied to foreign flag vessels equally with other vessels engaged in the transportation of oil.

The state has been unduly deferential to constitutional limits supposedly restricting a state's ability to impose containment and cleanup planning and equipment requirements on foreign flag vessels. A changing congressional intent will produce revised judicial interpretations of preemption doctrine. While most vessel design features are subject to exclusive federal rule, the state is empowered to protect its environment by all reasonable, non-burdensome means.

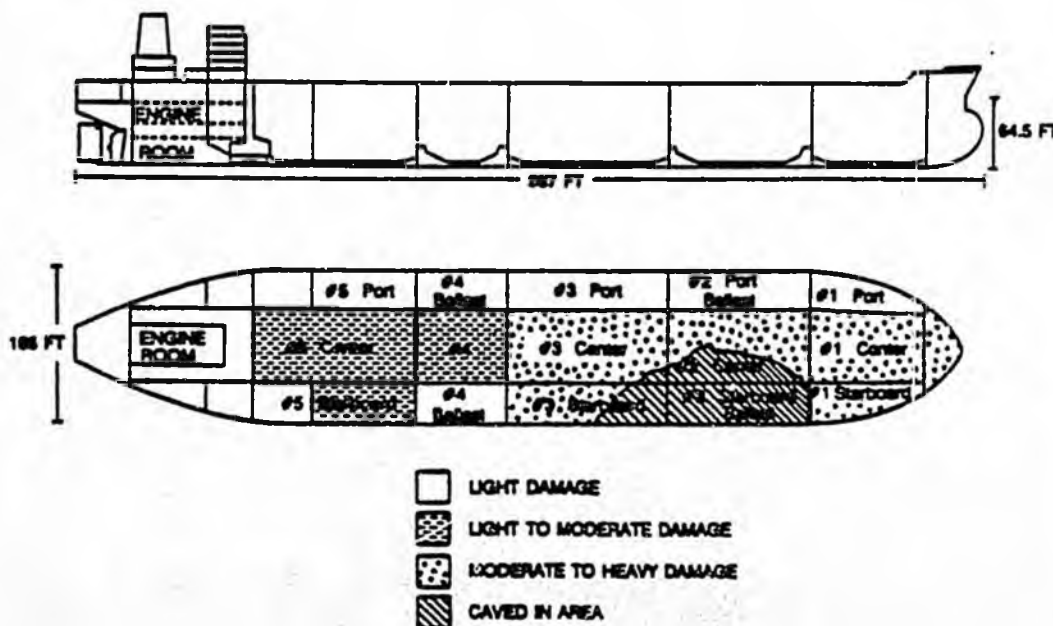
Containment and cleanup planning and readiness regimes established under state authority should apply to barge or tanker traffic under any flag in the waters of a state.

"We should look beyond ineffective sticks and consider some carrots as well. I think we should consider paying the industry to stay ready and to stay on top of technology—with their money, of course."

Professor Steve Colt, University of Alaska

Alaska Oil Spill Commission hearing, 9/21/89

EXXON VALDEZ DAMAGE



RESPONSIBILITIES OF INDUSTRY

Public authority can do a great deal to enforce safety standards in oil transportation, but industry promises, policies and practices are typically the starting point for discussion. Industry bears a heavy obligation to operate safely and responsibly, regardless of the regulatory structure imposed by government.

Alyeska Pipeline Service Company has demonstrated a commitment to safer operations since the spill by establishing new procedures, including escort vessels, new spill response equipment, speed limits for tankers and dictates that tankers stay in designated traffic lanes while pushing through ice. Some of these reforms were more sweeping and costly than required by government.

Private industry's task is to carry oil to market responsibly and efficiently. Government's task is to regulate that trade prudently in the public interest. The obligation to protect the safety of the public and the environment is mutual, and shared by both sides.

"I think it's important to begin a process of informing society about the uncertainty, the risks and the tradeoffs that are involved in most human activities and especially in these kinds of large scale resource development activities."

Professor David G. Shaw, University of Alaska

Alaska Oil Spill Commission hearing, 9/21/89

**Recommendation 6
Industry commitment**

"Each of the various interested parties is trying to pass on their own real or perceived costs to everybody else."

Professor Matt Berman, University of Alaska

Alaska Oil Spill Commission hearing, 9/21/89

The nation and the state need a private oil transportation system with management that is committed to environmental safety.

The *Exxon Valdez* incident refocuses attention on industry's obligation to operate safely and responsibly. Decision-making by private industry is the first and, in many ways, most important pressure point for safety in the oil transportation system. Government regulation and public oversight can help safeguard the system, but industry can — and should — move rapidly and effectively on its own to establish procedures to reduce the risk of oil spills.

Response to the *Exxon Valdez* disaster illustrated industry's ability to mobilize quickly after a disaster. Exxon, though unprepared for a spill so large, responded far more swiftly than any government agency. The company committed vast human and material resources and reportedly spent more than \$1 billion to respond to the spill. (Luckily, Exxon was able and willing to bear this expense, but the industry would have had to spend comparatively modest sums to provide stringent prevention measures instead.)

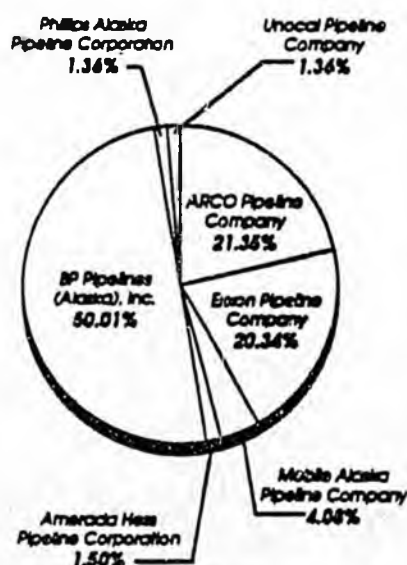
Though the industry's safety record is mixed, by and large it has not been committed to environmental safety. Driven by competition and profit-maximizing goals, the industry has focused on economic efficiency and opposition to government regulation, claiming it could operate with as great or greater regard for safety without regulation. An industry ideology that regulation is a nuisance can drive an industry attitude that the objectives of regulation are also a nuisance.

In addition, maritime liability limits and low levels of accountability for oil spills have led to neglect of the interests of those who are not owners of vessels and cargo but whose exposure to risk makes them stakeholders in the system.

Historically, the industry has "externalized" the costs of environmental degradation — that is, shifted the costs to others. As concern about oil spills increases, however, industry will be forced to "internalize" more of these costs as incentive to protect the environment.

Properly motivated and funded, private industry can move more swiftly and effectively than any regulatory agency to correct deficiencies in the oil transport system. A tenacious commitment to environmental protection by industry could do more, quicker than any government inducement. Management and shareholders should insist that the traditions and operating assumptions of the shipping industry reflect this commitment.

Alyeska Pipeline Service Company



Source: Alyeska Pipeline Service Company

Government and industry should strive to adopt the best available standard technology in establishing performance standards.

Consciousness of the importance of prevention, spill preparedness and corporate responsibility varies greatly among oil carriers. The blurring of responsibility within each oil company and within the Alyeska consortium, coupled with the independence of each shipping company and its owners, argues for uniform application of standards by government authority.

In the past the oil transportation industry has attempted to reduce virtually every performance standard sought, asking that government impose only minimum standards and claiming that most carriers voluntarily will exceed those minimums. But when accidents have occurred, industry representatives have frequently claimed that it has no obligation to go beyond those minimums. The public no longer should tolerate this double standard — and the conflict should be resolved as soon and as much as possible by the adoption of improved standards of performance by industry.

Every company shipping oil through the United States should identify a full-time environmental safety officer empowered to take recommendations to the highest level of the company.

Corporate performance on safety issues can be significantly improved by making safety a specified goal and giving primary responsibility to identified managers charged with increasing awareness at the highest executive level. Such corporate structures operated effectively, for example, during construction of the trans-Alaska pipeline system and should be recreated for operations as the system ages and becomes more prone to risk.

The designated corporate safety officer should be required to report annually to shareholders and the public concerning the safety of the tanker fleet, accidents and near-misses, state-of-the-art technology, and company plans for bringing its fleet into compliance with the most appropriate standards.

Public pronouncements by Alyeska and its owners that the company employed the best available technology and committed adequate resources to safety purposes turned out to be false. These assurances were aided by corporate institutional advertising and a sense of well-being

Recommendation 7
Best available technology

Recommendation 8
Corporate safety executive

"The marine industry needs to revamp all personnel training and development programs to meet today's modern fleet demands."

Jerry Aspland, President, ARCO Marine, Inc.

Alaska Oil Spill Commission hearing, 9/1/89

arising from the flow of oil revenue to Alaska's citizens which encouraged an atmosphere of laxity in state oversight of oil transportation.

A report to the public and corporate shareholders should provide accurate information about each shipper's spill prevention plan and preparedness posture to encourage greater corporate accountability for safety practices.

Recommendation 9
Tank farm

Tank farm capacity at Valdez should be increased to meet the original design requirement for maximum throughput.

Limited storage capacity at the Alyeska terminal can create undue pressure on loading and shipping schedules of tankers calling at Valdez. Shortage of storage capacity could lead terminal operators to load tankers under otherwise marginal weather conditions, for example, to avoid an expensive slowdown or shutdown of the pipeline.

It may be that the cost of tank farm construction is high enough that a slowdown or risk of slowdown is a preferred cost. If that is the case, standards for slowdowns and shutdowns should be clearly stated so that safety is not sacrificed to revenue or pipeline flow considerations.

"In boarding both the Japanese vessel and the Soviet vessel I had no problem getting on those vessels, but yet there was a guard at the door of the VECO office when I tried to enter that door. And I started wondering who is really afraid of me."

***Wita Turner, Seward
Alaska Oil Spill Commission
hearing, 7/14/89***

STATE REGULATION AND OVERSIGHT

The State of Alaska carries primary responsibility for protecting the state's public resources. Neither federal nor local authority and self can take the place of strong state regulation of industries that vitally affect the economic and environmental welfare of Alaskans.

State authority must be exerted to protect fish and wildlife resources, to vouchsafe federal regulation, to oversee industry operations, to inform the public of risk, and to insure proper response capabilities in case of accident. State government was not fully prepared in any of these categories before the *Exxon Valdez* disaster.

Alaskans have benefited strongly from the production and transportation of oil in the state, but they have not invested commensurate resources and attention in regulating and safeguarding the operations of the industry. It is incumbent upon Alaskans, through their elected officials as well as their own efforts, to create workable and effective institutions to protect their interests in the production and transportation of oil in the state.

"If you had an enforcement unit in place, staffed by the people who were solely charged with it and not distracted by some of the other responsibilities, that they would be able to take the time to account for what are our main polluters in the state."

*Sue Libenson, Executive Director
Alaska Center for the Environment
Alaska Oil Spill Commission
hearing, 9/21/89*

Recommendation 10
Obligation to manage and protect

The people of Alaska should recognize they are the stewards of vast natural resources that are the mainstay of their livelihood and a national treasure. Among the obligations of state stewardship is the duty to protect these resources as much as possible from harm.

The State of Alaska has not spent an amount appropriate to the job of natural resource management and protection. There are many reasons for this, including low recognition of the magnitude of the task.

Compare the total amount spent by the people of Alaska to manage fish and game resources to that for overseeing the oil industry. Recognizing the importance of fish and game to the state, the people of Alaska have spent substantial sums on regulation, enforcement, research and development, as well as a statewide system of citizen advisory committees. The amount spent overseeing the oil industry and its safety practices, by comparison, is a fraction of that total.

Recommendation 11
Federal preemption

The state should adopt stringent standards regulating the transportation of oil in its own waters without fear of federal preemption.

Alaska has had unsatisfactory experience with federal preemption in the field of tanker safety and local navigational controls, but Congress no longer intends to override more stringent state regulation.

In 1976 the State of Alaska adopted a law giving broad authority to state agencies to oversee and regulate the safety of tanker traffic to Valdez. In 1977 the oil companies responsible for carrying Alaska's oil initiated a lawsuit (*Chevron, et al. v. Hammond*) challenging the state's right to regulate the safety of marine oil transportation on grounds that congressional action and Coast Guard regulation preempted the field. By 1979 the plaintiff companies had gained both a favorable ruling from the U.S. District Court and negotiated concessions from the state. The result was a gutting of key provisions in the legislation.

Industry encouraged the view that it should be allowed to take care of its own safety matters; that state activity was a needless and obstructionist interference with private prerogative; and that left to its own devices the industry would employ the best available technology with the optimum commitment of resources. This was not remotely the case. The evisceration of the state's regulatory framework and the antiregulatory temper of the times laid a foundation for repeal of the 1976 legislation and a slashing of state budgetary allocations for oversight. As a result, the role of the Department of Environmental Conservation was sharply reduced. The

"I think what's missing here is an attitude among state leaders that the buck stops here, with the people of Alaska and not in Houston or Washington, D.C."

Professor Matt Berman, University of Alaska

Alaska Oil Spill Commission hearing, 9/21/89

department's small staff was overwhelmed by technical licensing and permitting activities, leaving no opportunity for the agency to perform its role as overall environmental policy watchdog. Though the state retained certain powers over water quality, the overall effect of preemption through the federal courts was to reduce or eliminate the state presence in the oversight of oil industry affairs and demoralize state personnel engaged in such activity.

In the absence of the state presence, the already weak federal regulatory presence declined further. In 1990 Congress is likely to adopt legislation that would eliminate any presumption of federal preemption in actions taken by the state with respect to safety and response. Thus the way is open for the state to reassert its historic role in resource protection.

A citizens' advisory council should be established in the office of the governor and given responsibility for overseeing the safe transportation of oil, gas and other hazardous substances.

No state agency has as its primary mission oversight of environmentally safe transportation of Alaska's resources. Regulatory authority over such transportation is spread among several agencies that do not always coordinate information or resources. The only overall view of the system is exercised by the governor, but he has no single designated officer or council to provide information or maintain consistent oversight.

The state should establish a citizens' advisory council, supported by a full-time executive director and small staff, to provide focus to state oversight. Members should be chosen from among the general public, selected for their concern for environmental safety. The council should have power to subpoena information and witnesses, to inspect facilities, to conduct investigations, and to collect information and statistics on safety.

The council's duties should be to:

- Advise the governor and legislature on the environmental safety of the transportation of Alaska oil, gas and other substances posing environmental risks;
- Advise on potential initiatives in state and federal regulations and at the governor's request, represent the state's interests in the development of multistate compacts and national and international policy;

**Recommendation 12
Oversight council**

"What we have is a system driven by the fact the pipeline is pumping 2 million barrels of oil into the sound, and they have to get it out of here. They choose not to restrict it, turn it off, or anything else. The decision to sail or not to sail is not a dispassionate decision based on weather or traffic."

*Rep. George Miller, California
House Committee on Interior and
Insular Affairs hearing, May 1989*

"What tends to happen is DEC will get dragged into a septic tank argument and it will drain away as many resources as fighting, for instance, the Alyeska ballast water treatment plant. There's a real problem with priorities within DEC."

*Sue Libenson, Executive Director
Alaska Center for the Environment
Alaska Oil Spill Commission
hearing, 9/21/89*

**Recommendation 13
Enhanced regulatory
strength**

- Identify unmet needs and recommend priorities, strategies and obstacles to achieving them;
- Encourage coordination of spill prevention and response programs currently spread among several agencies that cumulatively deserve high priority;
- Make budget and resource allocation recommendations;
- Evaluate programs and recommend elimination of marginal activities;
- Recommend changes based on new technologies and scientific impacts;
- Designate advisory panels, if deemed necessary, including appropriate representation, ex-officio, of appropriate departments of the state and municipalities, regional oil spill authorities, representatives of fishing and environmental groups, and shippers, owners and residential groups on the pipeline route; and
- Issue an annual report and safety assessment. Reports to the governor should include regular statistical and special reports on accidents and near-misses, the status of major risks, the performance of state and federal agencies, and long-term options for improving safety.

The state should expand and exercise its regulatory authority over environmental safety. Measures voluntarily adopted by industry should be backed up by state regulation. Federal technical standards and safety requirements should not preclude more stringent state standards.

The State of Alaska currently does not exercise its full power under the U.S. Constitution to regulate environmental safety. Recent congressional enactments and judicial decisions make it clear that Congress does not intend that states should hesitate to protect local environments with greater stringency than the minimums established under federal law. The state should have the power, for example, to prohibit vessels from entering or departing Alaska ports and waters under unsafe circumstances.

Regulatory effectiveness also should be improved through assessment of administrative and civil penalties to encourage prevention, no preen-

forcement review of compliance orders, environmental audits, stronger criminal penalties, and statutory provision for citizen lawsuits. Private voluntary prevention measures, though commendable, are often ignored as memories fade unless backed up by state regulations.

The state should renew and strengthen its authority to conduct inspections and spill response drills on vessels calling at Alaska ports and marine terminals.

The Valdez tanker fleet, built in the 1970s is approaching obsolescence. Structural weaknesses, technical malfunctions and other equipment problems can be expected to increase in frequency and seriousness.

Inspections and reports, done in cooperation with the Coast Guard or alone, should include examinations for structural integrity and environmental hazards. Inspection duties may be allocated between the harbor administration office proposed in this report and the Department of Environmental Conservation. State authority should include the power to levy substantial summary civil fines for interfering with inspections or failing to cooperate with response drills.

The lack of any quality control or assurance program on tanker operations from Prince William Sound or Cook Inlet allows serious hazards to arise. Coast Guard authorities already perform inspections on tankers calling at Valdez, but state inspection would provide an added measure of safety. In the past, when the state and the Coast Guard both inspected vessels, the two agencies reinforced each other's effectiveness. When the state was stopped from making inspections on the grounds that the activity was exclusively federal, the quality of Coast Guard inspections declined. Inspection by two governments is not needless duplication but needed redundancy, providing a greater measure of safety.

The "two-tier" system of quality control was adopted during construction of the trans-Alaska pipeline. The value of the two-tier system has been reinforced by the National Aeronautics and Space Administration experience with space disasters. The official inquiry into the 1986 Challenger space shuttle explosion found that system capabilities had been stretched to the limit in the winter of 1985-86 to support the flight schedule of the shuttle program. System capabilities for shipping oil from Valdez were similarly stretched to accommodate increasing throughput of the trans-Alaska pipeline to 2.2 million barrels per day without increasing other elements of the system, such as tank storage capacity.

Recommendation 14
Strengthened state inspections

"We are obligated to provide systems which enhance marine transportation safety, and we do it economically."

Jerry Aspland, President, ARCO Marine, Inc.

Alaska Oil Spill Commission hearing, 9/1/89

When systems are stretched thin, redundancy in oversight and inspection is doubly important to reduce the risk of catastrophic failure.

Recommendation 15
State presence at Alyeska terminal

Government agencies should be given space at the Alyeska terminal to carry out their duties.

State inspection efforts at the Alyeska terminal should be situated so as to maintain a continuing presence, instant response and constant vigilance over environmental safety at the terminal and on vessels calling there. Until the Exxon Valdez wreck, various agency personnel were hampered by lack of quick and easy access to the terminal. Alaska Department of Environmental Conservation officials attempting to inspect Alyeska facilities were told they might be required to procure a warrant, a laborious and time-consuming process. A more cooperative posture by Alyeska staff might result if state personnel were seen not so much as an opposing force, but as a normal and integral part of the operation. Office facilities on-site might normalize relations between government and industry officials so that regulatory activities, which on occasion can be adversarial, need not become unnecessarily antagonistic.

Recommendation 16
State licensing of safety managers

A state licensing system should be established for oil transportation system safety personnel, including pipeline pump station and terminal managers.

Oil transportation safety managers should be required to show educational qualifications or equivalent experience and pass examinations reflecting an understanding of environmentally safe resource transportation in Alaska.

Mariners, captains, engineers and ship's pilots, all water-based transportation managers, already are licensed to encourage safety and public accountability. Similar practices should be established to insure that personnel meet a state standard of professionalism for all important managers in the oil transportation system. Few of the managers brought in to oversee contingency plan development or respond to the Exxon Valdez spill had significant prior knowledge of Alaska environmental laws, resources or local capabilities.

Licensing can significantly help assure knowledge of prevention and response capabilities as well as public accountability. For example, regardless of whether particular conduct may be tacitly approved or

tolerated by an employer, a licensee who falsifies a report, bypasses a required procedure or otherwise violates the professional obligations covered by the license can lose his or her opportunity to engage in the employment.

To the extent it does not already have such authority, the state should seek from Congress authority to require and enforce prevention and response regimes on vessels trading in Alaska or adjacent waters.

Spilled oil recognizes no state boundaries. State jurisdiction is necessary because spilled oil may come ashore or ravage important local fisheries hundreds of miles from the point of the spill. The risk of breakup of a tanker or loss of a barge in the Gulf of Alaska is real. Gulf of Alaska shipping routes should be covered by an adequate regional response developed under the National Contingency Plan and backed by capabilities of the state, the Coast Guard, the carriers and other relevant authorities.

The State of Alaska should negotiate interstate compacts with other coastal states and provinces for the development of prevention strategies, storage of response capabilities and to effect coordination of assets in case of another major spill.

The western coastal states and provinces may share common environmental concerns about spilled oil. Compact agreements have the force of federal law and may enable these states to create an appropriate regional administration to oversee oil shipping.

The state should require maintenance and personnel audits at oil transportation facilities to provide information and pinpoint problems in spill prevention.

Accurate, timely information is central to the exercise of the oversight function and must be available to all government actors in prevention and response. The state can gather information on conditions relating to spill prevention through technical maintenance audits, thereby supporting the work of the state advisory council and regulatory agencies. Technical and personnel audits may be done by outside contract.

Recommendation 17
Enforcement in state waters

Recommendation 18
Interstate compacts

Recommendation 19
Maintenance and personnel audits

Recommendation 20
Marine pilot qualifications

Training and experience standards for marine pilots in Alaska should be upgraded to require actual experience in Alaska operations of vessels at thresholds of 60,000 and 150,000 deadweight tons.

Training and experience requirements have been reduced for pilots of large tankers in Prince William Sound and Cook Inlet since the late 1970s, allowing pilots to qualify for very large ship operations on insufficient experience. While no accidents have been caused by this circumstance, a system with multiple thresholds is inherently safer.

Recommendation 21
State as co-insured

Insurance policies should identify the State of Alaska as an additional insured or named beneficiary.

The shipping industry is responsive to economic incentives. Insurance premiums and premium requirements create incentives. The insurance industry is responsive to the needs of co-insureds. Such practices were required during construction of the trans-Alaska pipeline. There is every reason to revive them.

Recommendation 22
Remote spill response

The state should set rigorous requirements for private oil spill prevention and response capability in remote locations. The state also should develop response plans for major spills and articulate a prevention program from the Aleutian Islands to the Arctic.

Despite the state's obligation to respond to major spills, only if private resources are committed to prevention systems and response can an acceptable reduction in risk be achieved.

Marine traffic in arctic Alaska already poses unacknowledged risk. Fuel provisions delivered by sea and vessels fueled by oil create risks of damage in these hazardous and environmentally fragile waters. Spills are usually impossible or much more difficult to contain and collect in arctic waters. Immediacy of response is the key to cleanup if a spill occurs.

Measures should be undertaken to reduce spill risk in the arctic, including better vessel tracking and contingency plan requirements for all large vessels transiting the arctic, and for smaller vessels carrying oil or major fuel supplies.

Given the high risk involved in arctic oil transportation, the options for developing systematic environmental safety protections for this region should be a priority for scientific authorities.

The long-term need to develop environmental safety regimes of great stringency cannot be ignored. Development of arctic oil discoveries dependent on maritime transportation should await the preparation of approved systems of oil transportation using experience gained from the trans-Alaska pipeline system. But any increase in traffic simply to accommodate increases in oil production should be accompanied by a major increase in preventive safety.

The state should establish a task force to review the environmental safety of the trans-Alaska pipeline system independently or in concert with a federal counterpart.

More than enough evidence is available regarding sharply increasing risk of a pipeline breach and raising questions regarding government response capability. On the advice of contractors showing evidence of massive corrosion problems with the pipe, Alyeska already has undertaken a review and reconstruction program of the trans-Alaska pipeline system. The state was intimately involved in oversight of the original design and construction of the pipeline. This pattern of oversight should be renewed to protect the same public interests.

The task force should make recommendations to better oversee the long-term safety of the pipeline and gathering system. Specifically, it should review the environmental safety of:

- the trans-Alaska pipeline and gathering system;
- applicable government and private contingency plans; and
- the response plans and capabilities of government agencies.

The commission endorses the concept of a presidential task force on pipeline safety as proposed by Congress and urges that provision be made for state participation.

Recommendation 23
Arctic prevention research
priority

Recommendation 24
Pipeline evaluation

"The community must be imbedded in the bureaucracy because this is the only way oversight is going to happen. It's the only way that continued community involvement is going to happen. And it's the one way to guard against apathy if you don't have another oil spill for 20 years."

Jim Sykes
Alaska Oil Spill Commission
hearing, 9/21/89

Recommendation 25
State harbor administration

The state should create harbor administration offices for Prince William Sound and Cook Inlet to help regulate traffic and navigation and to implement terminal and vessel inspections.

Local oversight of navigation and port operations can improve conditions by bringing local perspectives to bear. A harbor administration office should have the power to:

- Regulate traffic and navigation issues not preempted by Coast Guard regulation to impose more exacting standards in the best interests of the state.
- Advise and oversee the Coast Guard's management of such issues and make recommendations for changes;
- Certify and declare disasters, and order state management of a spill in the port area; and
- Assume functions given under contract by the Coast Guard and participate in joint management arrangements.

The state asserted greater control over harbor activity in the mid-1970s, but conceded its management prerogatives in negotiations leading to a resolution of the Chevron, et al., v. Hammond lawsuit. Pending legislation clarifies congressional intent that the state may undertake safety regulations relating to local harbor conditions, weather and the like, and that the vessel must follow the more stringent rule. Collaboration with federal authority is required to assure that no direct conflict with Coast guard regulations are involved and that optimum safety conditions are observed.

In the event of a spill, the harbor administration at Valdez probably would be the headquarters of the on-scene commander carrying out the governor's delegated emergency authority.

Oil transportation in Cook Inlet, a body of water widely noted for its extreme tides, currents, winds and ice conditions, faces a high risk of spills. Though smaller volumes of oil pass through Cook Inlet than Prince William Sound, similar oversight arrangements should be duplicated there, allowing for appropriate variations in representation and the difference in geographic circumstances.

Research done for the Alaska Oil Spill Commission indicates that a major spill of between 300 and 1 million gallons can be expected in Cook Inlet approximately every 2.2 years, a spill of between 1 million and 9 million

"I would promote that there is a state group that deals with marine transportation, kind of a one-stop shopping group."

Jerry Aspland, President, ARCO Marine, Inc.

Alaska Oil Spill Commission hearing, 9/1/89

gallons about every 24 years, and a spill of 9 million gallons or more about every 66 years. Oversight arrangements should be created to provide appropriate public accountability and awareness of spill risks.

A system of regional advisory councils should be formalized under state authority to oversee harbor administration, state and federal regulation and private safety functions.

The people living closest to a danger have the most to risk and are the most likely to insure that readiness and alertness are maintained. As a Prince William Sound resident told the commission, "People take care of the things they love."

Regional oversight councils can both encourage protection of local resources and provide an opportunity to make use of local residents' knowledge of conditions and needs in crafting workable spill prevention and response policies. Regional advisory councils should provide advice to the statewide policy council proposed in this report and respond to its recommendations. A similar council should be considered for permanent oversight of the trans-Alaska pipeline system.

Local governments should be represented on the regional advisory councils and the harbor administration.

Local residents complained that their views and knowledge often were ignored. Residents in small villages, in particular, believed they were bypassed despite their great, direct interest in events. Villagers rarely are able to send delegates to advisory boards, even though their lives may be severely traumatized by a spill. Special provisions should be made to assure no neglect of these stakeholders.

Recommendation 26
Regional advisory
committees

Recommendation 27
Local government
representation

FEDERAL REGULATION AND OVERSIGHT

Congress has mandated a comprehensive system to protect the safety of oil and gas transportation, but for lack of enthusiasm and underfunding enforcement has been a failure. The quality of federal oversight of oil transportation in Alaska was typified by the U.S. Coast Guard, whose safety and regulatory efforts gradually declined for most of the decade leading up to the *Exxon Valdez* disaster.

The Coast Guard supported safe traffic monitoring systems and design standards, including double-hulled tankers, when the trans-Alaska pipeline system was approved in 1973. But by 1978, after strong industry opposition to double hulls in international regulatory forums, the Coast Guard backed off its support. The Coast Guard also imposed stringent safety inspections and vessel monitoring practices during the early years of tanker operations after the opening of the pipeline in 1977. Inspection and monitoring efforts waned noticeably after parallel state inspections were stopped in 1979, and gradually thereafter as Coast Guard funding and resources for these activities declined.

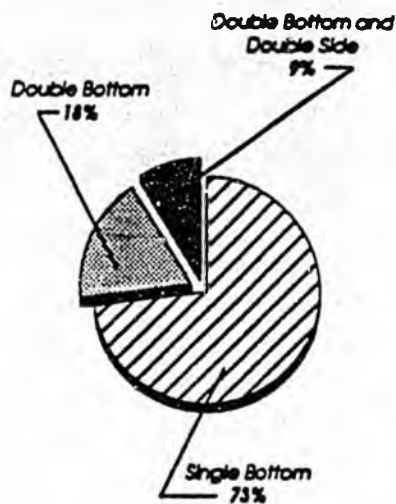
Some federal agencies performed admirably in events surrounding the spill — notably the U.S. Army Corps of Engineers and the U.S. Navy in cleanup response efforts and the Coast Guard itself in successful measures to salvage the ship and the unspilled cargo. As a rule, however, federal authority must be reinvigorated in several ways if it is to provide significant leadership in the safety and oversight of maritime oil transportation.

"Figure out what 25 percent of the nation's oil is worth."

Rep. George Miller, California House Committee on Interior and Insular Affairs hearing, May 1989

Recommendation 28
Double hulls and vessel design

Hull designs of the 93 tankers registered for Alaska trade.



Recommendation 29
Mandatory traffic control

Double hulls and other technological advances in tank vessel design should be required on an accelerated timetable, including prohibition of nonqualifying vessels, regardless of flag registry, in all U.S. waters.

The loss of oil from the *Exxon Valdez* wreck would have been substantially less if the vessel had had a double hull of appropriate design. A U.S. Coast Guard study undertaken after the accident indicated that up to 60 percent less oil — about 6 million gallons — would have entered the water if the *Exxon Valdez* had been equipped with a double hull. Double hulls already are required for chemical tankers and gas carriers to provide maximum protection to cargo tanks. A study for the Alaska Oil Spill Commission by ECO, Inc., of Annapolis, Maryland, says double hull design "provides the highest probability of surviving damage, either from a collision or grounding, with no loss of cargo."

Technical measures to reduce risk of accident and oil spillage have been advocated by naval engineers and others over the past two decades, but this advocacy has not produced significant voluntary changes in the way the industry does business. Suggestions regarding multiple screws, horsepower enhancement and other design overbuilding proposals to enhance safety have received only a negative response. Required changes are necessary, particularly as the size and carrying capacity of modern supertankers has increased.

Mandatory traffic control systems should be installed in due course in Cook Inlet, Prince William Sound and all waters of the U.S. where an equivalent or greater risk occurs.

Any of several common practices relating to positive vessel traffic control would have prevented the *Exxon Valdez* from straying so far off course as to run aground on Bligh Reef. The wreck would not have occurred if there had been a traffic control system covering operations to Hinchinbrook Entrance, as was promised by owners of the trans-Alaska pipeline system at the time the system was approved. The wreck would not have occurred if Loran C retransmit or radar had provided reliable coverage to Hinchinbrook Entrance, as was promised by the owners. And the *Exxon Valdez* wreck would not have occurred if the Coast Guard had not, according to regular, informal practice, given permission to the vessel to move outside established tanker lanes.

The *Exxon Valdez* wreck would have been less likely if the vessel had been traveling at lower speed and would not have occurred if the captain had

chosen to push through ice in the traffic lanes at low speeds, as was more common practice in the early years of operation of the Valdez terminal.

A mandatory vessel traffic control system operated by personnel more experienced than those now posted to the advisory system would require strict monitoring of a vessel's position in relation to traffic and known hazards and would prevent corner-cutting to save time, a conspicuous cause of the well-known Torrey Canyon disaster.

Crew levels on tank ships must be established to reflect manning needs under emergency conditions, not just normal operating circumstances, and must reflect the need to avoid fatigue and overtime among those with responsibility for safe navigation.

Crew sizes and fatigue factors have been subjects of investigation since the *Exxon Valdez* accident. A second qualified officer on the bridge would have made the wreck substantially less likely by increasing the likelihood that the bridge would have been alerted to the ship's errant position, the impact of the automatic steering mechanism, or to alternative last-minute navigation strategies for avoiding the reef, in time to avert the accident. Similarly, the wreck would have been less likely if crew members and ship's officers required to do double duty in Valdez harbor during loading operations had not been subject to fatigue.

A 1984 survey indicated that the ability to make schedules is viewed as the single most important factor in a company's evaluation of a captain's performance. Under such circumstances, a captain is strongly motivated to run whatever crew he has as long and as hard as necessary to meet the required schedule, despite formal duty time limitations. National Transportation Safety Board hearings on the *Exxon Valdez* accident showed that several crew members — including Third Mate Gregory Cousins, who was at the helm at the time of the accident — had worked extraordinarily long hours the day of the wreck. This practice is not rare in the trade.

Crew training standards must be strengthened and retraining and reexamination reviews tightened. Physical standards, in addition to those proscribing alcohol or drug abuse, must be met. A captain having a "predictable" heart attack is of no more use than one under the influence.

Recommendation 30
Crew levels

"The tradeoff in risk involved with a double hull is that to carry a given amount of oil, you now have to have 60 percent more tankers, and if you do the arithmetic that's the way it comes out."

Frank Iarossi, President, Exxon Shipping Company

Alaska Oil Spill Commission hearing, 9/1/89

**Recommendation 31
Coast Guard role**

The mission of the U.S. Coast Guard to protect the safety of navigation should be defined specifically to include the safe transportation of oil by sea. Sufficient funding, resources and institutional support should be given to insure the strengthening this purpose.

For reasons that include not just underfunding, but also confusion of mission and an unduly friendly relationship with industry, the Coast Guard has failed the American people in providing oversight of the country's oil transportation system. Enforcement must be strengthened and the penalty structure raised to a point where it weighs in the economic calculations of each company.

While various Coast Guard units have operational responsibilities for tanker safety, the Coast Guard's primary mission is not the environmentally safe transportation of oil by sea. There is a general disposition in the agency to keep commerce moving without regard to all environmental or social costs. This disposition may be in conflict with the need to "follow the book" to insure safety. The lack of particular focus on the environmental risks of oil transport was revealed in the system weaknesses that permitted the wreck of the *Exxon Valdez*.

The Coast Guard commandant is selected by the president and accordingly is likely to reflect the philosophical perspective of the times. After President Nixon's declaration of a policy of oil independence, which President Carter pursued through establishment of a Department of Energy, the national mood under President Reagan moved to industrial self-regulation. This mood was reflected in a greater resonance with industry wishes in Coast Guard performance. Relaxed regulation has contributed to a lack of progress in maritime environmental safety. Safety does not do well in a laissez-faire environment.

Underfunding and relaxed attitudes toward regulation increased the likelihood of the *Exxon Valdez* wreck in several ways. The junior Coast Guard personnel posted to Valdez did not think they had the authority to instruct tanker operators in navigation or to require frequent position reporting. Only one Coast Guard employee was on duty at the time of the accident. The wreck would not have occurred if the Coast Guard had prioritized the installation of up-to-date vessel monitoring systems. The wreck would have been less likely if the Coast Guard had exercised strong oversight of crews and manning practices.

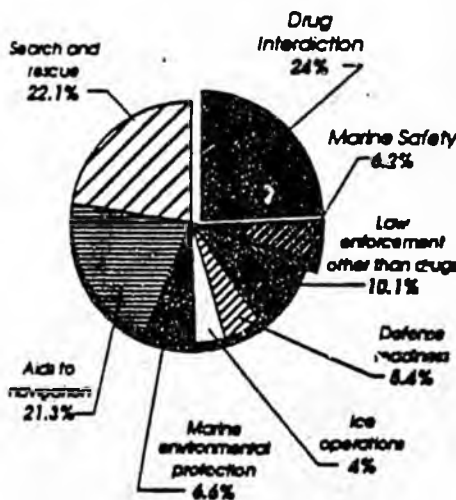
The Coast Guard's power to determine required crew levels is of little consequence as exercised. The determination is largely a paper exercise in which the shipper submits a proposal that typically is routinely

**Coast Guard
Budget Comparisons**

1982



1989



Source: *The Seattle Times*

approved without inspection, sea trials or a determination of need under foreseeable emergency or unusual conditions.

In the normal course, Coast Guard personnel retire or transfer to the shipping industry in large numbers, particularly at the executive level. It may be that the prospect of working for industry is reflected in the attitude of some Coast Guard personnel. The "revolving door" and the resulting sympathy of interests between regulators and the regulated is a common problem in other areas of government service.

Congress should revisit the antitrust exemption granted to marine industrial insurance to require that premiums reflect design and operational considerations in accident prevention and pollution abatement.

The shipping industry is responsive to economic incentives. Insurance premiums and premium requirements create incentives. Congress has adopted special provisions concerning the conditions under which marine insurance is exempt from antitrust regulation. Various requirements must be observed as a condition of the exemption. These conditions should require additional features affecting premium structure and loss control to encourage design improvements and operational practices that enhance environmental safety in the shipment of oil.

Congress should require corporations transporting oil or hazardous substances to file environmental safety reports as part of their Securities and Exchange Commission 10K filing. These corporations also should include a separate environmental report card in their annual reports to shareholders.

Safety is a factor in long-term profitability that may be neglected in management preoccupation with annual profit. Safety is a factor of cost and accountability. SEC requirements are intended to inform investors of facts needed to assess risk. A company's record and status concerning environmental safety should be available to inform such assessments.

A company responsible for oil transportation should report to its shareholders on the safety of its operations in addition to their profitability. The report should include an account of accidents, close encounters, technological developments, goals and objectives. This information should also be collected for the government's report.

Recommendation 32
Insurance premiums to reflect risk

Recommendation 33
Corporate safety reporting

"A lot of the Coast Guard personnel that came in did not have an understanding or a local knowledge of the area. I think that should be ... Local knowledge is going to be a key ingredient."

Jim Butler, Kenai Peninsula Borough

Alaska Oil Spill Commission hearing, 9/7/89

The meaning of corporate democracy should involve full discussion of all matters shareholders may care about. Environmental responsibility is a large part of corporate social responsibility for most large corporations, and certainly for companies carrying oil or hazardous substances. Shareholders should be kept informed of the corporation's stance toward its environmental record.

Recommendation 34
International action

The United States should pursue an aggressive policy in bilateral and international regulatory forums to demand safety improvements. The practice of deferring to international transportation safety standards in U.S. waters should cease. Environmental regimes established by state or federal government should apply to tanker or barge traffic under any flag in U.S. waters.

U.S. law should provide for the protection of U.S. waters, resources and regulatory standards regardless of whether international standards are consistent with them. Trade with the United States is at a high enough volume that this country should set the standard for environmental safety rather than accept a lower standard set by other nations.

Improvements in international safety standards have not been commensurate with growth in maritime oil transportation. The policy of the United States in international forums has been cautious, and forums have been dominated by U.S.-based multinational corporations to the disadvantage of environmental protection. American policy should be reoriented toward leadership in the establishment and maintenance of rigorous standards of safety and environmental protection. The United States should pursue bilateral agreements with its North American neighbors and its trading partners to provide cooperative standards, enforcement and spill response. The need for international spill response systems is shown dramatically by the 30 million-gallon spill from the Iranian supertanker *Khark-5* off the Morocco coast in December 1989. International standards should be viewed as a floor beneath which U.S. requirements will not fall rather than a ceiling above which they cannot rise.

Recommendation 35
Offshore tanker lanes

Tanker lanes should be established to keep tankers and fuel barges in the Gulf of Alaska and North Pacific trade at least 100 miles offshore.

Time is critical in efforts to protect coastlines from oil spill damage. In the event of tanker collision or breakup at sea, sufficient distance from imperiled coastlines can provide time to prepare defenses for key resources or habitats before oil reaches them.

A system of tracking large vessels in the North Pacific should be developed.

The technology exists at modest cost to take the "search" out of search and rescue by tracking vessels broadcasting a signal on the high seas. Similar systems are required on all commercial air carriers and should be done for vessels. The system would not only enhance the environmental safety of tankers but also for modest marginal cost would enhance life safety systems in one of the most hazardous areas in the world.

Congress should ask the president to require the administrator of the Environmental Protection Agency and the secretaries of Transportation and Commerce to issue a special report on the safety of oil transportation by sea. Annually thereafter, the Office of Science and Technology Policy or the Council on Environmental Quality should report on progress made by all parties, close encounters and accidents during the year, and emerging issues in the field.

No federal agency has as its primary mission oversight of the environmentally safe transportation of oil. The focus provided by a presidential-level report on the safety of maritime oil transportation would help alert the nation and the federal government to shortcomings in the system, as well as emphasizing the importance of safeguarding this system.

The report to the president should include:

- A history of accidents involving oil, gas and hazardous substances;
- An assessment of current risks and safety practices with reference to national energy policy;
- An assessment of prospects for progress in the enhancement of prevention technologies and techniques;
- An account of the activities of all federal agencies with responsibility for maritime safety, including a report on maritime recommendations of the National Transportation Safety Board, actions taken on them and reasons recommendations may have not been followed;
- An account of penalties levied for violations of oil, gas and hazardous substance transportation safety regulations;

Recommendation 36
Tracking vessels in the North Pacific

Recommendation 37
Presidential Report

"The few Coast Guard people that I have met in the field are green. I mean, they reminded me of summer hires. They were kids right out of school, and I can't help feeling that the powers that be are up there telling them to get those guys out of here and get this signed off so we can get this paper work, this paper chase done and get on with our business of running government."

Rich King, Upper Cook Inlet fisherman

Alaska Oil Spill Commission hearing, 9/7/89

- A specific report on the safety of the trans-Alaska pipeline system, the preparation of which should include adequate provision for state participation; and
- An overview evaluation of the effectiveness of private contingency and public response plans to oil spills in U.S. waters.

The Alaska trade is substantially less than a fifth of the maritime oil transportation system requiring national oversight. Either a strengthened Council on Environmental Quality or a more focused new agency as a watchdog over national environmental protection might better serve the nation's interests in reporting on the protection of the marine environment.

"In spills of this kind the Coast Guard has primary jurisdiction, and it is only when, as I understand the law, only when the responsible party either refuses to clean up or fails to do the job that the Coast Guard has the ability to step in."

*Dennis Kelso, Commissioner
Alaska Department of
Environmental Conservation
Alaska Oil Spill Commission
hearing, 8/31/89*

GOVERNMENT RESPONSE POSTURE

Alaska and other states have depended upon the National Contingency Plan to organize catastrophic spill response, but the *Exxon Valdez* incident illustrated the emptiness of its promises. The NCP provided neither the resources nor the manpower for effective action against a 10.8 million-gallon spill.

What is required in a successful oil spill response is to blend the resources of state, federal and industry response teams into an effective organization, and to provide sufficient manpower and resources to make a significant attack on the spill within 24 hours.

The greatest weakness of the NCP, as revealed in the *Exxon Valdez* incident, was that it failed to establish the firm, predesignated working relationships that are vital to a successful emergency response. Yet if that had been accomplished, it only would have revealed the weaknesses in the rest of the plan: lack of matériel, lack of trained manpower and lack of established common goals.

"What really happened here is that the system failed. We were down to the kicker on the football team making the tackle, and no coach wants that."

Vice Admiral Clyde Robbins, U.S. Coast Guard

Committee on Interior and Insular Affairs hearing, May 1989

**Recommendation 38
Government in charge**

The spiller should not be in charge of response to a major spill. A spiller should be obligated to respond with all the resources it can summon, but government should command that response.

Response should be a cooperative effort of government and industry under the direction of either the state or federal government, depending on which one has the stronger interest or can marshal resources more quickly and effectively.

The spiller was obliged to respond to the spill under contingency plans in effect at the time of the *Exxon Valdez* wreck. Neither Alyeska Pipeline Service Company nor Exxon Shipping Company was prepared to respond to a spill of such magnitude. The handoff of spill response authority from Alyeska to Exxon was not anticipated by all authorities and contributed to command confusion. Key decisions, such as the focus on "Corexit," an Exxon dispersant, were unduly influenced by the fact that the spiller was in charge of the spill.

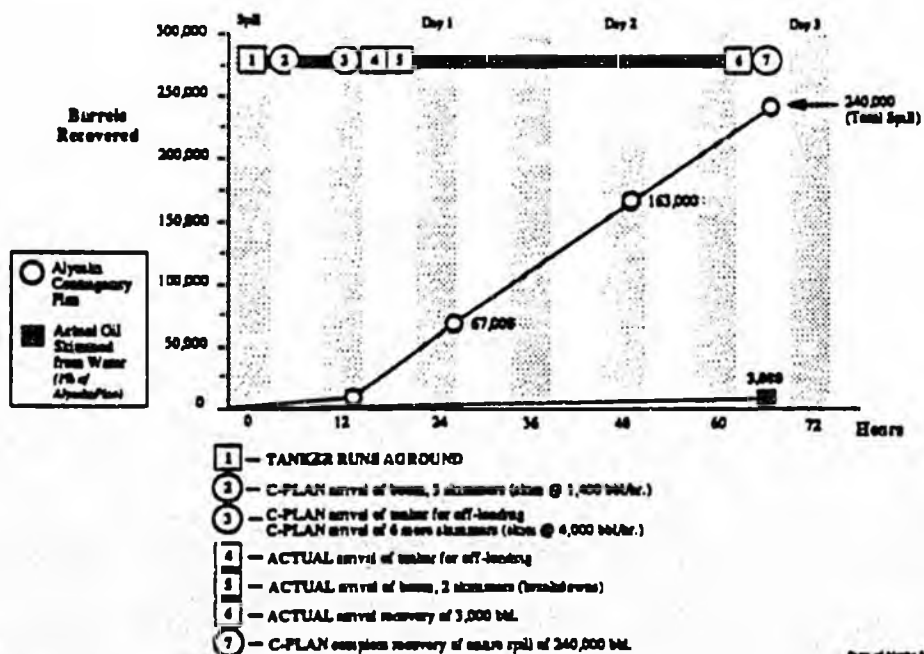
Spill response regimes should provide for government direction of the response effort, with the full participation and resources of both the spiller and government. Small spills, according to DEC regulations, can continue to be handled by the spiller.

"It's just a simple question of who's in charge."

Jim Butler, Kenai Peninsula Borough

Alaska Oil Spill Commission hearing, 9/7/89

Actual Cleanup vs. Intended Contingency Plan Cleanup



State of Alaska 1989

Congress should either strengthen the Coast Guard's oil spill response capability or transfer oil spill containment and cleanup responsibilities to the U.S. Army Corps of Engineers.

One of the real and relatively unsung success stories in the response to the *Exxon Valdez* disaster was the work of Exxon and the U.S. Coast Guard in lightering crude oil off the grounded vessel and later moving the ship safely off the reef. That success is a marked contrast to the failure of all efforts to contain and collect the oil that escaped in the accident.

By tradition and practice, the Coast Guard has developed considerable expertise and experience in salvage and rescue, but comparatively little ability in oil spill response. The Coast Guard is seriously underfunded and underdirected in the the field of oil spill response. The Coast Guard has been given one mission on top of another—most recently drug interdiction, a critically important task—without proportionate increases in appropriations. Thus the Coast Guard is obliged to do too many things for too many people and is not doing at least this one well.

Corps of Engineers and U.S. Navy equipment and workforces were the largest component of public response to the *Exxon Valdez* spill. There is a long history of cooperation between the Corps of Engineers and the Navy. The Navy has long experience in spill cleanup. Approved career patterns in the Corps of Engineers allow the development of career-long expertise and professionalism in a particular specialty. The Corps of Engineers' dredging capacity (which can be converted to skimming and oil recovery) and its nationwide mission involving the movement of water, soils, the management and preservation of wetlands, give it an unmatched spill response presence in all regions of the country.

Transferring spill response duties to other agencies would allow the Coast Guard to focus on tasks it does well—salvage and rescue—while permitting greater expertise of other agencies to be brought to bear on cleanup. Short of a formal transfer of functions, the Coast Guard should consider entering into delegation agreements for spill response functions.

The Environmental Protection Agency is not adequately funded and staffed for oil spill prevention and response. Unless the agency receives sufficient resources, these functions should be delegated to the states or transferred to agencies better able to perform them.

The Environmental Protection Agency commitment of staff and funding to activities in Alaska does not support the public perception that the

**Recommendation 39
Coast Guard role in
response**

"It's very important that a defined chain of command is recognized. You've got a couple of windows of opportunity in the initial management of a spill. You've got 12 hours, which is one tide cycle, a flood and an ebb. And then you've got, I'd say, four days and then after that it's gone."

Jim Butler, Kenai Peninsula Borough

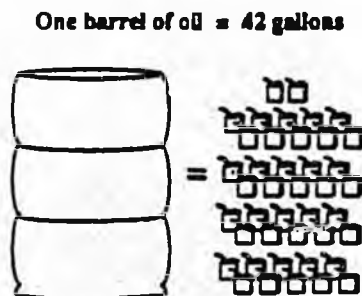
Alaska Oil Spill Commission hearing, 9/7/89

**Recommendation 40
Role of Environmental
Protection Agency**

"One of the big problems in this oil spill situation was that for the first couple weeks probably over 50 percent of management energy was spent in organizational determination and role decision."

Dave Uebensbach, Multiagency Coordination Group
Alaska Oil Spill Commission hearing, 8/31/89

**Recommendation 41
State takeover of oil spills**



agency oversees protection of the environment. The EPA has no Alaska presence and is unfamiliar with local conditions. The agency performs its mission in Alaska only by delegation; for example, it has contracted with the Bureau of Land Management for spill response duties in the trans-Alaska pipeline corridor.

The EPA's response to the *Exxon Valdez* disaster was limited, though it did provide expertise in water sampling and environmental analysis. Only a narrow range of approvals and disapprovals of chemical response techniques were asked of the EPA in this incident. But it did not perform well even this limited task due to a lack of adequate testing and a backlog of approval authorization actions.

The EPA had no capacity to propose response strategies to the *Exxon Valdez* wreck, only to pass on the proposals of others. For example, the agency was in no position to propose alternatives to Corexit, Exxon's patented dispersant, or to challenge its use. The causes of this performance lapse include inadequacies in the research and development budget of the agency.

Although it is formally identified as the federal government's lead responder on land spills, the role of the EPA in such events has not been conspicuous. The agency has no capability in Alaska to regulate oil spill prevention or plan for contingencies and has only a limited capacity to respond to a spill by flying people into the state in an advisory role.

The state should empower itself to take over direction of the response to any spill in Alaska waters.

There is no indication the federal government is inherently better suited than the State of Alaska to respond effectively to an oil spill in Alaska waters. Indeed, the state often will have more response resources than the federal government as well as a greater knowledge base concerning local circumstances. The state's resources and expertise generally will be more readily available in the crucial early hours of a spill.

The state has a constitutional obligation to protect its own resources and the primary responsibility to assist its own citizens. Considering the limited capabilities of federal agencies to respond to a variety of contingencies and the industry's conflict of interest, the state can never rely completely on the United States government or on industry to protect the resources of the state, whether on federal or state lands.

The state's authority should include the power to command the spill cleanup, to apportion scarce public and private resources, and to set in motion an emergency procurement process that will bypass the red tape that was a conspicuous element in the response to the *Exxon Valdez* wreck.

Even when the federal government maintains authority over a spill, the scheme for direction and command should permit full cooperation with state authorities.

Though primary responsibility for the salvage of vessels and the safety of crews should remain with the Coast Guard, pollution abatement may be left to the direction of state authorities indicating a willingness and capacity to do so with the support of federal resources. In particular, the state on-scene commander should be empowered to give binding directions to a spiller concerning particular response strategies. Community impact functions should be left to the standard emergency response command system.

The state should establish community-based response depots under the management of the state Department of Military and Veterans Affairs.

A major oil spill is in many respects analogous to emergencies such as floods, forest fires and earthquakes. Persons trained in emergency systems to mobilize a large workforce quickly and with the required urgency tend to be better equipped to respond to a major spill. Those specially trained in environmental protection perform better in advice on establishing goals and objectives and in evaluating the impact of the operation.

A state response committee made up of representatives of the appropriate state and federal agencies should be created to review state response plans and participate in periodic drills.

Local volunteer and part-time spill response units should be established, trained and equipped under the direction of the state Department of Military and Veterans Affairs.

Trained volunteer and part-time spill response units, properly trained, supervised and mobilized, should be prepared to protect critical habitat by keeping oil from reaching the shore or protected areas. The work of

Recommendation 42
State role under federal authority

Recommendation 43
State response depots

Recommendation 44
Immediate local response

Cordova fishing community mobilizing a "mosquito fleet" to protect fish hatcheries after the *Exxon Valdez* wreck is an instructive example. The local experience, knowledge and equipment of a trained volunteer corps should be put to work to help protect local resources.

Recommendation 45
Comprehensive regional response plans

The state should develop regional response plans reviewed by appropriate regional advisory committees. Private contingency plans should be developed that presume and mesh with the regional response plan.

Regional committees should be made up of local community members, state and federal agencies and industry. They will prepare the regional response plans and participate in drills to insure readiness. When a spill occurs this committee makes decisions regarding the region and reports to the on-scene commander. During the aftermath of the *Exxon Valdez* wreck the best example of a coordinated response was the response in Seward. The incident command system was fully employed and was able to carry out a well-managed, organized response.

These committees need to be predesignated before spills so they can participate in the planning process and be even more effective in responding to spills when they occur.

Recommendation 46
Regional response capability

The regional response capability designated in the regional response plan should be able to respond to a major spill with the speed of a fire department to protect habitat and contain, transform, recover or destroy a major spill before it reaches shore.

Time is the critical factor in all attempts to limit the environmental damage in a major spill by keeping oil off the shore. Regional response organizations must perform swiftly and with clear command and control to maintain the hope of keeping oil off the beach.

Recommendation 47
Emergency economic maintenance

The state should sponsor a system of emergency economic maintenance for persons immediately and seriously affected adversely by a spill.

The financial victims of a spill should not be subject to economic pressures to settle their claims quickly. Victims whose injury is indirect also should receive some early relief. The economic maintenance system should follow the pattern of unemployment insurance but would cover all

classes of people injured by a spill, not just insured unemployed. This program should be funded from spill impact funds.

Concern for fish and wildlife resources was the dominant concern in the response of state agencies and federal environmental agencies. Impacts on people were given relatively lighter attention, despite the toll in human misery on those whose livelihood and way of life had been severely disrupted or effectively destroyed for the foreseeable future.

Exxon did set up a system for the early compensation of claims and settled a large number of them, an activity it was not required by law to undertake. A smaller and less financially capable company may not have been willing or able to provide such a system.

Exxon was able to mitigate claims against it by hiring large numbers of people put out of work by the spill in cleaning up after it. The injured and economically benefited, however, were far from congruent groups. The principal economic beneficiaries of the spill were the two corporations hired by Exxon to manage the cleanup.

Many fishers or other injured parties believed they were disadvantaged in dealing with Exxon on claims.

The private system was incomplete in that many people who suffered severe income loss received no compensation because their claims were not against Exxon or were not legally cognizable. For example, seafood processing workers and crews of fishing vessels that were not hired according to their annual expectation were left to their own resources. Some were successful in obtaining employment with Exxon or its contractors. Others were no

"I can't quantify the losses that occurred because no in-place, quick studies were made us to what was happening to the economy at that time. We have lost the economic history."

*Vince O'Reilly, City of Kenai
Alaska Oil Spill Commission
hearing, 9/7/89*

"EPA classified Alyeska as a nonprofit organization and based their entire permit on that. When operations at Alyeska were compared to other operations including facilities partly owned by the Alyeska owner companies, it becomes readily apparent that the oil industry is operating under a set of global double standards."

*Dr. Rick Ott, Cordova District
Fishermen United*

*House Committee on Interior and
Insular Affairs hearing, May 1989*

IMPLEMENTING THE RESPONSE

Inevitably, a major spill will occur.

Just as inevitably, there will be surprise and chaos. But unpredicted circumstances and the disarray of managers caught off guard can be sharply reduced if a plan is in place that sets out in a coordinated fashion what people should do in emergency circumstances.

The failure of response to the *Exxon Valdez* disaster was made more poignant by the location of the accident. Bligh Reef is in protected waters, only 25 miles from one of the world's major oil terminals. Most of the cleanup equipment in the state was stored at the terminal, and the weather for the first three days after the spill was extraordinarily good.

Command and contingency plan changes contributed to the chaos. When it became obvious that Alyeska's contingency plan was inadequate, the local response commanders — the Coast Guard captain of the port, the Valdez field office chief for the Alaska Department of Environmental Conservation, and the manager of the Alyeska marine terminal — were replaced, even though they were the most familiar with the spill area and the existing contingency plan. Within 48 hours, the spill was being managed by a Coast Guard admiral, the head of Exxon Shipping Company and the commissioner of the Alaska Department of Environmental Conservation, none of whom had particular knowledge of the area or its response planning. Eventually the Exxon worldwide contingency plan took priority, even though it had no specific relationship to Prince William Sound.

Response to the *Exxon Valdez* wreck revealed confusion and unpreparedness on a massive scale. But because plans do not work perfectly does not mean that they don't work at all. There is no reason why the chaos of the *Exxon Valdez* response should be repeated.

"As regards the cleanup effort and the equipment, I think it would stop the average reader just to read that the equipment that was used in most cases was inadequate. In most cases it didn't work. In a lot of cases the equipment was not in place."

*Vince O'Reilly, City of Kenai
Alaska Oil Spill Commission
hearing, 9/7/89*

**Recommendation 48
Incident Command System**

"The cleanup effort consisted principally of managers, most of whom knew little about the area or environment they're entrusted to restore, fairly rigidly supervising laborers. These same managers, private and public, have discouraged volunteers with local knowledge from helping in the cleanup effort. This kind of centralization works for mobilizing heavy equipment and disposing of hazardous waste, ... but I think it's discouraged the flexibility and creativity needed to pick up oil with the primitive technology that we have in remote areas."

Professor Matt Serman, University of Alaska

Alaska Oil Spill Commission hearing, 9/21/89

A formal command structure, known as the Incident Command System, should be used to direct response to oil spills.

The safety of the crew and salvage of the ship and cargo should be left primarily in the hands of the Coast Guard and the owner. The Incident Command System, which is familiar to many state and federal agencies, appears to be the optimum command and control system for other oil spill response functions. The system allows for training and management by state emergency and environmental authorities to cover three major responsibilities:

- Containment and recovery of the spill on water.
- Treatment of beaches and recovery of oil from the intertidal zone.
- Management of onshore impacts, primarily a responsibility of emergency response authorities.

The local on-scene commander can be predesignated under this system. The function of higher officials such as a federal "czar" should be to see that resources are mobilized and provided, not to replace the on-scene commander. Pre-incident agreements and the Incident Command System should guide the allocation of labor and equipment to communities.

A confusion of command and responsibility handicapped response in Prince William Sound, despite the good faith efforts of all parties. Similarly, a confusion of mission resulted in a division between the very successful focus on the safety of the crew and salvage of the vessel and its cargo and the much less effective effort to contain and recover the oil. Shore operations were often marked by chaos, misallocations of resources and neglect of the interests and wishes of residents.

In almost every command structure surrounding the *Exxon Valdez* spill, the individual most knowledgeable about the circumstances of the spill and theoretically charged with response was quickly replaced by a person who may never have read the local contingency plans. The Coast Guard appears to have rotated personnel through Prince William Sound for the experience.

A substantive role should be given to the affected communities in any response system.

Communities in proximity to the spill and in the shadow of the oil were not given a proportionate role in the response system after the *Exxon Valdez* accident. Frequently they were ignored. Often they devised their own strategies for response, for instance acquiring or manufacturing boom by themselves. Yet local interests, local knowledge and experience with the ocean often made the community-based work force the most efficient available.

The state Department of Environmental Conservation should continue to insure spill response capability. For smaller spills this responsibility can be carried out or supported through private contract. In a major spill, where mobilization of private resources and multigovernmental agency response is required, the Department of Military and Veterans Affairs, with the advice of DEC, may determine that the spill be taken over by the state.

Confusion of command in response to the *Exxon Valdez* disaster grew out of the state's failure to focus response activity in a single agency with an operational capacity.

Distinctions were blurred in the *Exxon Valdez* disaster between the system for making decisions and responsibility for carrying them out. DMA is better suited than DEC to carry out operational decisions. DEC is better suited to provide quality assurance auditing functions and to give advice, as is the role of DEC in relation to the private spiller in charge.

Logistic support agencies were not sufficiently utilized in the *Exxon Valdez* spill as a result of a confusion between the decision-making process and execution command.

Responsibility for the management and preparedness of emergency local response activity should be vested in the Department of Military and Veterans Affairs.

Regional depots, now privately controlled under a Regional Response Agreement, should also be managed under the Department of Military and Veterans Affairs or as the department delegates. This may require some redelegation of authority vested in the Department of Environmental Conservation in the last session of the Alaska Legislature.

**Recommendation 49
*Enlarged community role***

**Recommendation 50
*Allocation of state response authority***

**Recommendation 51
*Enhanced role for Department of Military and Veteran Affairs***

In their professional training the normal professional complement of the DEC consists of persons primarily trained in the measurement and evaluation of environmental quality. Such personnel are not as well trained in the skills of maintenance and mobilization of a workforce and equipment, communications, procurement and the like.

The personnel of DMA are primarily trained in emergency response, the mobilization of a workforce and equipment, emergency procurement and similar tasks. DMA's management of emergency response gives the DMA a standing outreach into all Alaska communities including personnel, equipment, a command structure, a work force, buildings, planes, vehicles, etc.

The DEC, a regulatory agency, though far better equipped and staffed than EPA, did not have a disaster response capability sufficient to meet a spill of large magnitude.

Recommendation 52
Emergency response
funding

An immediate funding mechanism must be available after a spill to allow the earliest commitment of response resources.

Procurement limitation was the first reason the Coast Guard did not take command of the *Exxon Valdez* spill, though other reasons, including presidential directive, followed.

An immediate funding mechanism would permit authorities to contract resources, the mobilization of a workforce, the purchase of supplies, etc. Procurement procedures normally followed to insure accountability make response efforts ineffective under emergency conditions. Until the governor is notified, the on-scene commander should be empowered to authorize the expenditure of funds. When the governor is notified of a spill, the governor should authorize the release of funds and determine their allocations among agencies. Both federal and state contingency fund sources are required for an effective spill response capability.

Public agencies were substantially handicapped by their inability to quickly commit themselves financially. In contrast, Exxon was the most effective responder because its officers on the scene had authority to commit the corporation. The Coast Guard is required to determine whether to federalize a spill based on whether the spiller is doing an adequate job. In fact, the Coast Guard determines whether the spiller can do a more effective job than the Coast Guard. This is almost always the case because the Coast Guard is handicapped by procurement limitations.

"There was never a question in my mind about whether to incur a commitment or enter a contract because of worries about funding."

Dennis Kelso, Commissioner
Alaska Department of
Environmental Conservation
Alaska Oil Spill Commission
hearing, 8/31/89

The EPA has no significant presence in Alaska capable of responding to a major spill on the uplands, notwithstanding that the response planning assumes the EPA will be in charge. In Alaska, this responsibility has been transferred by contract to the Bureau of Land Management.

A declaration of emergency should trigger the ability of the governor or other appropriate officials to release funds collected from state oil revenues to cover all impact costs, including economic maintenance programs and local impacts which become an extra burden on local services, whether provided by state or local government.

Indirect government service costs can be as important as direct spill expenditures in meeting a spill emergency. Local governments in particular were hard hit by lack of funding for increased burdens which hit everything from phone service to mental health during the crisis following the *Exxon Valdez* spill.

Exxon released some funds to communities for service needs, which it was not obliged to do. But the availability of such funds should not depend on the policy of the spiller.

As a prevention incentive, existing regulations should be broadened to insure that in future spills the state can recapture all expenses directly or indirectly incurred by the state, its subdivisions and private parties to whom the state owes reimbursement or who have benefited under the state's oil spill disaster economic-maintenance program.

Disagreement on reimbursable costs that resulted in an economic loss to the state resulted in the cancellation of a contract by which, on the pipeline route, DEC exercised EPA authority over spills, all to the detriment of environmental protection.

Reimbursability became a criteria for state response in the *Exxon Valdez* spill, to the detriment of the environment and people injured by the spill.

A fund should be created in state government to help local governments cover public spill costs caused by oil and hazardous substance releases that cannot be charged back to responsible parties.

Recommendation 53
Local service impact funding

Recommendation 54
Full-cost reimbursement

Recommendation 55
Private contingency plans

"The seven oil companies who own Alyeska broke a contract with the U.S. government and the people of the state of Alaska. Simply put, Alyeska was unprepared to deal with an oil spill of this magnitude, as they promised they would be, and they failed to react quickly during the critical early hours of the spill to minimize environmental damage, as they are mandated to do."

*Dr. Rick Off, Cordova District
Fishermen United*

*House Committee on Interior and
Insular Affairs hearing, May 1989*

Private parties carrying oil must have a state-approved plan of response to spills of all sizes, including a worst-case scenario, that can be used under either private, federalized or "Alaskanized" spill response.

The state requirement that Alyeska's contingency plan respond to the "most probable" spill, however, put a lid on expectations about response to a worst-case spill. Alyeska did not prepare beyond the state's minimum standard and did not advocate a higher one.

The risk of a catastrophic spill cannot be reduced to zero as long as oil is carried in large quantities. But the interval between spills can be lengthened and the impact mitigated.

Under known and approved technology, it is also incorrect to assume during contingency and response planning that nearly all oil will be recovered. Under extreme circumstances of weather and location, no oil may be recovered. Here the emphasis should be on critical habitat protection.

In reviewing plans for unfavorable circumstances, DEC should determine a standard of "good effort" rather than one based on a fully successful result.

We know of no effective way to prevent major damage once oil reaches the intertidal zone and shore. To be most effective spill response must be immediate to keep oil from spreading or reaching shore and critical habitat. In the case of a spill near shore, it is not the magnitude of the response over time but what is done in the first few hours that offers the most protection.

Exxon Corporation ultimately marshaled an impressive array of resources and spent great sums of money in the *Exxon Valdez* cleanup. As each hour from the time of the wreck passed, however, the worth of each resource commitment and dollar rapidly declined. After two days, the spill managers were effectively incapable of preventing the spill from reaching shore and destroying major habitat areas.

Though containment and cleanup actions were undertaken at great cost and eventually with massive participation by many parties, containment was fundamentally flawed and failed as a result of insufficient resources being applied too slowly to prevent the oil from hitting the beaches.

The lack of resources was compounded by the absence of a standardized system of information transfer in the first few hours and confusion in the

command and response system that resulted in decision-making and mobilization lapses in the first critical hours.

Beach treatment, a major investment by Exxon, was too late to touch more than a small percentage of the spill. Large quantities of oil remain in the substrata of beaches and continue to exact a toll on the biosphere. Technologies used to get large quantities of substrata oil out tend to take a high toll on the environment. Assessment of beach condition in Prince William Sound is problematic since the treatment had a cataclysmic effect, if not on the magnitude of the oil, on intertidal life.

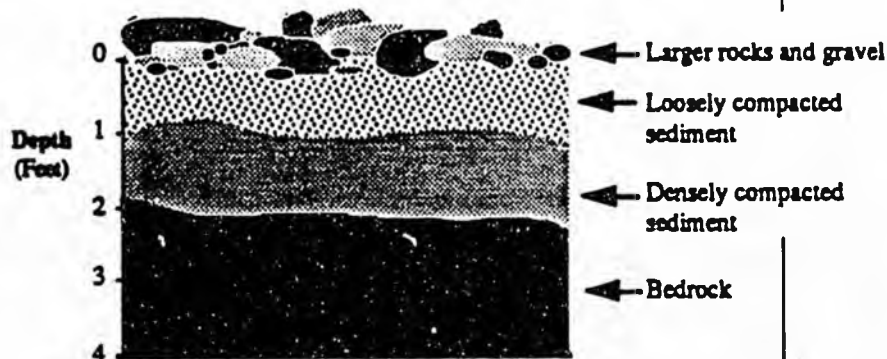
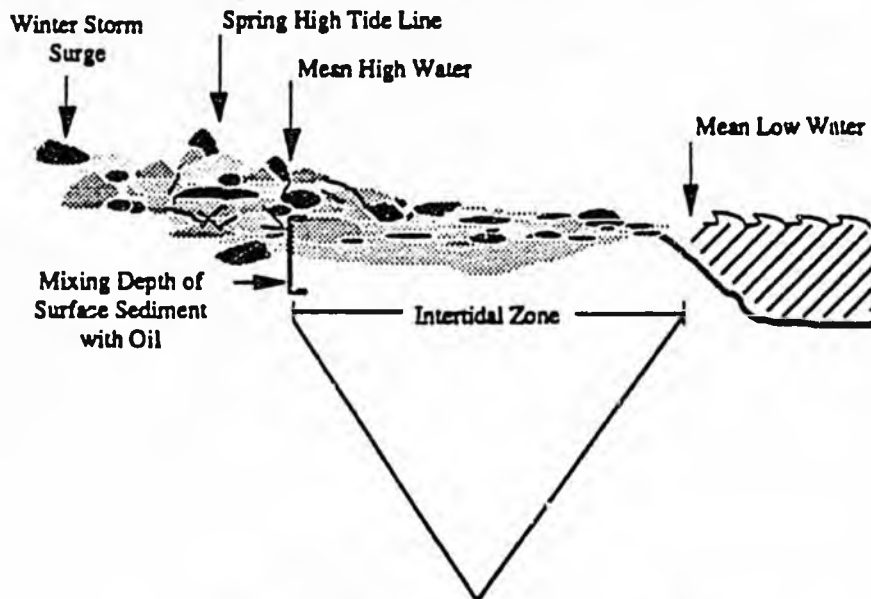
"Clearly from our understanding of what the state expected from us and what the people of the state expected from us, we had a good plan and we executed it. The problem many times is that people automatically assumed that adequacy or inadequacy hinges on being able to pick up 248 or 262,000 barrels before it gets on the shore."

Theo L. Polasek, Vice President of Operations

Alaska Pipeline Service Company

House Committee on Interior and Insular Affairs hearing, May 1989

Typical Beach Profile in Prince William Sound



RESEARCH & DEVELOPMENT

The *Exxon Valdez* disaster has awakened industry, government and public interest in oil spill research. The May 1989 report to the president on the *Exxon Valdez* by Transportation Secretary Samuel Skinner and Environmental Protection Agency Administrator William Reilly bluntly concluded that "oil spill cleanup procedures and technologies are primitive." That view was echoed by the American Petroleum Institute, an industry group that issued a report calling for new private investment in research and development of spill response methods. Federal agencies are preparing research and development initiatives in spill response techniques, technology, training and deployment systems. There is also increasing interest in coordination and collaboration with other countries, particularly Canada, to provide faster progress, faster dissemination of research results, and less unnecessary duplication of effort.

Legislation now pending in Congress provides for the establishment and funding of oil spill research and development programs. One proposal would create a Prince William Sound Oil Spill Recovery Institute to identify and develop the best technology for dealing with spills in arctic and subarctic marine environments. Another would establish a minimum of six regional centers to address research needs.

Government-supported research and development should insure that public priorities are met, that government agencies expected to direct future oil spill response will be knowledgeable about new technologies and techniques, that regulation is appropriate and effective and that up-to-date response capabilities are maintained. Coordination and cooperation in research and development programs is in the interest of all concerned.

Alaska's interests in oil spill research should focus on specific Alaska marine habitats, the characteristics of oil and dispersant methods in arctic and subarctic waters, prevention research and training programs to ensure that Alaska response authorities will be fully prepared to understand and cope with future spills.

"We therefore are guinea pigs within a giant experiment, where facts are made to fit the hypothesis made. In our frustration of our loss, we fight an invisible enemy, and suffocate in the air polluted with politics."

*Dolly Zoff, Kodiak native
Alaska Oil Spill Commission
hearing, 8/11/89*

"It's embarrassing to know that the level of our technology of this great country is what it is when I see out there that the most effective thing is an oil absorbent pad."

*Dennis Holan, Cordova fisherman
Alaska Oil Spill Commission
hearing, 6/28/89*

**Recommendation 56
Knowledge transfer**

"Cost avoidance also occurs through the efforts of managers of all agencies to try to control information in order to keep other people from finding out whether you might be able to do a better job. Public policy can improve organizations so that they do what we want."

Professor Matt Berman, University of Alaska

Alaska Oil Spill Commission hearing, 9/21/89

**Recommendation 57
State research center**

The United States, the State of Alaska and Canada should establish cooperative research programs to develop and disseminate knowledge on oil spill prevention and response.

Despite two decades of rising public concern for the environmental consequences of oil spills, research on the subject is still in its infancy. Prevention systems are haphazard. Spill response technology is untested and underdeveloped. Research investment is low, and institutional commitment to this field is scarce.

For a variety of reasons — including, predominantly, ignorance — the latest technologies were not used in the *Exxon Valdez* cleanup. Much of the available cleanup equipment had not been tested in the various circumstances facing cleanup crews. Due to caution or uncertainty, untested techniques were not quickly implemented.

The response effort was handicapped by the absence of a rapid, accurate and comprehensive system, available to all, for information on local conditions, habitat, fish and wildlife, currents and weather.

The primitive state of development of both prevention and response methods holds out some hope that, given sufficient investment, dramatic strides will be made in a short time.

Research dedicated to improving the state of knowledge in oil spill prevention and response should be undertaken to remedy information gaps. Among the topics that should be pursued are the relevant regional geography, environmental assets, weather, technological systems and basic research on the behavior of oil in water. Information management should be included in the agenda for response and contingency plans. Resources should be committed to ensure adequate information systems and services in emergency response efforts in the future.

The state should establish, in the University of Alaska system, an institute for research on oil spill prevention and response policy, technology, testing and evaluation.

An Alaska-based institute should be created and encouraged to strengthen its programs through consortium agreements with other institutions studying the safe transportation of hazardous substances. Research topics should include locality-specific investigations of marine habitat and the impact of oil, as well as prevention policy and response technology. The

institute also could develop and administer education, training and safety licensing programs for participants in oil transportation and handling. The institute's efforts should be coordinated with similar programs developed under federal authorization. Its functions should include making recommendations to appropriate authorities regarding changes in standards and requirements in oil and gas and hazardous substance transportation.

The research program should be established independently of the that conducted in support of fault-oriented litigation. Research since the Exxon Valdez wreck has been noticeably distorted by its litigation orientation.

Authorities responsible for testing and approval of response technologies such as dispersants, coagulants, burning and bioremediation should evaluate and decide whether to preapprove these technologies more rapidly.

Parties responding to the spill were handicapped to varying degrees by a lack of scientific knowledge concerning what was available, the properties and effectiveness of various technologies under varying conditions, and the lack of prior approval of response strategies. Those responsible for containment and cleanup were not fully advised on state-of-the-art methods or regularly provided with appropriate technology.

The system for testing and approving new response technologies is haphazard and slow and should be improved. Many emerging technologies hold promise, but they were untested and undeveloped at the time of the Exxon Valdez wreck.

The U.S. Navy's use of coagulants in containing and cleaning up shipboard fuel spills — fully tested for Navy use but no other — was of particular interest to the commission. The commission also was intrigued by reports of proposed vessel-based coagulant systems capable of jelling cargo in the vicinity of a breach and of vacuum-based systems for containing oil in a damaged vessel. Such avenues of development call for early and thorough exploration for possible use.

Key public agencies, notably the federal Environmental Protection Agency and the state Department of Environmental Conservation (both of which are involved in Regional Response Plans and the oversight of industry contingency plans), are charged with approving or disapproving response technologies for oil spill cleanup. A continuing, visible process for study, analysis and application of emerging technology is required.

"There is no mandate to a government body that when an incident like this occurs they shall go gather data. There's no mandate in place and there's obviously no funding for that mandate."

Vince O'Reilly, City of Kenai
Alaska Oil Spill Commission
hearing, 9/7/89

Recommendation 58 Pretesting

"Perhaps for the first time in history, the consequences and costs associated with major failures are greater than the value of the lessons we learn from those failures."

Professor Todd LaPorte, University
of California
Alaska Oil Spill Commission
hearing, 8/4/89

Recommendation 59
Tanker simulator training

"We need to establish a prize for invention of technologies that work. Organized research to produce information that would help achieve the goal of minimizing social costs isn't really being undertaken."

*Professor Matt Berman, University of Alaska
Alaska Oil Spill Commission
hearing, 9/21/89*

"I am skeptical that there will be as much scientific value gotten out of this situation as would otherwise be possible. That's partly because the work is confidential and partly because the work is focused on determining the extent of environmental injury, which is not the same as understanding in ecological or social terms the impact of this event."

*Professor David G. Shaw,
University of Alaska
Alaska Oil Spill Commission
hearing, 9/21/89*

The West Coast states should create a training center using simulators to advance the knowledge of masters, mates, pilots and shipboard bridge crews in the operations of very large vessels in West Coast ports.

There is currently no place on the West Coast where mariners can receive real-time simulation training in the bridge operations of very large ships. Maintaining an adequate pool of ships' officers and pilots fully trained in up-to-date circumstances will enhance safety and efficiency in the maritime industry.

Note: Those who wish to review in more detail the factual circumstances explored by the commission and the options considered and rejected in choosing these specific remedies will find explanations in a longer report still to be published and in the specific studies accepted by this commission from its contractors.

Commission members

Walter B. Parker, chair—Anchorage, a former technical staff director of Alaska's Office of Pipeline Coordinator, currently is president of his own transportation and resource consulting firm and president of the Alaska Academy of Engineering and Sciences. Parker served on the Federal Field Committee for Planning in Alaska and co-chaired the Joint Federal-State Land Use Planning Commission for Alaska 1976-79. He was Alaska Commissioner of Highways and an Anchorage municipal assembly member during the 1970s. He was chairman of the Alaska Oil Tanker Standards Task Force 1975-1977 and served 24 years with the Federal Aviation Administration.

Esther Wunnicke, vice chair—Anchorage, is an attorney who served as commissioner of the Alaska Department of Natural Resources in the early and mid-1980s. She managed the U.S. Department of the Interior's Alaska Outer Continental Shelf Office, co-chaired the Joint Federal-State Land Use Planning Commission for Alaska in the mid- and late 1970s, and served on staff of the Federal Field Committee for Development Planning in Alaska.

Margaret Hayes—Anchorage, is a geologist and former director of the Alaska Department of Natural Resources Division of Land and Water Management. She was employed by the department in various capacities from 1975 through 1988.

Tim Wallis—Fairbanks, is president of Tim Wallis and Associates, a consulting firm. The firm is currently representing a municipality and other interests as a lobbyist in Juneau. Wallis is a former state legislator, past president of Doyon, Ltd., an interior Native corporation, as well as the past president of Alaska Federation of Natives and the Fairbanks Native Association.

John Sund—Ketchikan, is a former state legislator and commercial fisherman who now practices law and operates a fish-processing firm. Sund served on the Resources Committee as a state House member from 1984 to 1988 and from 1981 to 1985 was president and chief executive officer of the Waterfall Group Ltd., a resort operation.

Edward Wenk, Jr.—Seattle, professor emeritus of engineering, public affairs, and social management of technology at the University of Washington, is a former advisor to three presidents and Congress. An expert on the strength of ships, Wenk was a test pilot on the initial deep dive of America's first nuclear submarines and developed a world-class lab on the structural mechanics of submarine pressure hulls. The author of more than 150 papers and books, many on the interaction of technology with people and politics, he holds a master's of science from Harvard University and a doctorate of engineering from Johns Hopkins University.

Michael Herz—Berkeley, Calif., has studied previous oil spills and tanker accidents and is currently baykeeper and executive director of the San Francisco Bay-Delta Preservation Association, a nonprofit corporation that monitors oil and chemical spills. An advisor on oil spill dispersants, waste disposal, and the impact of oil spills on fisheries, Herz studied and produced a major report on the 1984 Puerto Rican tanker spill and has co-written three books and more than 80 technical reports and papers. He holds a doctorate from the University of Southern California, was a postdoctoral fellow at UCLA's Brain Research Center, and has been involved in marine research and policy since 1973.

4/2/90

SB 503

FAX 465 4455

Attn Carol Horos

Please deliver to committee meeting in progress - Thanks

April 3, 1990

Dear Senate Finance Committee:

Please pardon the lateness of this input. I feel the need to help clear up a misunderstanding about Incident Command Systems and the chain of command. I worked with two IC Teams and as part of one after the big spill. The commanders of these teams took policy decisions and prioritized objectives from the designated line officer who was also the chair of the multi-agency co-ordinating group. A simple and necessary separation of function: resource agencies and community representatives had the scientific and local expertise and the IC team had the operational ability. Our second team which was not dependent on Exxon approval and check-writing was able to deploy resources unavailable to the first because of the absolute dependence on a disobedient spiller for finance.

I believe that line authority should be placed in DEC and backed to the hilt with money secured by the state in advance from the industry: by bonding, escrow, taxation or other legal means. DEC, in particular, and the MAC process generally need backbone: discretionary funds for response will help. The state, and DEC were depressingly weak after the spill. DEC has been battered and bruised, manipulated and compromised by many forces over the years -- no way to raise a child. The image of the bully as agency comes to mind: Kicked around from above, DEC is in the field picking on restaurants and dry-cleaners and demoting employees who stand up to big guys like Alyeska. Well, we need a strong, straight and proud environmental agency: we're not going to have it if we keep programming it by abuse. Only an agency that works with industry, routinely, can have the necessary intimate knowledge of personnel, resources and capability available for response. If DMVA/DES is to acquire that knowledge too it will cost a lot of extra money to duplicate the effort. And, DES will never have the technical knowledge to respond to an incident in progress, resource protection decisions have to be as fluid as the spill and priorities in constant adjustment to maximize effective response. Incident command as we know it is a very effective instrument when used for its intended purpose; distracting a commander from the direction of operations is wrong and self-defeating. The commanders I know want only distinct and timely definition and prioritization of objectives: they need to go to work not go to meetings.

Sincerely, Larry Smith, Kachemak Resource Institute, Fritz Creek 99603

Larry Smith

TESTIMONY
BEFORE THE SENATE FINANCE COMMITTEE
APRIL 3, 1990

HILD SANDSTED

Thank you for the opportunity to testify on SB 503. My name is Hild Sandstede and I live in Anchorage, Alaska.

I support the original version of SB 503 as submitted by the Governor. The version submitted by the Senate Oil and Gas Committee is on the verge of making a grave mistake of turning over oil spill operations to the Department of Emergency Services (DES).

Past experience working with the DES has proved them to be unorganized and ineffective in handling oil spill emergencies. To go with DES would mean a complete restructure and restaffing of the organization.

Lessons learned during the Exxon Valdez repeatedly tell us that any type of response needs to be executed quickly by a well structured prepared outfit. Ideally it would behoove the committee to establish by legislation an Incident Command System which would be an interagency response team which has the knowledge, preparation and training to respond to oil spills.

I am confident that you will carefully consider this testimony and modify this legislation into being as the strongest and most effective method of handling oil spills.

Thank you,

Hild Sandstede

Ladies, Gentleman,

my name is John Mickelson
I'm a twelve year resident of Astoria.
I spent the last nine years in Alaska
logging and fishing. I've been coastwise
through these activities from Oregon to
Norton Sound. The point of ~~of~~ this
is not what swell sailor I was
but rather that I have compared
the abundance of sea life on these
journeys. The incremental pollution in
the lower 48 has left these beaches
barren. you can walk for miles without
seeing any free form sea life. The
clam beds at ocean shores are
DEAD!

Who controls pollution, who
enforces and regulates pollution laws.
It sure aint O.E.S.

Look the dept. of Emergency
Services should be under Health
and social services. I sat at the
table with all the agencies last
summer, I saw the deficiencies
in the system we had. The
state spent hundreds of thousands
of dollars during the spill and
after the spill collecting evidence,
on chain of custody flights. The
governor appointed a spill commission and
they spent a god of money
talking to the people who
worked at making this spill

work. The present re-wording
of the spill Commission recommendations
will not work,

once again I'm not
able to give my own testimony
I've had to arrange to have
this read.

I realize that a lot
of this law will apply to
everyone in the state who
wasn't affected by the E.V. spill.

So what we've seen is a real
good strong sensible law get
watered down so the little
companies on the Interior or
out in Cold Bay can afford
insurance. That means we
accommodated them by making it
affordable to spill oil again.

Please take another real
good look at the oil spill
Commission recommendations, that
book was practically on the best
seller list and most Alaskans
breathed a sigh of relief that
government made a little sense
out of something instead of
the usual paper blizzard when
a person wants to get something
done.

Bill 503 was a way
better bill as originally written
and I wish you'd change it

Back.

I don't think the legislature fully understands the Incident Command concept, and not meaning to offend you I hope you would invite some of the fire team members who specifically worked on this last spill for their insight into the viability of the system you have outlined.

D.E.S. should not have the Command Seat. They are members of a M.A.C. committee in a real incident. They also have no place assigning priorities on habitats protection.

What really needs to happen is tomorrow morning the land holders federal, state, local private start meeting and pre-assigning priorities for protection.

This job should be done way out in front of a spill. Then if you heart is set on D.E.S. they can hand carry the message to the Incident Commander who will see that every effort is made to the task as assigned.

The M.A.C. committee should be made up of biologists primarily of the agencies, much the same as last year only without D.E.S. D.E.C. on board. D.E.C. has

Apr. 3 '90 7:42

1234 City of Seldovia

TEL 110

P. 4

A weird. Role in advising clean-up
And enforcement.

So, put 503 back together
as original. D.B.S. the same thing.

Thanks for listening to
this I'm late for work because
I wrote this. You guys sure
make it hard to earn a living.

John

STEVE COWPER
GOVERNOR



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

502
503
504

February 21, 1990

The Honorable Tim Kelly
President of the Senate
Alaska State Legislature
P.O. Box V
Juneau, AK 99811

Dear Mr. President:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting three bills implementing recommendations made by the Alaska Oil Spill Commission.

One bill authorizes the governor to use the oil and hazardous substance release response fund, established under AS 46.08.010, to respond to declared disaster emergencies under AS 26.23.020(c). The bill also repeals the exception in AS 46.04.080(a) that requires the Department of Environmental Conservation (DEC) to perform the duties of the Division of Emergency Services during a catastrophic oil discharge. Finally, the bill creates in statute the State Emergency Response Commission, presently established by an administrative order.

Another bill extensively revises AS 46.03.758 - 46.03.763, which deals with civil penalties for oil spills. In general, the bill increases penalties for spills and eliminates unwarranted exemptions and defenses.

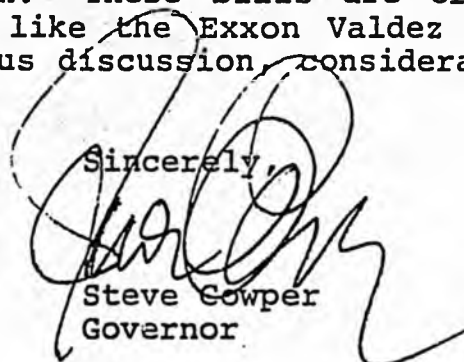
The third bill strengthens DEC's authority to require compliance with oil discharge contingency plans. Of particular significance is the requirement that applicants for contingency plans must maintain sufficient resources to contain and remove, within the shortest possible time, a realistic maximum oil discharge. Next, this bill increases the financial responsibility requirements for offshore oil exploration and production activities, to guarantee that in the event of another spill, significant financial resources will exist to compensate damaged parties, including the state. Finally, this bill authorizes DEC to inspect oil industry facilities and tankers to guarantee compliance with contingency plans and to assure structural integrity of the equipment.

Sectional analyses of each bill, describing the bills in detail, will be provided by my staff.

As you know, the Oil Spill Commission "Executive Summary," issued last month, includes over 50 recommendations. Through this legislation, as well as other bills already under consideration by the legislature (House Bill 409, Senate Bills 359, 421, and 497), most of those recommendations are being addressed. Furthermore, additional legislative proposals based upon these recommendations are still under consideration, and, after review of the full commission report, just released, additional proposals might be forthcoming.

The Oil Spill Commission, after extensive study, has identified several ways for the state to improve its ability to prevent future spills and to better respond if a serious spill occurs again. These bills are critical to prevent another disaster like the Exxon Valdez spill. I therefore urge your serious discussion, consideration, and passage of these measures.

Sincerely,



Steve Cowper
Governor

**STATE OF ALASKA
1990 LEGISLATIVE SESSION**

BILL VERSION : CSSB 503 (O&G)

PUBLISH DATE : 3/30/90

FISCAL NOTE

REQUEST:

Revision Date 4/2/90
 Title: An act concerning Response
 Fund expenditures/transferring authority to DES...
 Sponsor: Rules/Governor
 Requestor: S Finance

Agency Affected: Environ. Conservation
 BRU: Environmental Quality
 Components: Environmental Quality

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES	0.0	0.0	0.0	0.0	0.0	0.0
TRAVEL	98.3	98.3	98.3	98.3	98.3	98.3
CONTRACTUAL	347.0	327.0	227.0	227.0	127.0	127.0
SUPPLIES	0.0	0.0	0.0	0.0	0.0	0.0
EQUIPMENT	0.0	0.0	0.0	0.0	0.0	0.0
LAND&STRUCTURES	0.0	0.0	0.0	0.0	0.0	0.0
GRANTS,CLAIMS	0.0	0.0	0.0	0.0	0.0	0.0
MISCELLANEOUS	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	445.3	425.3	325.3	325.3	225.3	225.3
CAPITAL	0.0	0.0	0.0	0.0	0.0	0.0
REVENUE	0.0	0.0	0.0	0.0	0.0	0.0

FUNDING: (Thousands of Dollars)

GENERAL FUND	445.3	425.3	325.3	325.3	225.3	225.3
FEDERAL FUNDS	0.0	0.0	0.0	0.0	0.0	0.0
OTHER	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL	445.3	425.3	325.3	325.3	225.3	225.3

POSITIONS:

FULL-TIME	0.0	0.0	0.0	0.0	0.0	0.0
PART-TIME	0.0	0.0	0.0	0.0	0.0	0.0
TEMPORARY	0.0	0.0	0.0	0.0	0.0	0.0

ANALYSIS: (Attach a separate page if necessary)

Prepared by: Lynn Kent
 Division: Environmental Quality
 Approved by Commissioner: [Signature]
 Agency: Environmental Conservation

Phone: 465-2630
 Date: 4/2/90
 Date: 4/3/90

Distribution (by preparer) :
 Legislative Finance
 Legislative Sponsor
 Requestor
 Office of Management and Budget
 Impacted Agency(ies)

**STATE OF ALASKA
1990 LEGISLATIVE SESSION**

BILL VERSION : SB 421
PUBLISH DATE : 1/30/90

FISCAL NOTE

REQUEST:

Revision Date: _____ Agency Affected: Environ. Conservation
 Title: An Act establishing an oil and BRU: Environmental Quality
hazardous substance spill technology review commission...
 Sponsor: Senator Szymanski Components: Environmental Quality
 Requestor: Senate Oil & Gas Committee

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES	0.0	0.0	0.0	0.0	0.0	0.0
TRAVEL	17.9	17.9	17.9	17.9	0.0	0.0
CONTRACTUAL	220.0	200.0	100.0	100.0	0.0	0.0
SUPPLIES	0.0	0.0	0.0	0.0	0.0	0.0
EQUIPMENT	0.0	0.0	0.0	0.0	0.0	0.0
LAND&STRUCTURES	0.0	0.0	0.0	0.0	0.0	0.0
GRANTS,CLAIMS	0.0	0.0	0.0	0.0	0.0	0.0
MISCELLANEOUS	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	237.9	217.9	117.9	117.9	0.0	0.0

CAPITAL	0.0	0.0	0.0	0.0	0.0	0.0
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REVENUE	0.0	0.0	0.0	0.0	0.0	0.0
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FUNDING: (Thousands of Dollars)

GENERAL FUND	237.9	217.9	117.9	117.9	0.0	0.0
FEDERAL FUNDS	0.0	0.0	0.0	0.0	0.0	0.0
OTHER	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL	237.9	217.9	117.9	117.9	0.0	0.0

POSITIONS:

FULL-TIME	0.0	0.0	0.0	0.0	0.0	0.0
PART-TIME	0.0	0.0	0.0	0.0	0.0	0.0
TEMPORARY	0.0	0.0	0.0	0.0	0.0	0.0

ANALYSIS: (Attach a separate page if necessary)

Please see attached.

Prepared by: Lynn Kent
 Division: Environmental Quality

Phone: 465-2630
 Date: 3/21/90

Approved by Commissioner: *ADLyle*
 Agency: Environmental Conservation

Date: 3/21/90

Distribution (by preparer) :
 Legislative Finance
 Legislative Sponsor
 Requestor
 Office of Management and Budget
 Impacted Agency(ies)

Section one of the bill requires the Department to adopt regulations regarding oil and hazardous substance containment and cleanup technologies and products. There is contractual money included (\$20.0) in FY 91 for assistance in writing the regulations.

Section two of the bill establishes an Oil and Hazardous Substance Spill Technology Review Commission.

Travel costs for the seven commission members are based on four meetings per year, three days per meeting at \$80 per diem (\$6.7) and \$400 average per airfare (\$11.2). Funds (\$200.0) are included for technical assistance contracts which may include data collection, analysis of response technologies, and technical research. These funds are reduced to \$100.0 after the first two fiscal years.

This section also gives the commission authority to hire staff. There is the potential for the commission to require administrative and technical help. This staff is not reflected in this fiscal note.

FY 91 fiscal detail

<u>Position</u>	<u>100</u>	<u>200</u>	<u>300</u>	<u>400</u>	<u>500</u>	<u>Total</u>
Contractual (Regs)			20.0			\$ 20.0
Commission members		17.9				17.9
Contractual			200.0			200.0
TOTALS	0	17.9	220.0			\$237.9

Sections three, four and five of the bill have no fiscal impact on the Department, except to note that the commission is in effect through FY 94.

STATE OF ALASKA
1990 LEGISLATIVE SESSION

BILL VERSION: SB 503 (a)
 PUBLISH DATE: 2/21/90
FISCAL NOTE

REQUEST:

Revision Date: _____ Agency Affected: Environ Conservation
 Title: An Act concerning Response Fund BRU: Environmental Quality
expenditures/DES's role in spill disaster/SERC
 Sponsor: Rules Committee Components: _____
 Requestor: Governor Environmental Quality

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES	115.4	115.4	115.4	115.4	115.4	115.4
TRAVEL	80.4	80.4	80.4	80.4	80.4	80.4
CONTRACTUAL	143.0	143.0	143.0	143.0	143.0	143.0
SUPPLIES	2.0	2.0	2.0	2.0	2.0	2.0
EQUIPMENT	10.0	10.0	10.0	10.0	10.0	10.0
LAND&STRUCTURES	0.0	0.0	0.0	0.0	0.0	0.0
GRANTS,CLAIMS	0.0	0.0	0.0	0.0	0.0	0.0
MISCELLANEOUS	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	350.8	350.8	350.8	350.8	350.8	350.8
CAPITAL	0.0	0.0	0.0	0.0	0.0	0.0
REVENUE	0.0	0.0	0.0	0.0	0.0	0.0

FUNDING: (Thousands of Dollars)

GENERAL FUND	350.8	350.8	350.8	350.8	350.8	350.8
FEDERAL FUNDS	0.0	0.0	0.0	0.0	0.0	0.0
OTHER	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL	350.8	350.8	350.8	350.8	350.8	350.8

POSITIONS:

FULL-TIME	2.0	2.0	2.0	2.0	2.0	2.0
PART-TIME	0.0	0.0	0.0	0.0	0.0	0.0
TEMPORARY	0.0	0.0	0.0	0.0	0.0	0.0

ANALYSIS: (Attach a separate page if necessary)
 The impact for FY 90 will depend upon the effective date of this legislation.

Prepared by: Camille Stephens
 Division: Environmental Quality
 Approved by Commissioner: [Signature]
 Agency: Department of Environmental Conservation

Phone: 465-2630
 Date: 2/12/90
 Date: 2/12/90

Distribution (by preparer) :
 Legislative Finance
 Legislative Sponsor
 Requestor
 Office of Management and Budget
 Impacted Agency(ies)

Sections 1-5

Sections 1-5 will not require additional resources for the Department of Environmental Conservation.

Section 6

This legislation establishes the State Emergency Response Commission (SERC) in statute, giving the Department authority to request funds for performing its duties under the federal law SARA Title III.

The Department presently funds .5 FTE as technical staff to the SERC. This legislation will require two additional FTE (153.4) to serve as technical support to the SERC, coordinate SERC meetings, coordinate establishment of LEPCs, provide technical information to LEPCs, and other duties as required by the statute. The Department considers it essential that SERC/LEPC plans are coordinated with the State and Regional Oil and Hazardous Substance Discharge Prevention and Contingency Plans.

Travel expenses and per diem for commission members attending quarterly SERC meetings (6-8 persons) and quarterly subcommittee meetings (6-8 persons) are paid by the Department. There are four subcommittees. Based on an air fare of \$360 and one day per diem at \$80/day, travel and per diem amount to \$70.4.

This legislation will require the commission to establish LEPCs for each emergency planning district. Approximately 12 Local Emergency Planning Committees (LEPC) are in the process of being established at an estimated cost of \$20.0 to each community. Contractual services monies in the amount of \$120.0 (\$10 per LEPC) will be necessary to help insure that LEPCs are established, members receive appropriate training, and that the requirements of this proposed statute and SARA Title III are complied with. This cost will recur in subsequent fiscal years as additional LEPCs are established.

Based on the past year's expenditures, annual costs to advertise quarterly SERC meetings in newspapers will require approximately \$5.0. Annual cost to transcribe audio tapers of quarterly SERC meetings is \$2.0.

SUMMARY

	<u>100</u>	<u>200</u>	<u>300</u>	<u>400</u>	<u>500</u>	<u>Total</u>
ECO III	57.7	5.0	8.0	1.0	5.0	\$ 76.7
ECO III	57.7	5.0	8.0	1.0	5.0	\$ 76.7
Travel/per diem		70.4				\$ 70.4
Contractual			127.0			\$127.0
TOTALS	115.4	80.4	143.0	2.0	10.0	\$350.8

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FISCAL NOTE

REQUEST:

Revision Date: _____ Agency Affected: Department of Fish and Game
 Title: An act strengthening DEC's contingency plan and inspection requirements BRU: Habitat Division
 Sponsor: Governor Rules Comm. Components: Habitat
 Requestor: Governor

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES	135.9					
TRAVEL	6.0					
CONTRACTUAL	13.6					
SUPPLIES	1.0					
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	156.5					

CAPITAL	0					
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REVENUE	0					
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FUNDING: (Thousands of Dollars)

GENERAL FUND	156.5					
FEDERAL FUNDS	0					
OTHER	0					
TOTAL	156.5					

POSITIONS:

FULL-TIME	2					
PART-TIME	1					
TEMPORARY	0					

ANALYSIS : (Attach a separate page if necessary). (Explanation Attached)

FY 90 Impact: Personal Services 51.9
 (3/24-6/30/90 Travel 2.0
 Contractual 4.0
 Supplies 1.0
 Equipment 7.0
 TOTAL 65.9

Prepared by Frank Rue Phone: 465-4105
 Division: Habitat Date: 2/14/90

Approved by Commissioner: [Signature] Date: 2/14/90
 Agency: ADF&G

Distribution (by preparer):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

Continuation of fiscal note analysis

FY91 Line Itemization -

PCN/NEW	RANGE/STEP	CLASSIFICATION	NO. MONTHS (COST)	LOCATION
New	18C	Habitat Biologist III	12 (54.0)	Anchorage
New	18C	Habitat Biologist III	12 (61.1)	Fairbanks
6118	16J	Cartographer III	3 (13.5)	Anchorage
New	8C	Clerk/Typist III	1.5 (3.8)	Anchorage
6131	7A	Clerk/Typist III	1.5 (3.5)	Fairbanks
TOTAL			\$135.9	

EXPLANATION

As a result of the Exxon Valdez oil spill, it has become apparent that existing oil spill contingency plans are inadequate. Consequently, the U.S. Coast Guard (USCG) is reviewing and updating its regional contingency plans, and the state intends to re-evaluate the adequacy of at least the major nongovernmental contingency plans. This effort has already been initiated and we anticipate that, at a minimum, the state will participate in planning projects for Prince William Sound, Cook Inlet, the Beaufort Sea, and possibly other areas such as the Chukchi Sea. The state will also be involved in re-evaluating and potentially expanding the Dispersant Use Guidelines and Wildlife Protection Guidelines, which have incorporated into the USCG Alaska Region spill contingency plan. In order to protect the state's interests in fish and wildlife populations, habitats, and public uses of these resources, ADF&G will require additional staff to dedicate specifically to contingency planning.

The principal resources at risk because of oil and other hazardous substance releases are fish and wildlife, and the ADF&G is the state agency with the expertise and statutory mandate to provide information and recommendations regarding these resources. The department must compile and provide information on the distribution, abundance, and critical life function needs of fish and wildlife populations that may be affected by a spill or other release. Based on this information, the department must recommend mitigation measures that will afford the highest possible level of fish and wildlife protection. Examples of mitigation decisions are

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February 15, 1990

the identification of areas that are biologically suitable for oil dispersant use, identification of areas of highest priority for containment or defensive booming, identification of criteria for deploying shoreline cleanup equipment and crews, and the selection of shoreline cleanup techniques that will maximize biological benefits and minimize biological costs.

At present, ADF&G has no funding allocated to perform this function. Between February 16 and June 30 of FY90, ADF&G will need: 9 months of HBIII, 2.25 months of CTIII, and 1.0 month of CartIII. ADF&G will also require two computers and funding for other support services as noted above.

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