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Official Business

Alaska State Legislature

P.O. Box V
State Capitol
Juneau, Alaska 99811

MEMORANDUM

TO: Members, House Resources Committee

FROM: Senator Lyman F. Hoffman *Lyman*

DATE: May 14, 1991

RE: SB 263

SB 263 was introduced at the request of electric utilities, barge lines and fuel distributors serving rural Alaska. They are faced on June 1, 1991 with meeting new oil spill prevention and cleanup standards that were included in last year's HB 567. Unfortunately, these small companies are having serious problems with meeting those new standards by this deadline. In fact, there is a strong possibility that many noncrude transporters and facility operators will find it necessary to either operate illegally or cease operations in the state after June 1, 1991, which in turn would pose serious problems for residents of bush communities that depend on the delivery and storage of noncrude oil for fuel and electrical generation. A year's delay would give these companies time to meet the new insurance requirements, as well as benefit from the results of two noncrude studies that were mandated in last year's legislation.

Crude oil companies on the other hand, have indicated their intention and ability to be in compliance with the June 1, 1991 effective date. These companies expressed concern about the uncertainty created by meeting those requirements by June 1, but not yet having final approval by the Department of Environmental Conservation of their amended contingency plans. DEC does not expect that review period to be lengthy for the major crude oil companies, but there is apparently the

possibility that these contingency plans will be required to go through the consistency review process under the Coastal Zone Management Act. A final decision by the Attorney General is currently pending. However, the need for some form of "interim approval" status has been addressed in this legislation.

The Judiciary CS for SB 263 does the following:

Section 1: legislative findings which explain the problems faced by noncrude operators.

Section 2: maintains the current June 1, 1991 effective date for crude oil.

Section 3: delays the effective for noncrude oil operations until June 1, 1992.

Section 4: gives crude oil companies the authority to operate with "interim approval" if determined to be substantially in compliance with the terms of ch. 191, SLA 1990 (HB 567), and even if it is determined that c-plans must go through the Coastal Zone Management review.

This bill has received a tremendous amount of support from throughout the state, especially from southeast and from Kodiak on north up the coast. It went through extensive review in the Senate Oil and Gas Committee. A companion bill (HB 312) has already been heard by the House Oil and Gas Committee and is now in House Resources Committee.

I would appreciate your support for this bill.

SB 263 BACKGROUND PAPER

History: On March 24, 1989 the Exxon Valdez ran aground on Bligh Reef in Prince William Sound, causing the largest crude oil spill in United States history. As a result, the Alaska Legislature and the United States Congress significantly strengthened oil spill prevention and cleanup standards. One bill - HB 567 - passed late last session made three major changes in state oil spill protection: It established new response planning standards; imposed new financial responsibility requirements for contingency plan holders; and required prevention measures to be incorporated into contingency plans. The new law required that existing contingency plan holders comply with these major changes on and after June 1, 1991.

Problem: Although HB 567 was passed as a result of the Exxon Valdez Oil Spill and was aimed at the crude oil industry, non-crude carriers and facilities are also subject to the changes. The Department of Environmental Conservation was charged with implementing this law. DEC failed to complete the implementing regulations in a timely manner however, and now does not expect them to be in place until December 1991, at the earliest. The larger oil companies have been working to meet these new requirements for this last year, and will be prepared to do so by HB 567's June 1, 1991, effective date. Their contingency plans will also receive the highest priority by DEC for review.

The smaller fuel distributors, barge lines, and electric utilities serving rural Alaska are not as prepared. They are finding it impossible to meet the new financial responsibility requirements. Insurance companies have so far not been willing to provide insurance and for most companies, self-insurance is not a feasible option. Additionally, a study mandated by last year's bill and designed to identify appropriate spill response times, specify personnel levels and equipment requirements, and identify specific locations for oil discharge response equipment depots for noncrude oil tankers and barges will not be completed until at least one month after the June 1, 1991 effective date. This study's findings could have a significant effect on emergency spill response planning by

both transporters and the state. One final uncertainty is that the implementing regulations for contingency planning will not be finalized by DEC until December at the earliest.

Solution: SB 263 would delay the effective date until June 1, 1992, of HB 567 for noncrude operators. This will allow thorough consideration of the results of all of the studies and permit noncrude transporters and operators to explore other options to meet the new financial responsibility requirements. The original bill expanded the scope of the studies already required by HB 567 to include an assessment of the economic costs of the new requirements on noncrude operators, but funding for these studies is now being pursued in the supplemental bill. SB 263 as amended in the Senate Oil and Gas Committee also gives DEC clear authority to grant crude operators interim approval if they find them to be substantially in compliance with the new requirements by the June 1, 1991, date. An Amendment added by the Senate Judiciary Committee clarifies that crude operators will be allowed to operate under interim approval even if the Attorney General requires contingency plans to go through the Coastal Management Program review process.

Comments of Meera Kohler before Senate Oil and Gas Committee hearing on SB 263.

My name is Meera Kohler. I am the General Manager of Naknek Electric Association, which generates and distributes electricity for the communities of Naknek, South Naknek, and King Salmon in western Alaska. I was recently appointed to a newly created seat on the Technical Working Group created by ADEC to assist in the writing of regulations to implement HB 567. My seat is as a representative of Alaska Rural Electric Cooperative Association ("ARECA").

The fact that ARECA was essentially excluded from the work group until April of this year clearly demonstrates that neither ADEC nor the legislature realized the extent to which Alaska's rural utilities will be impacted by this statute and its attendant regulations.

Currently, seven members of ARECA have bulk fuel storage capacity greater than 10,000 barrels whose contingency plans will have to be completely rewritten to incorporate the requirements of HB 567. Under this bill, the response section requires us to be able to contain and clean up the contents of our largest fuel tank in 72 hours. The ADEC has the authority to expand this requirement to the contents of our entire tank farm. Should a spill occur of the catastrophic size envisioned by HB 567 and we were unable to

perform to the standards of our C-Plan, we would be guilty of criminal behavior.

I believe that inadequate attention has been paid to the financial and operational impact of this bill on rural Alaskans, and that the impacts are only just beginning to be assessed through the regulation writing process.

A few months ago the Alaska Energy Authority and the Alaska Systems Coordinating Council circulated the 15th edition of the Alaska Electric Power Statistics, including data for calendar year 1989. This study depicts that 20% of the entire installed generation capacity in Alaska is fueled by diesel fuel. In 1989 34.4 million gallons of diesel were burned by electric utilities in rural Alaska. The utilities burning diesel are isolated from each other and generally speaking experience very high operating costs due to expensive fuel and small operating bases to spread administrative and maintenance costs over.

HB 567 will have a direct and significant impact on these utilities. A conservative estimate indicates a cost per gallon increase of at least 10 cents due to the higher cost of storing and transporting oil. In remotest Alaska 25-30 cents is more likely. In fortunate communities like Naknek where we had the foresight to build bulk fuel storage in past years in order to negotiate savings through bulk fuel purchases, we will experience cost increases not

only as our suppliers comply with the new regulations but will double those cost increases as we seek independently to comply ourselves.

Who will pick up these new costs? For home heating fuel and gasoline, the rural resident will pick up the tab. For about 75% of the 34 million gallons used to produce electricity, the state will pick up the tab through the PCE program. If a mid-point cost increase of 20 cents per gallon is assumed, utilities will spend about \$7,000,000 more on diesel in the next 12 months. If 75% of that cost is passed on through the PCE Program, about \$5,000,000 will be picked up by the State of Alaska.

I believe that ADEC will eventually have workable regulations put together -- targeted to go into effect February 1, 1992. We need the time to participate in the regulation making process and to incorporate the new regulations into our contingency plans. It would be a significant injustice to all refined fuel and uses if the implementation date of HB 567 was not delayed until after the regulations are written and accepted.

I thank the legislature for introducing SB 263 which proposes to postpone the effective date of HB 567 for non-crude facilities until June 1, 1992. The delay is imperative to allow ADEC and the affected facilities to compose regulations that will fully meet the intent of the legislation yet be practically implementable.

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Lowndes Lambert Eastcheap

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Our Ref: GRLKR/EP/H

18th March, 1991

Gene Sause & Company,
Albans Mill Building,
Suite 620,
1200 Northwest Front Avenue,
Portland,
Oregon,
U.S.A.

For the attention of Ginny Wade

Dear Ginny,

POLLUTION

State of Alaska Financial Responsibility

Following our recent correspondence and telephone conversations regarding the current position of our London Underwriters in respect of proof of Financial Responsibility, I am writing to advise as follows:-

We have available to us several markets for the insurance of Pollution here in London. There are specific Lloyds and/or Institute of London Underwriters members plus various agencies here in London who write for and on behalf of the aforementioned. We do also place a Pollution cover specifically for your office. Following the introduction of the United States Oil Pollution Act 1990, these Underwriters reviewed the basis on which they were prepared to offer coverage in respect of this exposure. The outcome of this review was to withdraw all previous forms of cover and offer in its place the "11-4" form. This form does not cover any additional coverage in respect of specific State Regulations. Additionally, they no longer provide any proof of Financial Responsibility under either the Act or any State Regulation.

I do appreciate this is not what you wanted to hear but must advise that London Underwriters are adamant in their stand in this respect.

Yours sincerely,
LOWNDES LAMBERT MARINE LIMITED

Gerald Becker



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D.J. WATKINS

BY FAX

H.E. Mesirov, Esq,
Robins, Kaplan, Miller & Ciresi
1220 19th St. N.W. Suite 700
Washington D.C. 20036
U.S.A.

5th April 1991

Dear Hal,

Certification: Alaska

Thank you for your letter of 1st April enclosing copy of Foss' letter of 28th March.

Perhaps the simplest answer is to underline that the Clubs in the Group are not prepared to issue certificates of financial responsibility in any of the States. This seems to have been accepted now in Alaska where in practice charterers provide the security required under State law. I regret that there is no flexibility on this issue and hope that Foss will be able to reach a satisfactory conclusion with the State authorities.

Yours sincerely,


D.J.L. Watkins

PI?



Alaska State Legislature

*Senate Special Committee on
Oil & Gas*

Please enter into the record my testimony to the _____
committee name
committee on SB 263 , dated 4-26-91
bill/subject

This a letter in support of SB 263.

Kodiak Oil Sales Inc. is a fuel distributor serving the Kodiak Area. We are a family owned business and have operated as a family business since 1950.

I would like to encourage the passage of SB 263.

The proposed regulations that came out of HB 567 have created many problems for fuel distributors like us.

There are so many unknown factors and unanswered questions. Trying to comply with regulations that don't actually exist is very confusing for both the State DEC and Industry.

Applying the same standards to Alyeska, Exxon USA and Kodiak Oil Sales Inc. (or electric utilities in Western Alaska) doesn't make sense to me. What does make sense is separating the issues of Crude and Noncrude, then designing regulations that fit the very different industries involved and the very different risks to the environment.

The passage of SB 263 will allow for a more orderly process, one that makes sense both to government and industry. A more orderly process makes for better Laws and better Regulations, regulations that are such better for both government and industry.

Jim Ranaglia
Vice Pres
Kodiak Oil Sales Inc
486-3245

Signed: *Jim Ranaglia*

Testifier
Kodiak Oil Sales Inc.

Representing (Optional)
Box 1487 Kodiak

Address:
486-3245 486 3205 (Fax)

TESTIMONY OF SEAPRO MANAGER CONCERNING SB 263

04/30/91

SEAPRO is a cooperative organization made up of companies who transport, store, and use bulk quantities of oil in Southeast Alaska. With the exception of the Unocal terminal in Ketchikan, none of the companies who make up our membership can be considered "big oil". We are predominantly small businesses, the majority of whom are locally owned. Our members include tug and barge companies, medium and small fuel terminals, mining companies, pulp mills, and others. Our members are located in Juneau, Ketchikan, Sitka, Petersburg, Wrangell, and Thorne Bay. Some of our members have operations which service virtually all the smaller communities and habitations in the region, while others simply consume oil in sufficient quantity to fall within the jurisdiction of the new state law.

We are a relatively new entity, having officially started activities last December after several months of planning and organizational work. One of the main purposes of our organization is to provide a mechanism for making better use of the pollution response assets which already exist within our member companies, and to seek improvements in the overall pollution prevention and response system within our region.

SEAPRO has been working with co-op members, ADEC, the Coast Guard, other state and federal resource agencies, local emergency planning committees, and response organizations outside the region to identify region specific needs, conditions, and concerns which directly relate to the pollution prevention and response infrastructure of the region.

Naturally, the requirements of state law and regulation are a portion of the equation which will drive the final design of our region's system, so SEAPRO has been careful to pay close attention to developments in those areas, but especially to the non-crude oil regulations promulgated under HB 567.

Last Thursday and Friday, I participated in a two day meeting in Anchorage of a working group dealing with ADEC's draft financial responsibility and contingency plan regulations for non-crude oil vessels and facilities. I participated in this working group with the express purpose of trying to contribute the views of our region's companies who are very confused as to how they can comply with several specific provisions, and what impacts these regulations will have on their ability to continue in business. Additionally, as a professional in the pollution prevention and response fields, I had hoped to suggest specific technological language and methodologies which could improve the workability of the proposed rules.

While I am not all that knowledgable about insurance matters, it appeared that some progress was made toward resolving several of the insurance industry's objections to the draft financial responsibility rules during the first day of these meetings. Unfortunately, less progress was made in addressing technical details of the planning regulations.

It is my opinion that there are serious technical flaws with the draft planning regulations. Additionally, so far as I can determine, there are still no prevention regulations available for us to work with. It is imperative that these regulations, together with the financial responsibility regulations, be considered as a comprehensive package, especially as they relate to the interdependent system of distribution, storage, and use of distilled or refined products which exists in our region of the state. Failure to adopt these regulations as a system will limit their effectiveness and make compliance that much more difficult to achieve.

During these meetings, it was obvious to me that there is a great gap between what the DEC thinks they are saying to industry with these regulations, and what industry in our region believes is being said. This is not simply a matter of semantics. It is also a matter of our assumption of how these regulations will be applied by the state, and interpreted by the courts. These assumptions, even if incorrect, are exacerbated by an atmosphere of confusion caused by the law having an effective date which precedes the state's ability to complete a normal regulatory process.

Many of our businesses are firmly convinced that they cannot comply with certain provisions of the regulations because the technology to meet the required standards does not exist. There is also the problem of acquiring and putting into place capital assets which may meet some of the requirements, in time to comply with the law. Following this logic then, it should be obvious that these businesses believe they are faced with a quandary. Do they continue in business knowing they cannot comply with technical provisions of the regulations and hope that the government will correct the situation eventually, or should they strictly comply with current law and unadopted regulation and cease doing business?

I believe that progress has been and will continue to be made in constructing practical regulations which can satisfy the intent of the legislature. However, the current situation of HH 567 becoming effective in advance of implementing regulations creates an artificial barrier to progress and an atmosphere of uncertainty for our member businesses.

The work to craft functional regulations implementing HB 567 has at least begun, but there is a long way to go. The DEC, our businesses, and the communities of our region need time to do this work. I believe that SB 263 will give us an opportunity to do this work. More importantly, it will also give our member companies some assurance that while the regulations are being crafted, they can continue in business without the fear that they may be unintentionally breaking the law. I urge the legislature to adopt SB 263.

R. M. Mullen
Manager
Southeast Alaska Petroleum Resource Organization

May 3, 1991

The Honorable Bill Hudson
Alaska State Legislature
P. O. Box V
Juneau, Alaska 99811

Dear Representative Hudson:

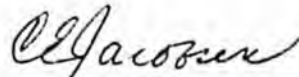
Last year's House Bill 567 goes into effect on June 1, 1991. Taku Oil, which is a small business, will be expected to obtain increased insurance, increased equipment to clean up a spill within 72 hours and will have to pay more for fuel. All of this will be passed on to the public as a higher fuel cost.

HB 567 was passed in reaction to the Exxon/Valdez spill. Some consideration should be given to the reason for passage of that bill versus the impact on small non-crude operators like Taku Oil, Inc.

Accordingly, I would appreciate your support for SB 263, which will extend for a year the effective date of HB 567. This will allow for realistic regulations to be proposed (they are not yet available to the public) and quite frankly, give us a chance to petition for a change in the law to recognize the interests of non-crude operators.

I appreciate your cooperation.

Yours very truly,



C. E. Jacobsen, President
Taku Oil Company

The Honorable Cheri Davis
House of Representatives
Juneau, Alaska 99833

Dear Cheri,

In their Legislative wisdom, the Legislature has seen fit to pass and implement HB 567, over the objections of business people all over the state of Alaska, in another classic cave-in to the Environmental special interest groups.

As we told some of you last year, no existing business, in this or any other region, can comply with the Engineering and operational standards set forth by the State.

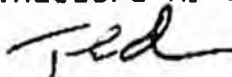
Without relief from you, all businesses subject to HB 567 will be in violation of that law as soon as it becomes effective, which is June 1, 1991.

Some modifications are being attempted, but without support of SB 263 and HB 312 by the house to delay implementation of HB 567, it will be impossible to conduct our businesses legally until realistic regulations can be implemented.

I and others that are being impacted, urge you, as our representatives to strongly support, and lead the house in passing HB 312.

In another vein, Thanks for your strong support for the Timber Receipts bill that came out of the House, I am sure your many hours of thought and hard work had a lot to do with the passage, and especially the way it passed. I have sent Senator Jones a letter asking his help and leadership in having the Senate do the same.

Theodore M. Smith



Alaska Fuel Service
P.O. Box 749
Petersburg, Alaska 99833

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May 6, 1991

Representative Cliff Davidson
P.O. Box V
Juneau, Alaska 99811

Re: HB312
Our File No.: 401.590.1

Dear Representative Davidson:

We represent Northern Transportation Company, Ltd. Northern Transportation is an affiliate of Inuvialuit Regional Corporation, a Canadian Native corporation. Northern Transportation intends to ship relatively small quantities of refined products to various North Slope communities this summer. The product will be transported by barge; and, as a result, Northern Transportation must obtain ADEC approval of both an oil spill contingency plan and proof of financial responsibility.

Northern Transportation supports the goals behind HB312. The bill would face up to the hard reality that Alaska's refined petroleum trade may be unable to meet the new demands of HB567, which would otherwise take effect in June. With respect to the state's financial responsibility laws, however, Northern Transportation urges that the scope of the legislation be expanded. Without additional statutory or regulatory relief, international commerce in refined products would remain in peril.

On the other hand, deferring the effective date of last year's changes to AS 46.04.040 (financial responsibility) would deprive industry of one beneficial aspect of that legislation.

¹The communities to be served include Barrow, Wainwright, Point Lay, Point Hope and Barter Island--in addition to a single delivery to Prudhoe Bay.

May 6, 1991
Representative Cliff Davidson

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Let me explain:

A. Financial Responsibility. Under existing law (that is, pre-HB567), Northern Transportation would be required to post approximately \$172,000 of financial responsibility.² Under HB567, the amount would be increased nearly tenfold--to approximately \$1.54 million.³ In-and-of-itself, this substantial increase in required financial responsibility will pose a substantial hardship on small operators.

More fundamentally, the options for providing financial responsibility are decreasing, rather than increasing. Under current law, Northern Transportation has four alternate means of meeting the state's financial responsibility requirements--self insurance, guarantee, surety or insurance. However, ADEC's regulations allow a party to self insure only if it has sufficient United States assets. And, the same requirement applies to any guarantor that the company might seek to employ. See 18 AAC 20.055 and 18 AAC 20.085. Being a foreign company, Northern Transportation is thus limited to two options--insurance or a surety bond.

However, current law (as well as HB567) requires that any insurer or surety must agree to submit to "direct action" in Alaska state courts. "Direct action" means that the injured party may sue the insurance company (or surety) directly, rather than through the insured (as is customarily the case). There has never been very much direct action insurance available, principally because most Protection and Indemnity (P&I) Clubs have declined to provide it. It is for this reason that HB567 allowed non-direct action insurance to be used for any financial responsibility in excess of \$50 million.

Unfortunately, the direct action insurance market now appears to have dried up completely. For example, until recently small amounts of direct action insurance were available through the Portland broker of Gene Sause and Company. However, as the enclosed correspondence indicates, that broker is now no longer able to place any direct action insurance; and, it is our understanding (based on conversations with ADEC) that other potential providers have left the market as well.

²Under existing law, oil barges are required to post an amount equal to the amount required under the federal Clean Water Act, which was \$150/gross ton.

³This amount is calculated on the basis of the carrying capacity of the company's largest barge operating in Alaska, multiplied by \$100/barrel.

May 6, 1991
Representative Cliff Davidson

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Thus, both current law and HB567 leave Northern Transportation (and, in fact, any international carrier) in an impossible position. They cannot self insure because of ADEC's requirement that the self insured's assets be located in the United States. Conversely, they cannot obtain direct action insurance, because none is available. And, because this problem arises under either current law or HB567, HB312, in its current form, would do nothing to alleviate this barrier to international trade.

We would therefore suggest one of two options:

1. The immediately-effective repeal of the direct action requirement under both current law and HB567. We understand the reasons for the direct action requirement. However, the need for direct action insurance has lessened as the result of other, newly-enacted financial guarantees--including the \$1 billion/incident oil spill fund established under the 1990 federal Oil Pollution Act.

More importantly, "direct action" insurance is no longer possible; or

2. Repeal the requirement, in ADEC's regulations, that a self insurer's assets be domestically located. ADEC could implement this cure itself, since the "domestic asset" requirement does not appear in statute. And, we believe that the change may be necessary for both constitutional and practical reasons. States may not unreasonably discriminate against foreign or interstate commerce. And yet the recent evaporation of any "direct action" insurance means that the agency is doing just that. It is preventing a foreign corporation from self insuring, yet at the same time conditioning the most commercially realistic alternative on an impossible standard.

We hope, through the deliberations on HB312, to convince ADEC that recent events warrant the repeal, and even the emergency repeal, of the "domestic asset" rule. Foreign corporations would still be required to submit to the jurisdiction of Alaska courts, and appoint an agent for service of process in Alaska.

Finally, while HB312 fails to address the recent loss of the "direct action" option, it also overlooks at least one favorable provision of HB567 whose effective date ought not to be postponed. Specifically, HB567 expands the list of available methods for financial responsibility to include letters of credit. While a foreign corporation dealing with foreign banks may still find the letter of credit option difficult, allowing a letter of credit option does provide some flexibility in attempting to meet the requirements of even current law.

2. Oil Spill Contingency Plans. We support a one year extension of the effective date for HB567's new oil spill contingency plan

May 6, 1991
Representative Cliff Davidson

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requirements. Oil barge operations like Northern Transportation's often navigate in more remote parts of the state, where cleanup capability is very limited. The debate over HB567 focused on Prince William Sound, where the nature of the trade better allows for rapid, large scale increases in cleanup capability. Outside of Prince William Sound, and perhaps Cook Inlet, oil spill cleanup resources, and the ability to expand those resources, are far more limited.

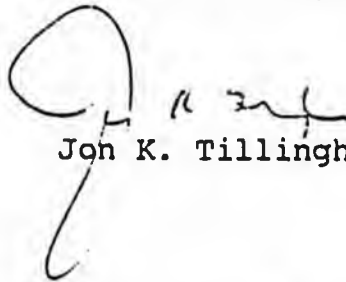
In summary, Northern Transportation supports HB312, with the following amendments:

1. A repeal of the "direct action" insurance requirement--unless ADEC is willing to change its "domestic asset" rule; and
2. The immediate implementation of the letter of credit option for providing financial responsibility.

Thank you for your consideration of our concerns, and we look forward to working with the committee on this legislation.

Sincerely,

BIRCH, HORTON, BITTNER & CHEROT



Jon K. Tillinghast

JKT/kpb

cc: Senator Al Adams
Members of the House Resources Committee
Janice Adair, ADEC

... APR-22-91 MON 11:11

GENE BAUSE & CO.

FAX NO. 5032848037

P.01

*Gene - Olson
789-567*

GENE BAUSE & COMPANY

ALASKA 1111 BULLY LANE, SUITE 200 • 1800 NORTHWIND FRONT AVENUE • PORTLAND OREGON 97201
TELEPHONE (503) 832-4101 TELEFAX (503) 832-4107

MAJOR INSURANCE
GENERAL INSURANCE

DATE: April 22, 1991

TO: Mr. Ed Bain
COMPANY: E.R. Bain Consultants Limited
FAX NO.: (416) 874-0078

FROM: Ms. Ginny Wade
COMPANY: Gene Bause & Company
FAX NO.: (503) 834-9037

NO. OF PAGES (including this cover): 1

FOR TRANSMISSION PROBLEMS, PLEASE CALL (801) 223-5693.

SUBJECT: Northern Transportation Company, Limited

Dear Mr. Bain:

Thank you for your April 16, fax regarding your clients movement of Oil Barges into the territorial waters of Alaska.

I am afraid that the Alaska Division of Insurance is slightly confused on what we provided to them as evidence of insurance for our various clients. While it is true that our clients are placed with a Ship Owners Mutual Insurance Club, the insurance that was evidenced to the State of Alaska was a separate Pollution Liability Insurance Policy that we obtain from the Lloyd's Marketplace. In order to meet the state's requirements, it was necessary for us to, in addition, purchase double insurance on the Oil Barges moving in the state of Alaska's waters. This was, of course, a financial burden on our clients, but was the only way to be in compliance with their state laws.

Unfortunately, since the passage of the Federal Oil Pollution Act and the pending June 1, implementation of the State of Alaska's new regulations, the London Marketplace has now firmly stated that they will no longer provide any form of insurance that will be direct action as is required by the State of Alaska. When the current policies we have in place expire, we will be in the same situation as you find yourself.

We are working with the State of Alaska in trying to convince them that their requirements are not commercially available. We are also having meetings later this week with one of the mutual Protection and Indemnity Clubs in order to elicit their assistance in defeating the State of Alaska's proposed statutes. If you would like to check back with me in a week or so, I would certainly be glad to update you on any progress we make toward resolution of the State of Alaska problems.

Best regards,

Ginny Wade
Ginny Wade

GW:wb

.....



Alaska State Legislature

SENATE SPECIAL COMMITTEE

Please enter into the record my testimony to the OIL & GAS
committee name

committee on SB 263 , dated 29 April 1991
bill/subject

We are in favor of SB 263. There must be an understanding of the difference between persistent petroleum products (crude and heavy oils that are going to hang around awhile) and non-persistent petroleum products (gasoline, diesel, and aviation fuels that are going to dissipate thru various avenues in short time) by the regulators, to make HB 567 workable. The industry that transports and stores non-persistent petroleum products are forced to comply with regulations that are aimed at the persistent oil transporters. There is a difference in the two. Something must be done to amend the regulations.

The economic ramifications of HB 567 as it stands is going to be far reaching. Continuing along the trackline now set, the number of transporters in business is going to decline very rapidly. Who is willing to mortgage the company to pay the insurance premium so they can transport gas and oil in Alaska? But worse of all, the consumer in the bush and the small coastal communities and the State of Alaska are going to pay the cost.

To make this bill work, when passed, the legislature and the Department of Environmental Conservation (DEC) must be willing to listen and learn from the industry (the non-persistent gas and oil transporters and facility operators) on who, what, where, when and how the industry functions. To date in dealing with DEC and in reviewing "preliminary draft 1/28/91 - oil discharge and contingency plans", it is easily noticeable, the inexperience of personnel involved in the regulatory process.

Put common sense and communication to work in solving this problem, pass SB 263 and let us study the problem together.

Signed: Allen M. Anelling
Testifier

SAMSON TUG & BARGE CO.
Representing (Option 1)

P.O. Box 559, SITKA, AK. 99835
Address

(907) 747-8559
Phone No.



P.O. Box 1947
 Sitka, Alaska 99835
 Phone (907) 747-8460

Post-It™ brand fax transmittal memo 7671		# of pages	4
To	Dick Eliason		
From	Don Brown		
Co.	Co.		
Dept.	Phone #		
Fax #	465-4928	Fax #	747 5382

May 2, 1991

Senator Dick Eliason
 President of the Senate
 Juneau, Ak.

Dear Senator Eliason:

Thank you for your prompt response to my phone call this morning. I am enclosing copies of the three letters I discussed with you. The problem is the outfall of HB 567, passed last session. The regulations being developed by the DEC are not in place and without a program you cannot tell the players. This is generating much concern among players and spectators alike.

At the DEC public hearing in Sitka yesterday evening a large portion of the public expressed a degree of delight that transporters and oilers were getting what they deserved. I did not favor these people with my Economics 101 theme, the consumer pays for all direct and indirect cost in the purchase price. I have been exposed to projected consumer cost per gallon, of the current DEC regulations, of a low of 30¢ per gallon to a high of 57¢ per gallon. Sitka Fuels is going to comply with whatever washes out of this deal and the end user will address all costs except the anxiety factor, and my blood pressure is the same as twenty years ago.

I strongly support the position of SB 263 by Senators Hoffman and Adams, requesting a delay in implementing the effects of HB 567 and bringing some realism to this "Land of Oz".

Thank you for volunteering your staff to distribute to other addressees. I will FAX direct to the Lt. Governors office. All the real halibut fishermen have left town.

Senator Al Adams
 Senator Sam Cotton
 Senator Rick Halford
 Senator Lloyd Jones
 Speaker Ben Grussendorf
 Representative Cheri Davis
 Representative Jerry Mackle
 Representative Robin Taylor
 Lt Governor Jack Coghill

Sincerely,

Don Brown
 Don Brown

Enclosures: Samson 5-1-91
 Venneberg 5-1-91
 Ribelin Lowell and Co. 4-19-91

Samson Tug & Barge Company, Inc.

Phone (907) 747-8559 • Fax(907) 747-5370 • P.O. Box 559 • Sitka, Alaska 99835

Jerome Brown
Sitka Fuels, Inc.
Box 1947
Sitka, AK. 99835

May 1, 1991

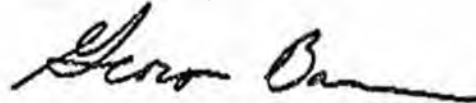
Dear Mr. Brown:

This letter is to inform you that effective 1 June 1991, we will be unable to deliver any petroleum products to your facility. Due to Alaska statutes (HB567) that will become effective June 1, 1991, Samson Tug and Barge will be unable to comply with the law, which we consider unworkable. Further operations under our Contingency Plan would constitute an illegal action on our part. Liability spill insurance coverage for the T/B Annahootz is minimal in comparison to the possible liabilities that could be incurred for a spill incident. Therefore because of regulatory action and increasing cost we are forced to discontinue our fuel delivery service.

Presently, there is legislative action to amend HB 567 and extend previous requirements until January 1992. In the event this bill, SB 263, passes, we will continue our fuel operation and will be able to provide you continued service.

We regret this action to a long and valued customer, however we must protect our company and its employees. Thank you for your patronage and your understanding.

Sincerely,



George Baggen

VENNEBERG INSURANCE, INC.

225 Harbor Drive
P.O. Box 199
Sitka, Alaska 99835
(907) 747-8625
FAX (907) 747-5065

May 1, 1991

Jerome Brown
Sitka Fuels, Inc.
P.O. Box 1947
Sitka, AK 99835

Re: Pollution Liability
#L5552/90

Dear Jerome:

The above pollution liability policy for Sitka Fuels, Inc. is due to expire on 6/4/91.

We have been notified by Ribelin Lowell & Co. that the current lead underwriters in London for this program are pulling out. They are in the process of remarketing to new underwriters and believe that they will be able to place the coverage but at a substantially higher premium. Last years cost of \$27,000 is likely to increase to something like \$40,000 - \$50,000.

As you are aware, the problem with marketing this coverage is the requirements that DEC has in the "Alaska Endorsement". We are in the process of getting quotes from two other markets which are able to provide this coverage but without the current wording of the "Alaska Endorsement".

One of these markets, AIG, is a very large writer of environmental impairment liability. They have looked over the current DEC required wording for Alaska and believe that two problems exist. One is that the wording requires the insurer to pay first dollar expense (No Deductible). The other problem exists in changing the coverage from a claims made to an occurrence basis.

The current financial responsibility laws are limiting competition for this coverage to only one source. It is possible for DEC to change the wording requirements and not reduce the coverage that is carried by Sitka Fuels.

If you have any questions on this or need any additional information please let me know.

Sincerely,



Mike Venneberg

MAY 02 '91 03:30PM

91 04/19 14140

2 987 561 4315

Ribelin Lowell

P. 4/4

81

Ribelin Lowell & Company

INSURANCE BROKERS INC.

3111 C STREET, SUITE 300
ANCHORAGE, ALASKA 99503-1111
Phone: (907) 561-1250 Fax: (907) 561-4315

DESTINATION CITY AND COUNTRY: SITKA

FAX NO.: () 747-5065

DATE: 4-19-91

COMPANY: VENNEBERG INSURANCE, INC. ATTN: JAN WILBUR

PAGES: ...
(INCLUDE THIS PAGE)

MESSAGE

SUBJECT: SITKA FUELS, INC- 6-4-91 EXPIRATION
JAN-

GLORIA WILBURMAN SHOULD HAVE MENTIONED IN HER... 4-9...
LETTER TO ED THAT WE'RE HAVING TO RE-MARKET THIS
PROGRAM W/A NEW LEAD UNDERWRITER, WHICH MEANS WE
NEED MORE LEAD TIME. SECONDLY, PREMIUMS ARE UP SUB-
STANTIALLY. MY GUEST IS SITKA FUEL COULD BE LOOKING
AT A \$40-450,000. COST. TO MY KNOWLEDGE, LONDON IS THE
ONLY SOURCE FOR MARINE FUEL TERMINALS.

PLEASE ADVISE IF YOU WANT ME TO PURSUE THIS. GLORIA
SENT A ONE Pg QUESTIONNAIRE W/HER LETTER

TTTUNKS,

SENDER:

Samson Tug & Barge Company, Inc.

Phone (907) 747-8559 • Fax(907) 747-5370 • P.O. Box 559 • Sitka, Alaska 99835

Senator Dick Eliason
Alaska State Legislature
P.O. Box V
State Capitol Building
Juneau, AK. 99811

May 2, 1991

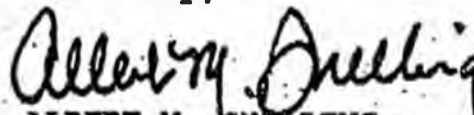
Dear Senator Eliason:

A marine industry organization from Anchorage advised us on Friday May 26, 1991, of Senate Bill 263, which had been introduced, was in committee, and that testimony was being received on that afternoon. This bill would amend a portion of HB 567 of 1990. It would offer some relief from the regulations that go into effect on 1 June 1991; extending portions of the regs until 1992. We have submitted written comment on this bill to the Oil and Gas Committee. We invite you to review the bill and encourage its passage.

Senate Bill 263 would allow time to study and analyze non-crude operations, including facility operations, transportation of and the economic effects. The operational and engineering standards, established by the state in HB 567, we consider to be unworkable and as a result petroleum transportation operations by our company will be discontinued on June 1, 1991. Operating under the interim approved contingency plan we now have, plus amendments that must be made, we feel cannot be done legally. The opposite of course being illegal, which subjects Samson Tug and Barge to civil penalties, lawsuits, and possible criminal action. We have been advised that other transportation companies are considering this same avenue.

As our State Senator, we would request that you keep us up to date on the outcome of this bill and future bills concerning the transportation of petroleum products.

Sincerely,


ALBERT M. SNELLING

Albert M. Snelling
ALBERT M. SNELLING
Safety Director

Copy: Congressman Grussendorf
Senator Cotten
Senator Hoffman



White Pass Alaska

May 6, 1991

Senator Lyman Hoffman
Alaska State Legislature
P.O. Box V
Juneau, Alaska 99811

VIA FAX 465-4523

Dear Senator Hoffman:

White Pass Alaska strongly supports your Senate Bill 263 delaying the implementation of the effects of House Bill 567 until the Department of Environmental Conservation can develop some realistic regulations.

The proposed regulations by DEC are practically impossible for non crude operators to meet.

White Pass Alaska specifically endorses that portion of your bill that requires an economic analysis by DEC of its actions.

Thank you and please let us know if we can help you.

Sincerely,

M. Paul Taylor
Vice President
Alaska Operations

cc: M.P. Taylor
Dave Black
Stan Selmer
George Tipton
Tony Leichty
Warren Pellett
Oscar Jones
Ian Black
Jerry Davis