

HB

238

Alaska House of Representatives



Special Committee on Oil & Gas

Joe Green, Chairman

Sponsor Statement for HB 238

Past legislatures, partly out of foresight and partly in response to the Prince William Sound oil spill, decided that it was important to have a readily available fund for emergency first response to releases and threatened releases of oil and hazardous substances. HB 238 is an endorsement of those important decisions.

In the past few years, the fund created to allow "emergency first response" has become a funding source for capital projects, travel, and to clean up releases that occurred before statehood. It is the intent of HB 238 to clarify legislative intent as to the scope of acceptable expenditures - the flow of money - from the fund.

HB 238 also addresses the financing of the fund. Over the past three years nearly \$100 million - a nickel at a time - has gone into the fund. Yet, auditing indicates that a majority of the fund has been spent for non-spill uses, creating inadequate balances.

Alaskans deserve a fund that will protect our environment. In order to do this the fund cannot continue to be all things to all people. Its role must be clarified, with emergency response as the top priority.

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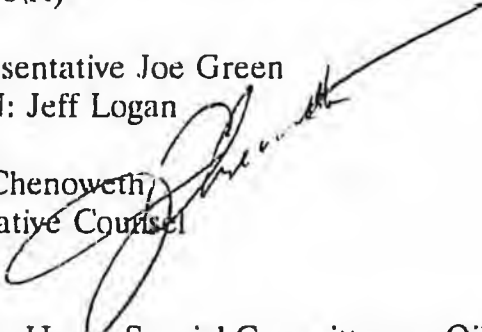
MEMORANDUM

March 19, 1993

SUBJECT: House Bill 238, amending the oil and hazardous substance release response fund ("470 Fund") and making additions and changes to related matters -- sectional analysis (Work Order 8-LS0676\R)

TO: Representative Joe Green
ATTN: Jeff Logan

FROM: Jack Chenoweth
Legislative Counsel



The measure, offered by the House Special Committee on Oil and Gas, amends the purposes for which the oil and hazardous substance release response fund ("470 Fund") may be expended and makes a series of related changes.

Amendments related directly to the fund:

A principal provision of the measure is **bill section 12**. The amendments made by this section to AS 46.08.040(a) eliminate as objectives for which money in the oil and hazardous substance release response fund may be spent, all the purposes **except** activity directly related to a release or threatened release and use of the fund balance to match federal cleanup activities or those identified in the federal Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA).

The related section is **bill section 25**, a transitional provision. While the amendments to AS 46.08.040(a) would eliminate a number of the objectives for which money in the oil and hazardous substance release response fund may be expended, bill section 25 provides for a two-year transition before use of the fund for those purposes totally ceases. Under bill section 25, for the uses and purposes enumerated there, during FY 94 two-thirds of the estimated expenses associated with those uses and purposes may be drawn from the fund; for FY 95, one-third of the estimated expenses associated with those uses and purposes may be drawn from the fund.

The repealer sections, set out in **bill section 24**, are important. Specifically, the oil and hazardous substance release response fund would not be available to support the following activities:

- ferry construction (authorization to use the fund to build one or more new ferries would be terminated by repeal of AS 19.65.025 and AS 46.08.040(d)); and
- the state program of municipal assistance for certain oil and hazardous substance cleanup activities (the fund would be eliminated by the repeal of the sections identified in AS 29.60).

Bill section 10 amends the statement of purpose underpinning the oil and hazardous substance release response fund chapter by restating the chapter's purpose in light of the amendments made to the chapter and to related provisions.

The amendment made in **bill section 11** reflects the repeal of AS 46.08.040(d)--construction of ferries--elsewhere in the bill.

The change made by **bill section 13** reflects other amendments made by the bill. Under the bill section as amended, an appropriation from the oil and hazardous substance release response fund would still be required before money could be used for federal match or CERCLA purposes.

The measure seeks to provide consistency of treatment in its use, in AS 46.08, of the terms "release" and "threatened release." **Bill section 18** provides a technically revised definition of "release" and **bill section 19** substantively amends the definition of "threatened release." Conforming changes that reflect the revised definitions are made by **bill sections 14 and 15**.

Related matters:

Amendments relating to preparation of statewide and regional contingency plans:

Bill section 4: The amendment to AS 46.04.200(a) retains the requirement of annual review of the statewide prevention and contingency plan but removes from current law the requirement of annual revision of the plan and substitutes revision at the discretion of the commissioner of environmental conservation but not more often than once a year.

Bill section 5: The section, amending AS 46.04.200(c), deletes from current law the explicit requirements that, as part of the annual review of the state master plan, the proposed draft revisions of the state master plan be offered for public review and comment, for legislative review, and for review by the state emergency response commission (AS 46.13.010).

Bill section 6: In line with the changes made in the preceding bill section, bill section 6 restates the requirements applicable to a plan revision, directing submission of the proposed revised master plan to the same three groups.

Bill sections 7 and 8: The changes and addition made by these two bill sections, applicable to regional prevention and contingency master plans, parallel those with respect to the state plan as set out in bill sections 5 and 6.

Amendments made to the standards applicable to "containment and cleanup" of pollutants:

Three provisions--**bill sections 9, 17, and 21**--eliminate from the definition of "containment and cleanup" the element of the definition that extends its operation to "restoration of the environment."

Modeled after the revision of the definition made in bill section 19 mentioned earlier, **bill section 22** revises the definition of the term "threatened release" applicable to AS 46.09.

Other amendments and changes:

Bill section 1: This provision amends a provision of law that determines the conditions in which the severance tax surcharge, the "nickel per barrel" increment to the severance tax, shall be suspended or reimposed. It alters one of the factors that triggers levy and collection of the surcharge. For purposes of determining whether the tax shall apply, the calculation of the income stream is amended to include amounts previously expended from the oil and hazardous substance release response fund that have been recovered and redeposited into the mitigation account.

A related provision of the bill, **bill section 26**, is inserted by way of clarification of how appropriations, if any, made to the spill reserve fund, mentioned within the text of former AS 29.60.510(b), are to be treated for purposes of determining whether they are to be treated as expenditures from the oil and hazardous substance release response fund in conjunction with the factors applicable to suspension or reimposition of the severance tax conservation surcharge. Since the subsection incorporating that reference is proposed to be repealed, the provision is drafted as an uncodified, temporary law section with a limited applicability.

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Bill section 2: To the section on collection of fees by the Department of Environmental Conservation is added a directive that the agency shall prescribe and collect fees to recover the costs of completing oil discharge financial responsibility approvals and oil discharge contingency plan reviews.

Representative Joe Green

March 19, 1993

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A related amendment is made in **bill section 24**. Since, in the section referenced immediately above, the department is directed to impose and collect fees for certain services, the inclusion in this bill section of references to "AS 44.46.025(a)(5)" and "AS 44.46.025(a)(6)" delete authority by which the department may adopt regulations to cover collection of fees.

*

Bill section 3: Under current law relating to state recovery from pollution violators, the state may recover from a responsible party, among other things, the full amount of actual damages caused to the state for restoration of the environment to "its former state." The first part of the amendment made by this bill section would substitute for that standard reference to damages caused to the state for restoration of the environment to "a condition as near to the original condition as feasible."

Because the state's program of oil and hazardous substance municipal impact assistance under AS 29.60 is terminated by other provisions of the bill, the second part of the amendment deletes from the list of things for which the state is entitled to seek and obtain recovery, reference to those grants.

Bill section 16 eliminates the ability of the Oil and Hazardous Substance Response Office to conduct certain spill technology research.

Bill section 20 revises, for purposes of AS 46.08, the definition of "village" to remove cross-references and language making references to the state program of municipal assistance for certain oil and hazardous substance cleanup activities. That program is eliminated by the repeal of sections identified in AS 29.60 referred to elsewhere in the bill.

Bill section 23 annuls a portion of a regulation applicable to guide use of the proceeds of the storage tank assistance fund that would allow use of the fund to restore a site to its original condition.

JBC:pl:mi
93-218.plm

FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

BILL NO. HB 238

Revision Date: 24-Mar-93
Title: An Act relating to the oil and hazardous substance release response fund.
Sponsor: Green
Requestor: _____

Department Affected: Environmental Conservation
BRU: Spill Prevention and Response
Component: Response Fund Administration

COMPONENT SERIAL NO.

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EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
PERSONAL SERVICES	0.0	0.0	0.0	0.0	0.0	0.0
TRAVEL	0.0	0.0	0.0	0.0	0.0	0.0
CONTRACTUAL	0.0	0.0	0.0	0.0	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	23516.1	16016.1	16016.1	16016.1	16016.1	16016.1

CAPITAL						
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REVENUE						
FUND SOURCE:						

FUNDING:

1002 FEDERAL RECEIPTS	0.0	0.0	0.0	0.0	0.0	0.0
1003 GF MATCH	0.0	0.0	0.0	0.0	0.0	0.0
1004 GF	15443.5	9476.2	13287.0	13287.0	13287.0	13287.0
1005 GF/PROGRAM RECPT	0.0	2563.9	2563.9	2563.9	2563.9	2563.9
1006 GF/MHTLA	0.0	0.0	0.0	0.0	0.0	0.0
OTHER -1052 Oil Fund	8072.6	3976.0	165.2	165.2	165.2	165.2
TOTAL	23516.1	16016.1	16016.1	16016.1	16016.1	16016.1

POSITIONS: NONE

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year (FY93) impact: \$ NONE

ANALYSIS: (Attach a separate page if necessary.)

See Attached Narrative

Prepared by: Michael A. Conway
Division: Spill Prevention and Response

Phone: 465-5250
Date: 3/24/93

Approved by Commissioner: [Signature]
Agency: Department of Environmental Conservation

Date: 3/24/93

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

HB 238 FISCAL NOTE ANALYSIS
(all numbers in thousands)

As a result of the Exxon Valdez oil spill, Alaska's Legislature passed a number of laws to require additional oil and hazardous spill prevention measures, and increase the level State and local community spill response preparedness. The legislature also authorized using the oil and hazardous substance spill response fund to pay for improvements to Alaska's spill prevention and response preparedness programs. HB 238 would not repeal the existing legislative mandates for the State's spill prevention and response preparedness programs. However, HB 238 would repeal the current authorized uses of the Response Fund for these same prevention and preparedness programs.

Currently, Response Funds are appropriated by the Legislature to the Department of Environmental Conservation (DEC) to pay for the expenses of DEC, other State agencies, and local communities to prevent, and be prepared to respond to oil and hazardous substance spills. DEC distributes specific Response Fund appropriations to other State agencies under reimbursable services agreements and to local communities under memorandums of agreement.

Fiscal Year 1994:

HB 238, Section 25, would allow the Commissioner to use the Response Fund to "pay not more than two-thirds of the estimated annual expenses" for a number of specific spill prevention and preparedness programs. The Governor's proposed FY 94 operating budget for the Response Fund is \$ 23,753.4 which includes the following expenditures excluded from the FY 94 calculation under HB 238:

Marine Highway Ferry	\$ 7,500.0
Contaminated Sites Remediation	\$ 3,619.5
Citizens' Oversight Council	\$ 237.3
International Spill Prevention	\$ 117.0
Pollution Prevention	\$ 123.0
Storage Tank Assistance Program	\$ 108.0
Total	\$ 11,704.8

The two-thirds of the total estimated "HB 238 allowable" expenses (\$12,048.6) for the Response Fund in FY 94 is \$ 8,072.6. The remaining one-third (\$ 3,976.0) in currently authorized Response Fund eligible activities, in addition to the currently authorized activities excluded from HB 238 (\$ 11,467.5) would be shifted to State General Funds in FY 94. Funding for the Citizens' Oversight Council is excluded from the amount shifted to State general funds in FY 94 since it is administered by the Legislative Council and not DEC.

Fiscal Year 1995:

HB 238, Section 25, would allow the Commissioner to use the Response Fund to pay up to one-third (\$ 3,976.0) of the estimated annual expenses for "allowable" uses in FY 95. In addition, HB 238 directs the Department to adopt regulations to collect fees to cover the costs of approving oil discharge contingency plans and financial responsibility certifications. Beginning in FY 95 the Department would seek authority to receive \$ 2563.9 in program receipts to review and approve contingency plans and financial responsibility applications. The level of estimated program receipts is based on 187 contingency plans and financial responsibility applications submitted to DEC each year for approval, with an average fee level of \$ 13.7. Further analysis will be needed to determine a variable fee structure based on the size and complexity of the regulated facility, vessel, or pipeline.

The remaining annual spill prevention and response program costs (\$ 9,476.2) would be requested from State general funds. Since funding for the marine highway ferry was only proposed for FY 93 and FY 94, it is excluded from the annual spill prevention and response costs beginning in FY 95. Consistent with FY 94, funding for the Citizens' Oversight Council is also excluded from DEC's annual spill prevention and response program costs.

Fiscal Year 1996 - 99:

DEC's annual operating costs for spill prevention and response programs would be funded by State general funds (\$ 13,452.2) and program receipts (\$ 2563.9). Consistent with the allowable appropriations under HB 238, Response Fund expenditures would be limited to provide matching funds for federal grants (\$ 165.2), and for first response activities to specific emergency spill incidents.



Department of Environmental Conservation

Position Paper

Bill No: House Bill 238

Approved: _____

Name: John A. Sanior *for*

Title: Commissioner

Bill Title: Use of the Response Fund

Date: March 24, 1993

The Department of Environmental Conservation does not support this legislation. After the Exxon Valdez accident in 1989, the State of Alaska moved quickly to strengthen its laws relating to oil and other hazardous substance release prevention and response. The funding source for all of these programs was the Oil Surcharge Account, also created in 1989 with the passage of SB 260. It established a nickel-a-barrel charge on all Alaska produced crude oil. Through appropriation to the Oil and Hazardous Substance Release Response Fund, this surcharge was intended to be the principal source of revenue for prevention, planning and response efforts in order to ensure these state programs had adequate funding regardless of the State of Alaska's other year-to-year cash flow problems. HB 238 would, over two years, phase out the State's ability to use the Response Fund as the funding source for the spill programs.

The programs passed by the Legislature in 1989 and 1990 authorized the department to:

- establish and maintain the oil and hazardous substance response office (1989 - SB 264);
- review industry contingency plans (1990 - HB 567);
- conduct training, response exercises, inspection, and tests in order to verify equipment inventories and ability to prevent and respond to releases, and to undertake other activities intended to verify or establish the preparedness of the state, a municipality, or a party required to file contingency plans (1990 - HB 567);
- verify or establish proof of financial responsibility (1990 - HB 567);
- pay the costs of DMVA for the establishment and maintenance of response depots and corps (1989 - SB 264);
- prepare, review and revise state and regional master oil and hazardous substance contingency plans (1989 - SB 261); and

- restore the environment by addressing the effects of an oil or hazardous substance release (1989 - SB 261);

The Legislature also passed laws creating the Citizen's Oversight Council on Oil and Other Hazardous Substances in the Legislative branch (1990 - HB 578); municipal Impact grants program in the Department of Community and Regional Affairs (1991 - SB 25); and allowed for marine highway vessels with response capabilities within the Department of Transportation (1991 - SB 165).

The goal of the Fund was and remains threefold: to have adequate release response capability for both oil and other hazardous substance without complete reliance on industry's own preparedness by adequately funding the state's response and prevention programs, enable DEC to verify the adequacy of the industry's preparedness, and to have a readily available fund to mobilize a response.

The surcharge by law suspends if and when the balance of the appropriations to the Response Fund from the surcharge minus the appropriations from the Response Fund equal \$50 million. At the time of SB 260, it was estimated that the surcharge would equal about \$32 million annually. Its highest level has been \$28 million. There is currently over \$23 million in the Spill Reserve, which is the money available for use for an emergency response.

This bill also redefines "cleanup and containment" to remove the requirement to restore the environment. Under this definition, the bill would remove the duty of a polluter to restore the environment after the release of oil or a hazardous substance. This is at the very heart of Alaska's environmental protection statutes. Not only would the change eliminate a polluter's obligation to restore the environment but would also remove DEC's authority to undertake restoration itself under the oil and hazardous substance pollution statutes. In a state with high reliance on subsistence, this is unacceptable.

Within the civil penalties statutes, HB 238 would limit the state to seeking damages for restoration of the environment to only a condition as near to the original condition as feasible. This "condition" would necessarily be determined on a case-by-case basis, and would likely result in numerous lawsuits, where funds would be spent on attorneys and court cases, rather than on restoring the environment.

For further information contact: **Janice Adair**
Assistant Commissioner/Legislative Liaison
485-5010

FISCAL NOTE

LAA

STATE OF ALASKA
1993 LEGISLATIVE SESSION

BILL NO: HB238

Revision Date: _____
Title: "An Act relating to the oil and hazardous
substance release response fund. repealing ..."
Sponsor: House Sp. Comm on Oil & Gas
Requestor: House Resources

Department Affected: Legislative Affairs Agency
BRU: Legislative Council
Component: Council & Subcommittees

COMPONENT SERIAL NO:

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL	0	0	0	0	0	0
REVENUE FUND SOURCE	0	0	0	0	0	0

FUNDING: (Thousands of Dollars)

GENERAL FUND	237.3	237.3	237.3	237.3	237.3	237.3
FEDERAL FUNDS						
OTHER FUND SOURCE	-237.3	-237.3	-237.3	-237.3	-237.3	-237.3
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

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

Estimate of current year impact: _____

ANALYSIS: (Attach a separate page if necessary)

HB 238 repeals the reference for the Alaska Legislative Council to request ~~4070~~ funds for the operation of the Citizens' Oversight Council on Oil and Other Hazardous Substances. This fiscal note reflects a switch in funding sources. The Citizens' Oversight Council would need to request general funds for their operations from Legislative Council not 4070 funds if AS 46.08.040(d) is repealed.

Prepared By: Pamela A. Stoops, Director *Pamela A. Stoops* Phone: 465-3850
Division: Administrative Services Date: 3/23/93

Approved By: Warren W. Endicott, Executive Director *Warren W. Endicott*
Agency: Legislative Affairs Agency Date: 3/23/93

Distribution (by preparer): Leg. Finance, Legislative Sponsor, Requestor, OMB, Gov. , & Impacted Agency(ies).



Official Business

Alaska State Legislature

HOUSE RESOURCES COMMITTEE

State Capitol

Juneau, Alaska 99801-1182

Released by Rep. Bill Williams
April 8, 1993

PUBLIC HEARING ANNOUNCED ON HOUSE BILL 238: OIL AND HAZARDOUS SUBSTANCE RELEASE RESPONSE FUND

The House Resources Committee has scheduled a statewide teleconference hearing to take public testimony on House Bill 238, relating to the oil and hazardous substance release response fund.

The hearing is scheduled for Saturday, April 17 from 10:00 a.m. until 2:00 p.m. The committee will be meeting in room 124 of the capitol building in Juneau, and the public may participate at teleconference sites throughout the state.

House Bill 238, which proposes changes to the so-called "470 Fund," and other statutes relating to oil spills and hazardous substance releases, was introduced by Rep. Joe Green (R-Anchorage).

The House Resources Committee held its first hearing on the bill on March 24. Following that hearing, Chairman of the Committee, Rep. Bill Williams (D-Saxman) announced that he would schedule a teleconference on a Saturday to facilitate public participation.

"The issues addressed in HB 238 are complex and important, and Alaskans have very strong feelings about them," stated Rep. Williams, "I am committed to providing for careful analysis and full public process before any action takes place."

Rep. Green is working on a revised version of his bill. When that draft is complete, copies of it will be available from his office (phone 465-4931) or from legislative information offices.

Regarding the April 17 teleconference, Williams said today, "The committee will welcome comments on Rep. Green's original bill and his new proposed substitute version, and on the bigger picture. That is, we need to understand whether there really are problems with the 470 Fund and the other matters addressed in House Bill 238. If there are, we will be looking for the best possible solutions."

With so many people anxious to participate, Rep. Williams expressed his hope that those testifying will make every effort to keep their comments specific, brief, and constructive.

For further information about the April 17 hearing, please contact your local legislative information office, or Rep. Williams' office at 465-3715.

State Fees on Oil for Spill Response and Administration Costs*, continued

State	Fee**	Who Must Pay	Where the Money Goes
New York	Currently at cents per barrel for major facility owners	The major facility owner at the point of import or receipt	The NY Environmental Protection and Spill Compensation Fund (now at about \$17 million; capped at \$25 million)
North Carolina	None	—	—
North Dakota	None	—	—
Ohio	None	—	—
Oklahoma	1 cent per gallon	The fuel distributor	The OK Petroleum Underground Release Indemnity Fund (now at about \$6-\$7 million; no cap)
Oregon	\$650 per trip for tank vessels; \$28 per trip for barges; and 25¢ per trip for cargo vessels (facilities must pay \$3,000 per year)	All vessels and facilities	The Oil Spill Prevention Fund (capped at \$153,600)
Pennsylvania	None	—	—
Rhode Island	None (There is an Oil Release Response Fund)	—	—
South Carolina	1/2 cent per gallon on all petroleum	The refiner or tank owner that first sells the oil in the state	The State Underground Petroleum Response Bank (capped at \$15 million)
South Dakota	1 cent per gallon	The oil distributors	The SD Petroleum Release Compensation Fund (now at about \$100,000; capped at \$5 million)
Tennessee	None	—	—
Texas	2 cents per barrel	Every person owning crude oil in a vessel at the time such crude oil is transferred to or from a marine terminal	The Coastal Protection Fund (now at about \$20 million; capped at \$25 million)
Utah	None	—	—
Vermont	1 cent per gallon	Motor fuels distributors	The Vermont Petroleum Cleanup Fund
Virginia	1/5 of a cent per gallon	Any importer of gasoline, special fuels, and heating oil	The VA Petroleum Storage Tank Fund (now at about \$17 million; no cap)
Washington	5 cents per barrel	The owner of the crude oil or petroleum product immediately after receipt into a storage tank of a marine terminal from a vessel	The State Oil Spill Response Account (now at about \$4.5 million; capped at \$25 million) and the Administration's Account (no cap)
West Virginia	None	—	—
Wisconsin	1.4 cents of every 2 cents per gallon collected	—	The Petroleum Environmental Cleanup Fund
Wyoming	1 cent per gallon	Fuel consumers	The State Corrective Account (now at about \$1.5 million) and the State Financial Responsibility Account (now at about \$6.2 million); there must be a total of \$20 million in both accounts before the fee is shut off

*This does not refer to small one-time fees (e.g., for registration or licensing); only per-gallon, per-barrel, or per-trip fees.

**Fees are assessed only once for the same oil.

State Fees on Oil for Spill Response and Administration Costs*, continued

State	Fee**	Who Must Pay	Where the Money Goes
Maine	4 cents per barrel for coastal and inland cleanup; 44 cents (gasoline), 25 cents (#2, kerosene, jet fuel, and diesel), and 10 cents (#6) per barrel for groundwater cleanup	For coastal and inland cleanup: every person that first transports oil in Maine. For groundwater cleanup: terminal facilities that first transfer the products and any person that first transports oil into the state (no fee on exports)	The Maine Coastal and Inland Surface Oil Cleanup Fund (now at about \$4 million; capped at \$6 million), and the Groundwater Oil Cleanup Fund (now at about \$12 million; capped at \$15 million)
Maryland	3/4 of a cent per barrel for cleanup; 5 cents per barrel for upgrading underground storage tanks	The tank owner	The Maryland Oil Disaster Containment, Cleanup, and Contingency Fund (capped at \$5 million), and the Underground Storage Tank Upgrade and Replacement Fund (now at about \$4.5 million; capped at \$5 million)
Massachusetts	None	—	—
Michigan	7/8 of a cent per gallon of petroleum products	All those selling refined oil for resale	The MI Underground Storage Tank Financial Assurance Fund (now at about \$52 million; no cap)
Minnesota	None	—	—
Mississippi	None	—	—
Missouri	\$25 per 8,000 gallons	The tank owner upon delivery of gasoline	The Underground Storage Tank Insurance Fund (capped at \$8 million)
Montana	3/4 of a cent per gallon (the fee is currently shut off until the fund drops below \$4 million)	The gasoline distributor	The Petroleum Tank Release Cleanup Fund (now at about \$5 million; capped at \$8 million)
Nebraska	3/10 of a cent per gallon on motor fuels (although now it is at 9/10 of a cent per gallon on motor fuels plus 1/10 of a cent per gallon on all other petroleum since the fund dropped down to \$2 million; the fee will return to 3/10 of a cent when the fund reaches \$4 million)	The refiner, importer, or distributor that first sells within the state	The Petroleum Release Remedial Action, and Reimbursement Fund (now at about \$3.1 million; capped at \$5 million)
Nevada	9/10 of a cent per gallon on most petroleum products	The refiner or importer	The State Petroleum Fund (now at about \$4 million; capped at \$7.5 million)
New Hampshire	6/10 of a cent per gallon for the ODD Fund; 1/10 of a cent per gallon for the OPC Fund	The distributor of motor fuels at the time of sale (for the 6/10 of a cent fee); the distributor of all oil at the time of sale (for the 1/10 of a cent fee)	The Oil Discharge, Disposal, and Cleanup Fund (the ODD Fund: now at about \$9.1 million; capped at \$10 million); The Oil Pollution Control Fund (the OPC Fund: now at about \$3.5 million; capped at \$5 million)
New Jersey	1 1/2 cents per barrel for major facility owners	The operator or owner of the receiving or transferring major facility	The NJ Spill Compensation Fund (now at about \$72 million; no cap)
New Mexico	None	—	—

*This does not refer to small one-time fees (e.g., for registration or licensing); only per-gallon, per-barrel, or per-trip fees.
 **Fees are assessed only once for the same oil.

State Fees on Oil for Spill Response and Administration Costs*

State	Fee**	Who Must Pay	Where the Money Goes
Alabama	None	---	---
Alaska	5 cents per barrel	Every oil producer in the state	The Oil and Hazardous Substance Release Response Fund (now at about \$40 million; capped at \$50 million)
Arizona	1 cent per gallon of gasoline (all kinds), diesel, and kerosene	The UST owner when oil is purchased or when the annual tax return is due	10% goes into a Loan Account, the rest goes into the State Assurance Fund (now at about \$40 million; no cap)
Arkansas	None	---	---
California	25 cents per barrel for response (this has not been collected since Feb 1991 when the fund reached its cap); 4 cents per barrel for administration (this may be reduced by the administrator in future years)	Every marine terminal operator for oil delivered through the terminal; every pipeline operator for oil transported into the state; and just the 25-cent fee for refinery operators for crude oil received at the refinery	The Oil Spill Response Trust Fund (\$50 million) and the Oil Spill Prevention and Administration Fund (meant to generate about \$20 million annually)
Colorado	None	---	---
Connecticut	None	---	---
Delaware	1/40 of a % of the gross receipts tax	The wholesaler of petroleum and petroleum products (an exemption is allowed for crude oil)	The DE Hazardous Substance Cleanup Act Fund (now at about \$4 million; no cap)
Florida	2 cents per barrel	Any person who engages in the production or importation of oil	The Coastal Protection Trust Fund (now at about \$18 million; capped at \$50 million)
Georgia	None	---	---
Hawaii	None	---	---
Idaho	1 cent per gallon	The first licensed distributor who transfers a petroleum product to another legal entity within the state	The Petroleum Clean Water Storage Tank Trust Fund (now at about \$20 million; capped at \$30 million)
Illinois	None	---	---
Indiana	None	---	---
Iowa	None	---	---
Kansas	16 cents per barrel	The first purchaser of the oil	A portion funds the conservation division of the Kansas Corporation Commission, and the rest goes into the Conservation Fee Fund (now at least \$500,000; capped at \$1 million)
Kentucky	None	---	---
Louisiana	2 cents per barrel	Every person owning crude oil in a vessel at the time the oil is transferred to a marine terminal within the state (except for at LOOP)	The Oil Spill Contingency Fund (now at about \$10-12 million; capped at \$15 million, but only if that amount is reached through the collection of fees)

*This does not refer to small one-time fees (e.g., for registration or licensing); only per-gallon, per-barrel, or per-trip fees.
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March 1993

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Alaska House of Representatives



Special Committee on Oil & Gas

Joe Green, Chairman

PRESS RELEASE

3/19/93

FOR IMMEDIATE RELEASE

CONTACT: REPRESENTATIVE JOE GREEN 465-6835

HOUSE COMMITTEE INTRODUCES BILL TO
PROTECT SPILL FUND

Legislation to protect the Oil & Hazardous Substance Release Response Fund was introduced today by the House Oil & Gas Committee. The response fund is also known as the "470 fund" after the house bill number that created it in 1986. After the 1989 oil spill in Prince William Sound the legislature established a tax of 5-cents per barrel of oil to finance the fund.

In the past few years money from the fund, which is administered by DEC, has increasingly been used to finance non-spill related projects. Performance audits done by the DEC itself state that the money spent can not be accounted for. Governor Hickel's Organizational Efficiency Task Force reported that "The liberal use of the Fund appears to be driving up total state spending, with little concern for efficiency."

Representative Joe Green (R) Anchorage, the Chairman of the Oil & Gas Committee said "The intent of the fund was to have money available to respond to a spill. We've put approximately \$100-million into this thing, but we sure don't have \$100 million worth of spill readiness."

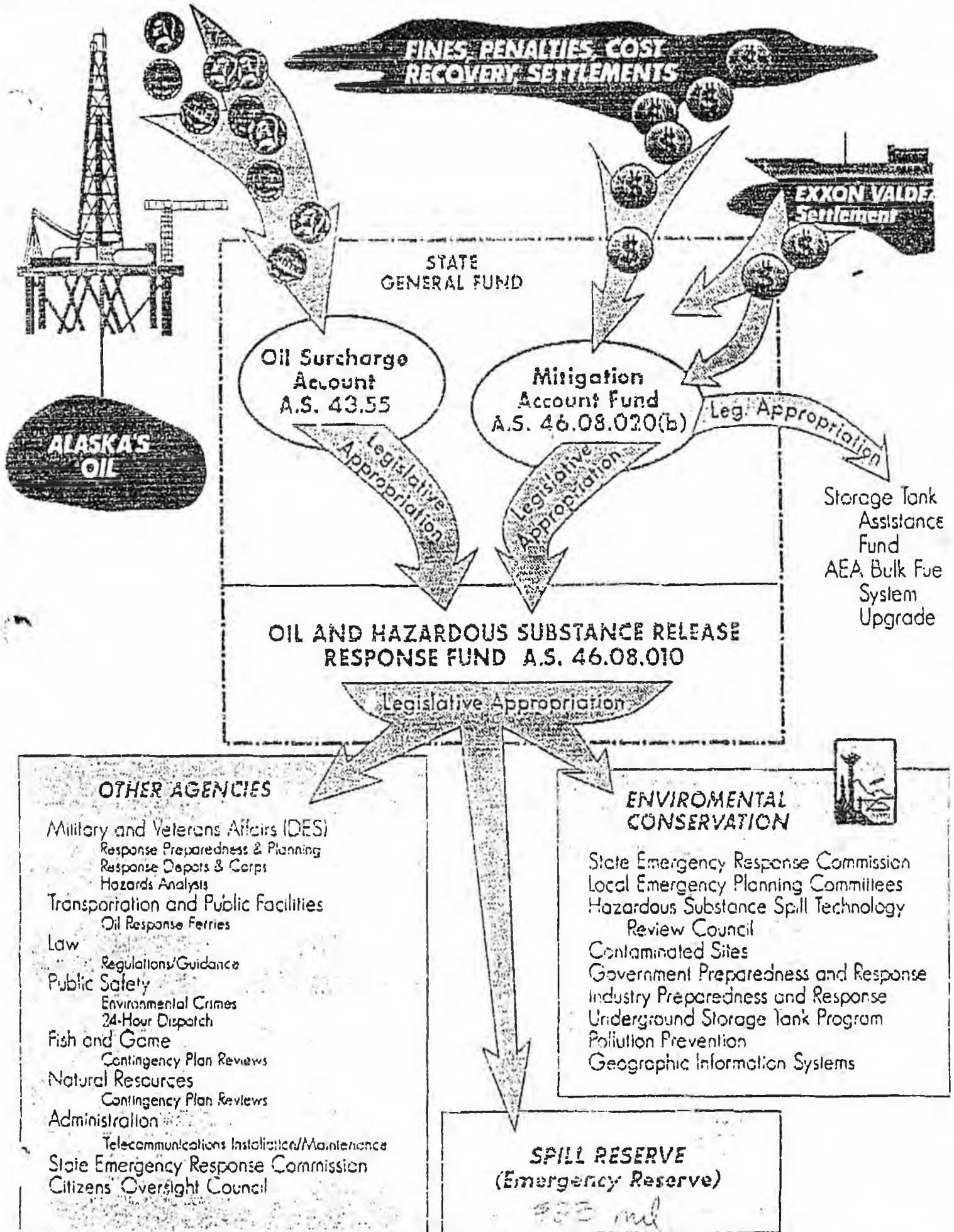
- more -

For Immediate Release 3/19/93
HB 238

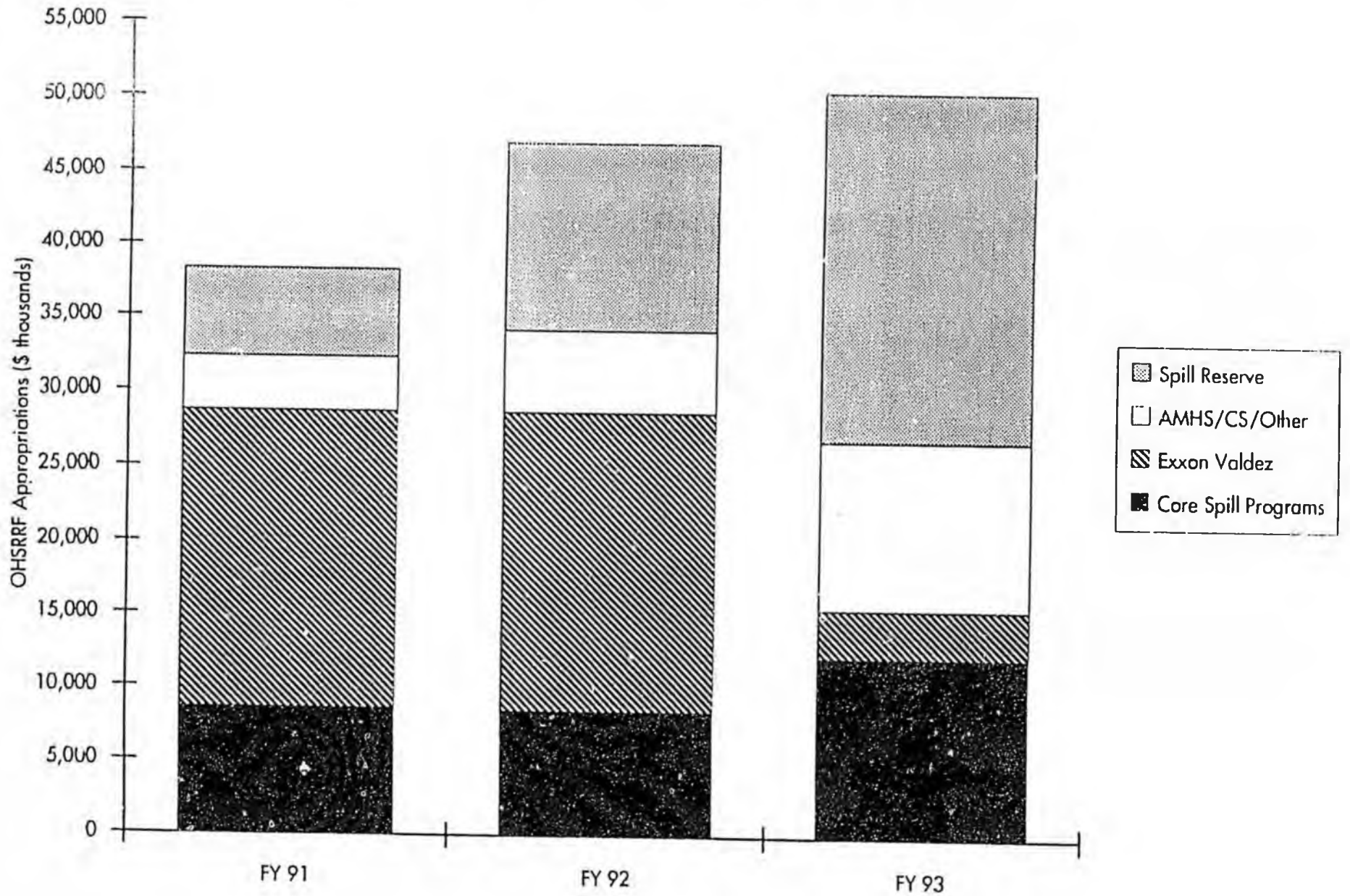
Page 2-2-2

The bill requires DEC to charge "user fees" for processing oil spill contingency plan applications, repeals the municipal impact assistance program, prohibits the fund from paying for a new state ferry and limits DEC's ability to transfer money from the fund to other state agencies.

The bill, HB 238, is scheduled to be heard for the first time in the House Resources Committee on Wednesday, March 24. Green stated that "the bill may not be perfect, but we want to get something on the table, hear what the public has to say, and hopefully plug some of these leaks."



Annual OHSRRF Appropriations FY 91 - FY 93



State Fees on Oil for Spill Response and Administration Costs*

State	Fee**	Who Must Pay	Where the Money Goes
Alabama	None	—	—
Alaska	5 cents per barrel	Every oil producer in the state	The Oil and Hazardous Substance Release Response Fund (now at about \$40 million; capped at \$50 million)
Arizona	1 cent per gallon of gasoline (all kinds), diesel, and kerosene	The UST owner when oil is purchased or when the annual tax return is due	10% goes into a Loan Account, the rest goes into the State Assurance Fund (now at about \$40 million; no cap)
Arkansas	None	—	—
California	25 cents per barrel for response (this has not been collected since Feb 1991 when the fund reached its cap); 4 cents per barrel for administration (this may be reduced by the administrator in future years)	Every marine terminal operator for oil delivered through the terminal; every pipeline operator for oil transported into the state; and just the 25-cent fee for refinery operators for crude oil received at the refinery	The Oil Spill Response Trust Fund (\$50 million) and the Oil Spill Prevention and Administration Fund (meant to generate about \$20 million annually)
Colorado	None	—	—
Connecticut	None	—	—
Delaware	1/10 of a % of the gross receipts tax	The wholesaler of petroleum and petroleum products (an exemption is allowed for crude oil)	The DE Hazardous Substance Cleanup Act Fund (now at about \$4 million; no cap)
Florida	2 cents per barrel	Any person who engages in the production or importation of oil	The Coastal Protection Trust Fund (now at about \$18 million; capped at \$50 million)
Georgia	None	—	—
Hawaii	None	—	—
Idaho	1 cent per gallon	The first licensed distributor who transfers a petroleum product to another legal entity within the state	The Petroleum Clean Water Storage Tank Trust Fund (now at about \$20 million; capped at \$30 million)
Illinois	None	—	—
Indiana	None	—	—
Iowa	None	—	—
Kansas	16 cents per barrel	The first purchaser of the oil	A portion funds the conservation division of the Kansas Corporation Commission, and the rest goes into the Conservation Fee Fund (now at least \$500,000; capped at \$1 million)
Kentucky	None	—	—
Louisiana	2 cents per barrel	Every person owning crude oil in a vessel at the time the oil is transferred to a marine terminal within the state (except for at LOOP)	The Oil Spill Contingency Fund (now at about \$10-12 million; capped at \$15 million, but only if that amount is reached through the collection of fees)

*This does not refer to small one-time fees (e.g., for registration or licensing); only per-gallon, per-barrel, or per-trip fees.

**Fees are assessed only once for the same oil.

State Fees on Oil for Spill Response and Administration Costs*, continued

State	Fee**	Who Must Pay	Where the Money Goes
Maine	4 cents per barrel for coastal and inland cleanup; 44 cents (gasoline), 25 cents (#2, kerosene, jet fuel, and diesel), and 10 cents (#6) per barrel for groundwater cleanup	For coastal and inland cleanup: every person that first transports oil in Maine. For groundwater cleanup: terminal facilities that first transfer the products and any person that first transports oil into the state (no fee on exports)	The Maine Coastal and Inland Surface Oil Cleanup Fund (now at about \$4 million; capped at \$6 million), and the Groundwater Oil Cleanup Fund (now at about \$12 million; capped at \$15 million)
Maryland	3/4 of a cent per barrel for cleanup; 5 cents per barrel for upgrading underground storage tanks	The tank owner	The Maryland Oil Disaster Containment, Cleanup, and Contingency Fund (capped at \$5 million), and the Underground Storage Tank Upgrade and Replacement Fund (now at about \$4.5 million; capped at \$5 million)
Massachusetts	None	—	—
Michigan	7/8 of a cent per gallon of petroleum products	All those selling refined oil for resale	The MI Underground Storage Tank Financial Assurance Fund (now at about \$52 million; no cap)
Minnesota	None	—	—
Mississippi	None	—	—
Missouri	\$25 per 8,000 gallons	The tank owner upon delivery of gasoline	The Underground Storage Tank Insurance Fund (capped at \$8 million)
Montana	3/4 of a cent per gallon (the fee is currently shut off until the fund drops below \$4 million)	The gasoline distributor	The Petroleum Tank Release Cleanup Fund (now at about \$5 million; capped at \$8 million)
Nebraska	3/10 of a cent per gallon on motor fuels (although now it is at 4/10 of a cent per gallon on motor fuels plus 1/10 of a cent per gallon on all other petroleum since the fund dropped down to \$2 million; the fee will return to 3/10 of a cent when the fund reaches \$4 million)	The refiner, importer, or distributor that first sells within the state	The Petroleum Release Remedial Action, and Reimbursement Fund (now at about \$3.1 million; capped at \$5 million)
Nevada	4/10 of a cent per gallon on most petroleum products	The refiner or importer	The State Petroleum Fund (now at about \$4 million; capped at \$7.5 million)
New Hampshire	4/10 of a cent per gallon for the ODD Fund; 1/10 of a cent per gallon for the OPC Fund	The distributor of motor fuels at the time of sale (for the 4/10 of a cent fee); the distributor of all oil at the time of sale (for the 1/10 of a cent fee)	The Oil Discharge, Disposal, and Cleanup Fund (the ODD Fund; now at about \$9.1 million; capped at \$10 million); The Oil Pollution Control Fund (the OPC Fund; now at about \$3.5 million; capped at \$5 million)
New Jersey	1 1/2 cents per barrel for major facility owners	The operator or owner of the receiving or transferring major facility	The NJ Spill Compensation Fund (now at about \$72 million; no cap)
New Mexico	None	—	—

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March 1993

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State Fees on Oil for Spill Response and Administration Costs*, continued

State	Fee**	Who Must Pay	Where the Money Goes
New York	Currently at cents per barrel for major facility owners	The major facility owner at the point of import or receipt	The NY Environmental Protection and Spill Compensation Fund (now at about \$17 million; capped at \$25 million)
North Carolina	None	—	—
North Dakota	None	—	—
Ohio	None	—	—
Oklahoma	1 cent per gallon	The fuel distributor	The OK Petroleum Underground Release Indemnity Fund (now at about \$6-\$7 million; no cap)
Oregon	\$650 per trip for tank vessels; \$20 per trip for barges; and 25 per trip for cargo vessels (facilities must pay \$3,000 per year)	All vessels and facilities	The Oil Spill Prevention Fund (capped at \$153,600)
Pennsylvania	None	—	—
Rhode Island	None (There is an Oil Release Response Fund)	—	—
South Carolina	1/2 cent per gallon on all petroleum	The refiner or tank owner that first sells the oil in the state	The State Underground Petroleum Response Bank (capped at \$15 million)
South Dakota	1 cent per gallon	The oil distributors	The SD Petroleum Release Compensation Fund (now at about \$100,000; capped at \$5 million)
Tennessee	None	—	—
Texas	2 cents per barrel	Every person owning crude oil in a vessel at the time such crude oil is transferred to or from a marine terminal	The Coastal Protection Fund (now at about \$20 million; capped at \$25 million)
Utah	None	—	—
Vermont	1 cent per gallon	Motor fuel distributors	The Vermont Petroleum Cleanup Fund
Virginia	1/5 of a cent per gallon	Any importer of gasoline, special fuels, and heating oil	The VA Petroleum Storage Tank Fund (now at about \$17 million; no cap)
Washington	5 cents per barrel	The owner of the crude oil or petroleum product immediately after receipt into a storage tank of a marine terminal from a vessel	The State Oil Spill Response Account (now at about \$4.5 million; capped at \$25 million and the Administration's Account (no cap)
West Virginia	None	—	—
Wisconsin	1.4 cents of every 2 cents per gallon collected	—	The Petroleum Environmental Cleanup Fund
Wyoming	1 cent per gallon	Fuel consumers	The State Corrective Account (now at about \$1.5 million) and the State Financial Responsibility Account (now at about \$6.2 million); there must be a total of \$20 million in both accounts before the fee is shut off

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- restore the environment by addressing the effects of an oil or hazardous substance release (1989 - SB 261);

The Legislature also passed laws creating the Citizen's Oversight Council on Oil and Other Hazardous Substances in the Legislative branch (1990 - HB 578); municipal impact grants program in the Department of Community and Regional Affairs (1991 - SB 25); and allowed for marine highway vessels with response capabilities within the Department of Transportation (1991 - SB 165).

The goal of the Fund was and remains threefold: to have adequate release response capability for both oil and other hazardous substance without complete reliance on industry's own preparedness by adequately funding the state's response and prevention programs, enable DEC to verify the adequacy of the industry's preparedness, and to have a readily available fund to mobilize a response.

The surcharge by law suspends if and when the balance of the appropriations to the Response Fund from the surcharge minus the appropriations from the Response Fund equal \$50 million. At the time of SB 260, it was estimated that the surcharge would equal about \$32 million annually. Its highest level has been \$28 million. There is currently over \$23 million in the Spill Reserve, which is the money available for use for an emergency response.

This bill also redefines "cleanup and containment" to remove the requirement to restore the environment. Under this definition, the bill would remove the duty of a polluter to restore the environment after the release of oil or a hazardous substance. This is at the very heart of Alaska's environmental protection statutes. Not only would the change eliminate a polluter's obligation to restore the environment but would also remove DEC's authority to undertake restoration itself under the oil and hazardous substance pollution statutes. In a state with high reliance on subsistence, this is unacceptable.

Within the civil penalties statutes, HB 238 would limit the state to seeking damages for restoration of the environment to only a condition as near to the original condition as feasible. This "condition" would necessarily be determined on a case-by-case basis, and would likely result in numerous lawsuits, where funds would be spent on attorneys and court cases, rather than on restoring the environment.

For further information contact: *Janice Adair*
Assistant Commissioner/Legislative Liaison
465-5010

Revenue enhancement through user fees should be elevated to a higher priority by the assigning a task force of professional staff from throughout the department to explore additional fee opportunities.

10. The department's innovative Cooperative Community Environmental Agreements should be a matrix organization that links all of the DEC "local community-building" and "local community-enhancement" activities and programs in a single community focus. A community-centered matrix organization should also include formal relationships with other departments.

These departments include: Military and Veterans Affairs/Emergency Services, Community and Regional Affairs, Commerce and Economic Development, Education, Public Safety, Transportation and Public Facilities, and Health and Social Services. Service to communities will be enhanced and productivity raised through such team efforts.

11. All DEC managerial spans of control should be carefully reviewed to determine whether

some should be expanded further.

With perhaps two exceptions, the Commissioner and the South Central Regional Manager, there do not appear to be any managerial or supervisory spans of control that are too broad, and many that may be too narrow.

Cost savings through reductions of supervisory personnel should be achieved.

12. The Department should conduct a policy analysis of two related subject areas concerning the Oil and Hazardous Substance Release Response Fund:

A. How much spill reserve is enough?

The original intent of the legislation establishing the five cents per barrel oil production surcharge appears to have been to establish a \$50 million spill reserve to prepare the state for expenditures which may be required to respond to a release the magnitude of the March 1989 Exxon Valdez spill. The fund balance has apparently stabilized at about \$20 million, because most revenues collected to date have been expended on operations related to the aftermath of the Exxon

Valdez spill, and a variety of other spills.

Assistance should be consolidated.

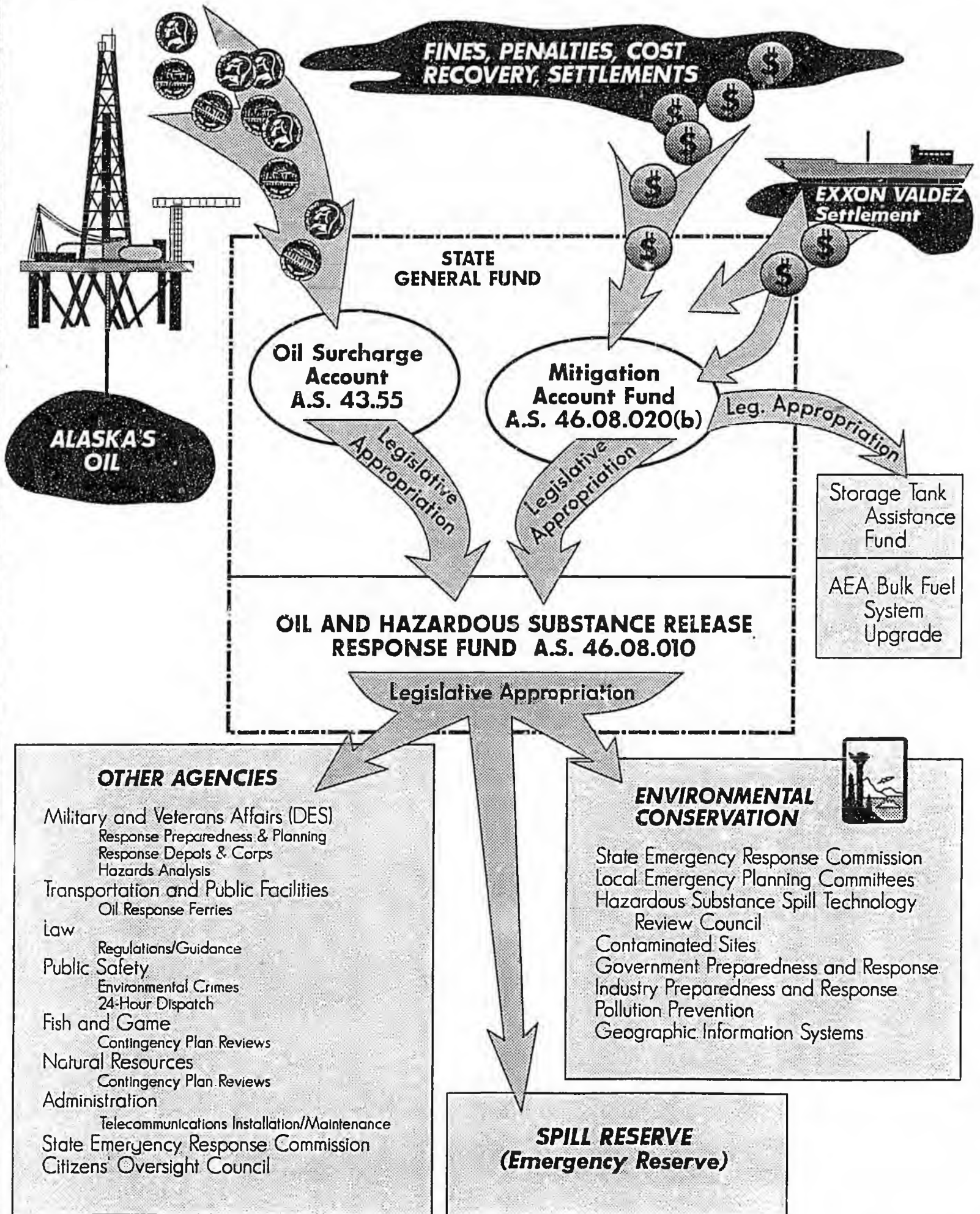
B. What are appropriate expenditures from the fund?

Chapter 112 SLA 1989 indicated two relatively limited and specific purposes for the Fund. Both related to "future discharges of oil or a hazardous substance that present a grave and substantial threat to the economy and the environment of the state."

Since then, the number and scope of uses of the surcharge have expanded to include virtually all past, present, and future spills of oil or hazardous substances. It appears timely to review the present policy and intentions for the use of these funds.

The liberal use of the Fund appears to be driving up total state spending, with little concern for efficiency.

13. **The Spill Prevention, Planning and Management section and the Spill Response Office have overlapping functions and should be consolidated.**
14. **The separate staff for the State Underground Storage Tank program and the staff to the Board of Storage Tank**



Oil and Hazardous Substance Release Response Fund
("Response Fund" or "470 Fund")

Created in 1986 (HB 470). Stated purpose:

(1) contain, clean up, and take other necessary action, such as monitoring, assessing, investigating, and evaluating the release or threatened release of oil or a hazardous substance that poses an imminent and substantial threat to the public health or welfare, or to the environment;

(2) provide matching funds for CERCLA (federal Superfund); and

(3) recover the cost to the state or to a municipality of a containment or cleanup resulting from the release or threatened release of oil or a hazardous substance.

The fund received about \$500,000 a year from the general fund by legislative appropriation.

1989 - Exxon Valdez.

A package of spill bills were introduced during that Legislature including SB 260 which established the nickel-a-barrel "conservation surcharge" on all crude oil produced in Alaska. All spill bills were shown as being funded by the Response Fund, and amendments were made in the statutory purposes of the Fund to include the costs of:

establishing and maintaining the oil and hazardous substance response office (SB 264);

review contingency plans (HB 567);

conduct training, response exercises, inspection, and tests in order to verify equipment inventories and ability to prevent and respond to releases, and to undertake other activities intended to verify or establish the preparedness of the state, a municipality, or a party required to file contingency plans (HB 567);

verify or establish proof of financial responsibility (HB 567);

response depots and corps (SB 264);

prepare, review and revise state and regional master oil and hazardous substance contingency plans (SB 261);

restore the environment by addressing the effects of an oil or hazardous substance release (SB 261);

Citizens Oversight Council on Oil and Other Hazardous Substances (HB 578).

In 1991, two other bills were passed that further expanded the use of the Fund:

municipal impact grants (so-call Oiled Mayors Program) (SB 25); and

ferries with response capabilities (SB 165).

Under HB 238, all of these programs would be eliminated from the uses of the Fund with the exception of (1) providing for an emergency first response; and (2) matching federal funds for CERCLA or federal oil discharge cleanup activities. The State's general fund would become the funding source for the other requirements under law being removed from the purposes for which the Fund may be used.

In addition, the bill changes how the accounting of the Fund cap would be calculated (see below), changes the definition of "containment and cleanup" to remove restoring the environment, prevents DEC from placing a lien on a responsible party's assets in order to recover state costs from any funding source, and requires that DEC levy fees on parties required under law to have contingency plans and financial responsibility verifications for the Department's review and approval of same.

Fund Accounting.

Under current law, at AS 46.08.020, many other sources of funding may be appropriated to the Response Fund other than from the nickel-a-barrel fee (Oil Surcharge Account)- in particular, costs recovered by the state from responsible parties for state-lead cleanups, and fines, penalties or damages for costs incurred by the state as a result of a release or threatened release. These funds go into a "Mitigation Account" which has normally been appropriated into the Response Fund.

Under current law, only the amount appropriated into the Response Fund that is attributable to the nickel-a-barrel fee counts toward the \$50 million cap. This recognizes that the monies coming into the Mitigation Account may not be attributable to expenditures from the nickel-a-barrel fee.

Under HB 238, *all* appropriations to the Fund, including the Mitigation Account, count toward the cap. HB 238 would still require these costs recoveries, fines, penalties or damages collected by the state be deposited in the Mitigation Account, and the Mitigation Account may still be appropriated to the Response Fund. However, the Response Fund would not be able to be used as a funding source for the activities resulting in these recoveries, fines, penalties or damages.

The State has appropriated over \$48 million into the Response Fund that did not come from the Oil Surcharge Account. In fact, only about 1/2 of the money that has been appropriated to the Response Fund has come from the nickel-a-barrel fee.

Table 3
Summary of OHSRRF Funding Sources and Deposits to Oil Surcharge Account
1988-1992
(In Thousands)

Response Fund Source of Funding

Fiscal Year	General Fund Program Receipts	General Fund Mitigation Revenue	Oil Surcharge Revenue	Other General Fund	Total
FY 87		158.7		522.0	680.7
FY 88		304.3		825.0	1,129.3
FY 89	10,000.0	138.5		10,500.0	20,638.5
FY 90	20,000.0	197.6		32,600.0	52,797.6
FY 91		1,695.1	27,000.0		28,696.1
FY 92		30.1	28,500.0		28,530.1
FY 93		1,823.3	27,000.0		28,823.3
Total:	30,000.0	4,346.6	82,500.0	44,447.0	181,293.6

Revenue Collected Oil Surcharge Account

FY 90	26,932.4
FY 91	27,965.2
FY 92	<u>28,669.0</u>
Total:	<u>83,566.6</u>

Spill Reserve

FY 88	\$ 70,888
FY 89	\$ 74,552
FY 90	\$ 198,500
FY 91	\$ 5,949,371
FY 92	\$12,482,127
FY 93	\$23,506,365
FY 94	\$25,091,900 (est)

Industry Preparedness Program



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Commissioner

Mead Treadwell
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Legislative Liaison

Mike Conway
Director, Division of
Spill Prevention and
Response

Mike Mansker
Chief, Industry
Preparedness and
Response Program
456-5250

Goal

To safeguard the environment by ensuring that oil industry operators take specific steps to prevent and respond to releases or threatened releases of oil.

Program Background

Title 46 of the Alaska Statutes and Title 18, Chapter 75 of the Alaska Administrative Code set forth requirements for oil spill prevention, financial responsibility and oil discharge prevention and contingency planning for the oil industry. The requirements apply to oil terminal facilities, oil tank vessels and barges, crude oil pipelines and onshore and offshore oil exploration and production facilities throughout the state. The Department of Environmental Conservation, through the Industry Preparedness Program, applies and enforces these statutes and regulations. Primary program services include administration and development of the oil discharge prevention and contingency plan review program, facility and vessel spill drill and inspection programs, and a financial responsibility program.

Issues

The effective implementation of revised statutes and regulations relating to oil pollution prevention and response is a continuing program priority. Regulations are being written to implement and administer a Response Action Contractor Registration Program mandated by House Bill 540 (1992). The final adoption of revised 18 AAC 75 regulations has compelled development of comprehensive new guidelines to prepare, apply for and review oil discharge prevention and contingency plans. New requirements for these industry-prepared plans ensure that industry has taken proper steps to prevent oil spills and is sufficiently prepared to respond in the event of a spill. Changes in the financial responsibility requirements have resulted in the need for rigorous review of existing and proposed insurance policies to ensure that they meet new and stricter requirements.

Major Features

- Provide technical assistance, conduct program development and monitoring, and ensure statewide consistency in:
 - ◆ the review by regional office staff of approximately 175 oil discharge prevention and contingency plans for oil operations statewide;
 - ◆ facility and vessel inspections and spill drills, including participation in major Department- and industry-initiated drills; and
 - ◆ the application of prevention requirements to oil industry operations and the use of prevention credits to modify the response planning standard for contingency plan holders.
- Administer the statewide Financial Responsibility program to ensure that oil operators in the state demonstrate sufficient proof of financial resources to respond to releases or threatened releases of oil.
- Provide interagency coordination in activities relating to oil pollution control, including implementation of the Federal Oil Pollution Act of 1990, cooperative review of

contingency plans with other State and federal resource agencies, monitoring of the activities of citizens' advisory councils and oil spill response cooperatives, and other concerns.

Program Benefits _____

By upgrading the state's regulation and inspection of oil and hazardous substances facilities, and review of industry contingency plans, the program can prevent spills, improve response and reduce cleanup costs.

Alaska Department of Environmental Conservation
Division of Spill Prevention and Response

Government Preparedness and Response



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Lynn Kent
Chief, Government
Preparedness and
Response Program
456-5220

Goal

To protect public health and the environment by ensuring a planned and safe response to releases or threatened releases of oil or hazardous substances.

Program Background

The Alaska Department of Environmental Conservation (DEC) is responsible for responding to all oil and hazardous substance spills and ensuring their containment, control and cleanup. DEC also defines the extent of contamination and assesses damages and recovery of costs to the state. Title 46 of the Alaska Statutes and Title III of the federal Superfund Amendments and Reauthorization Act (SARA) tasked DEC with facilitating local, regional and statewide response preparedness for oil and hazardous substance releases in order to minimize the impact on human health and the environment. DEC's Government Preparedness and Response program facilitates this planning and also prepares, reviews and revises the state and regional plans for oil and hazardous substance discharge prevention and response. The program provides staff support to the State Emergency Response Commission (SERC) and funding, staff support, and administration to Local Emergency Planning Committees (LEPCs).

Issues

DEC must work with local government agencies and the public to establish 26 LEPCs. Training and guidance will be provided to the LEPCs for the development of response plans for oil and hazardous substance releases. The Department will develop State and Regional plans to insure responding personnel from all state and local agencies understand their roles and responsibilities when responding to a release. In addition, the Department must train response teams and improve the response resources available for a major spill.

Major Features

- Develop regulations and guidelines for the SERC and LEPCs and hold quarterly meetings with each.
- Ensure that up to 26 local plans under development are coordinated and integrated with other relevant plans and comply with requirements specified in state and federal law.
- Complete compilation of hazards analysis for the state.
- Revise the State and Regional response plans and conduct drills to test adequacy.
- Identify the Department's responsibilities and establish a response structure to safely carry out those responsibilities.
- Mobilize the Department resources upon request to support regional response activities.
- Establish and maintain minimum training standards for responders and the positions in the Incident Command System (ICS).

Program Benefits

Prevention and response plans constructed on the local, regional and state level, as well as response training for responders, help prevent spills and improve the response quality, time, and cost.

Contaminated Sites Remediation



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Mike Conway
Director, Division of
Spill Prevention and
Response

Rich Cormack
Chief, Contaminated
Sites Remediation
Program
456-5200

Goal

To abate threats to human health and the environment posed by sites contaminated by past improper disposal or discharges of hazardous substances.

Program Background

The Contaminated Sites program was enabled in 1986, when House Bill 470 established the Oil and Hazardous Substance Release Response Fund and broadened the use of the previously existing response fund to hazardous substances. The program had ad hoc beginnings as the department began to draw information on known contaminated sites from various programs and began to compile an inventory database in 1988. The program was officially designated in January 1990, when it was split from the Oil and Hazardous Substance Spill Response Section. The program also now encompasses activities under cooperative agreements with the Department of Defense and EPA, which allow funding of staff oversight of military restoration activity and Superfund site projects respectively. The universe of historical contaminated sites under the jurisdiction of the program are defined using the contaminated sites database inclusion criteria, excluding leaking underground storage tanks, which are managed under a separate program.

Issues

The Contaminated Sites program faces the reality of a large and increasing universe of contaminated sites and the likelihood of diminishing human and fiscal resources over time to address these sites. A "Certified Service Provider" initiative will be developed to allow licensing of assessment and cleanup contractors to conduct work on low priority sites without direct department oversight, thereby freeing staff to oversee high priority sites posing imminent and substantial threat. The program is currently operating with guidance documents and has not promulgated hazardous substance cleanup regulations that would help to solve some of the ambiguity currently experienced by the regulated community. The program will be putting major focus on development of regulations to address cleanup standards and program structure. The regulations will also stress cost-effectiveness, encourage innovative technologies, and ensure public involvement.

Major Features

- Identify and assess sites to determine their potential threat to public health and the environment and rank sites to determine the priority in which they should be addressed.
- Ensure that contaminated sites undergo investigation and cleanup in a priority order.
- Use term contractors and the Oil and Hazardous Substance Spill Response fund to assess or clean up sites of imminent and substantial threat where a responsible party is not available.
- Develop hazardous substance cleanup regulations and standard operating procedures for all phases of contaminated sites work.
- Negotiate cooperative agreements with the Department of Defense and EPA to enable staff oversight of DOD and CERCLA (Comprehensive Environmental Restoration,

Compensation & Liability Act — federal) sites and participation of staff in assessment of sites within the Superfund system.

- Chairs the State agency MOA working group.
- Negotiate and oversee term contracts.

Program Benefits _____

The rapid cleanup of contaminated sites before pollutants have reached aquifers is vital to the health of Alaskans and our wildlife.

Is the language in
this passed resolution
consistent with provisions
of HB 238?

8-LS1049E

HOUSE CONCURRENT RESOLUTION NO. 21
IN THE LEGISLATURE OF THE STATE OF ALASKA
EIGHTEENTH LEGISLATURE - FIRST SESSION

BY REPRESENTATIVES PHILLIPS, Barnes, Therriault

Introduced: 4/22/93

Referred: Rules

A RESOLUTION

1 Relating to the correction of misinformation about Alaska.

2 BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF ALASKA:

3 WHEREAS Alaskans are committed to protecting and preserving our wilderness areas
4 while working toward a balance between the needs of our people and the needs of our
5 environment; and

6 WHEREAS legislation has been introduced to purchase \$22,000,000 in inholdings to
7 preserve in its entirety one of Alaska's most scenic state parks, Kachemak Bay State Park,
8 increase subsistence resources, and restore and maintain critical habitat areas throughout the
9 state; and

10 WHEREAS Alaska has 70 percent of the National Parks by area, and Alaskans devote
11 considerable effort and resources toward maintaining these parks to the benefit and enjoyment
12 of all Americans; and

13 ~~WHEREAS Governor Hickel, Alaska's lawmakers, and state citizens are committed~~
14 ~~to strengthening prevention and response mechanisms to avoid tragic accidents such as the~~
15 ~~Exxon Valdez oil spill; and~~

16 ~~WHEREAS our leadership has empowered our environmental regulatory agencies with~~
17 ~~some of the most stringent requirements on industry in the nation; and~~

1 **WHEREAS** certain national movements, though committed to worthwhile causes,
2 employ the use of sensational and unbalanced statements in their reports; and

3 **WHEREAS** a recent example of this was distributed nationwide by the Sierra Club
4 in a defamatory letter to the organization's members ~~accusing the Alaskan people and our~~
5 ~~leadership of gross misuse of our environment;~~

6 **BE IT RESOLVED** that the Alaska State Legislature notifies the Board of Directors
7 of the Sierra Club and its members of specific untruths and distorted reports about Alaska
8 currently utilized by the Sierra Club and urges their cooperation in presenting the truth; and
9 be it

10 **FURTHER RESOLVED** that the Alaska State Legislature is intensely concerned over
11 the health of our land and our people, and we urge environmental movements to report all of
12 the facts before presenting an agenda that is harmful to all Alaskans.

13 **COPIES** of this resolution shall be sent to the Honorable Bill Clinton, President of the
14 United States; the Honorable Al Gore, Jr., Vice-President of the United States and President
15 of the U.S. Senate; the Honorable Bruce Babbitt, Secretary of the U.S. Department of the
16 interior; the Honorable Mike Espy, Secretary of the U.S. Department of Agriculture; the
17 Honorable Hazel R. O'Leary, Secretary of the U.S. Department of Energy; the Honorable Ted
18 Stevens and the Honorable Frank Murkowski, U.S. Senators, and the Honorable Don Young,
19 U.S. Representative, members of the Alaska delegation in Congress; to Tony Ruckel, Sierra
20 Club National Chairman; and to Carl Pope, Executive Director of the Sierra Club.

1 **WHEREAS** certain national movements, though committed to worthwhile causes,
2 employ the use of sensational and unbalanced statements in their reports; and

3 **WHEREAS** a recent example of this was distributed nationwide by the Sierra Club
4 in a defamatory letter to the organization's members accusing the Alaskan people and our
5 leadership of gross misuse of our environment;

6 **BE IT RESOLVED** that the Alaska State Legislature notifies the Board of Directors
7 of the Sierra Club and its members of specific untruths and distorted reports about Alaska
8 currently utilized by the Sierra Club and urges their cooperation in presenting the truth; and
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19 U.S. Representative, members of the Alaska delegation in Congress: to Tony Ruckel, Sierra
20 Club National Chairman; and to Carl Pope, Executive Director of the Sierra Club.

Did you ever wonder
what your neighbors
were thinking?

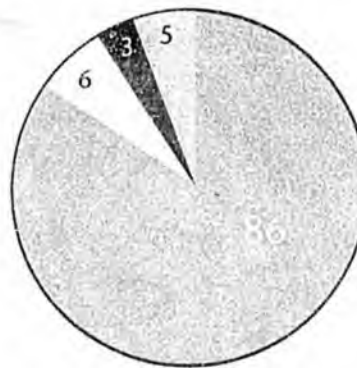
We did. So we asked.

We're the Alaska Oil and Gas Association, and we frequently ask Alaskans what's on their minds. This fall we contracted with the independent polling firm, Dittman Research Corporation of Alaska, to ask Alaskans to respond to a statewide survey about the oil and gas industry, state government, and resource development issues. We thought their responses were so enlightening that we've reprinted the highlights for all Alaskans to read.

Alaskans feel positive about the oil industry...

"On an overall basis, do you feel oil and gas development has been good or bad for Alaska?"

Good	86%
Bad	6%
Some of both	3%
Unsure	5%



- Good 86%
- Bad 6%
- Some of Both 3%
- Unsure 5%

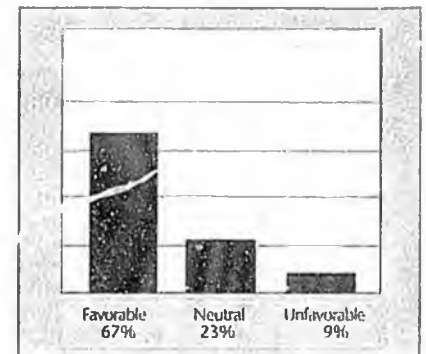
AOGA

Alaska Oil & Gas Association

Alaskans feel positive about the oil industry...

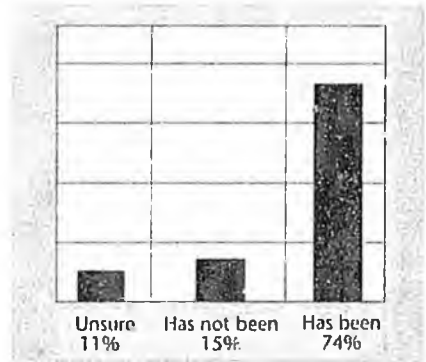
"How favorable or unfavorable do you feel you personally are toward the oil industry?"

Favorable	67%
Neutral	23%
Unfavorable	9%



"On an overall basis, do you feel oil and gas exploration and development throughout Alaska has or has not been conducted in an environmentally safe manner?"

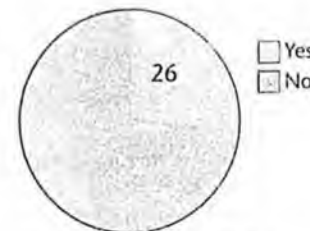
Has been	72%
Has not been	23%
Unsure	5%



But few took any action to express their positive feelings.

"Over the past three years, have you taken any action to express those feelings to state officials and legislators?"

Yes	26%
No	74%



(If response was "Yes, took action. .")
"What kind of action did you take?"

Letter to legislator	43%
Talked to legislator	14%
Mail survey	9%
Sent public opinion msg.	8%
Letter to editor	7%
Called legislator	6%
Attended public mtg.	6%
Signed petition	2%
Miscellaneous	4%

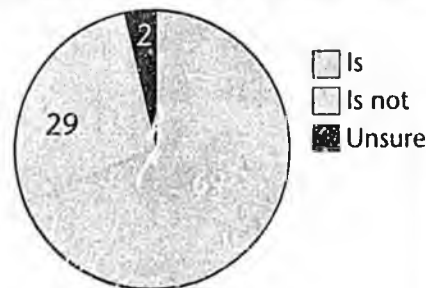


Feeling towards oil industry	Took action to express feelings	
	Yes	No
Favorable	27%	73%
Unfavorable	46%	54%

Alaskans have some definite ideas about state spending and taxation...

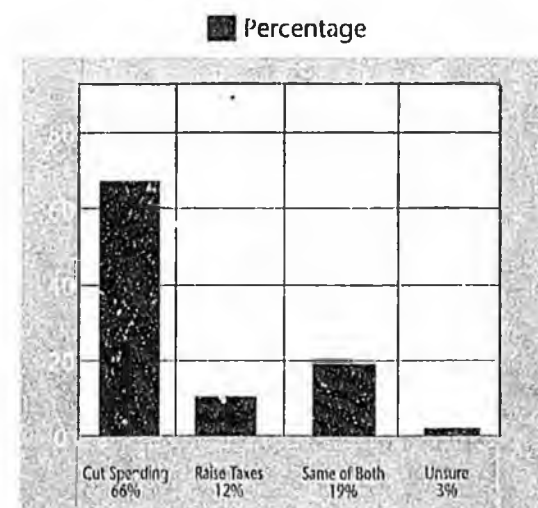
"Do you feel Alaska is or is not facing a serious budget crisis?"

Is	69%
Is not	29%
Unsure	2%



"The state of Alaska receives over 80% of its income from oil and gas production revenues. North Slope oil production has started a long and steady decline which will reduce future state revenues. Do you think the state should reduce spending or raise taxes to balance the budget?"

Cut spending	66%
Raise taxes	12%
Some of both	19%
Unsure	3%



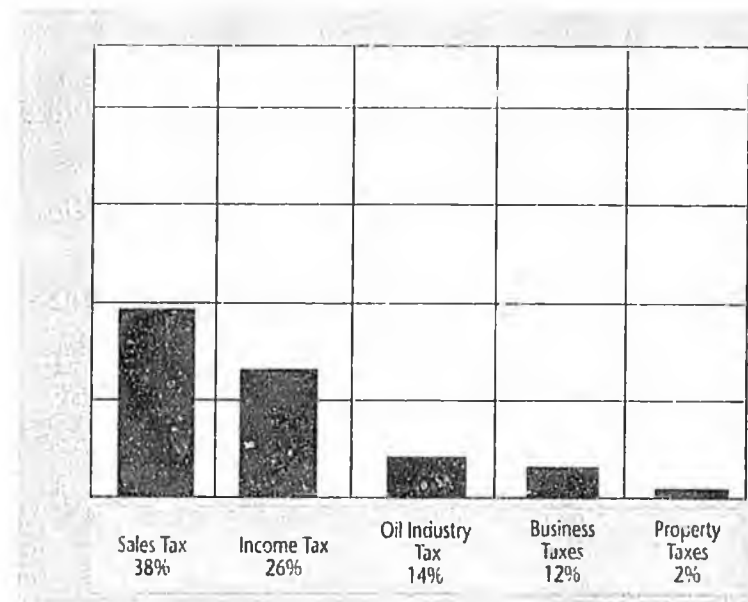
What should the legislature do to continue to balance the state budget - What should be reduced?

Capital budget	30%
State employees	18%
Permanent Fund	14%
Wages/benefits	13%
Entitlement programs	10%
Unsure	5%
Revenue-sharing (Muni)	4%
PFD inflation-proofing	3%
Educational aid	1%
Upper mgmt. levels	1%
Across the board	1%

"If state policy requires that taxes be raised, which taxes do you think should be raised?"

Sales tax	38%
Income tax	26%
Oil industry tax	14%
Business taxes	12%
Property taxes	2%

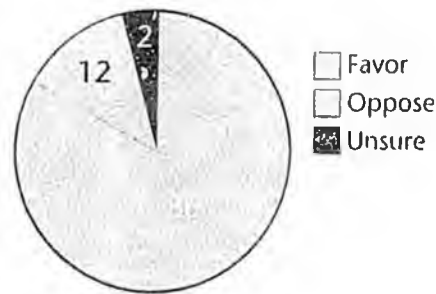
Percentage



Alaskans want to save the money in the "470" fund.

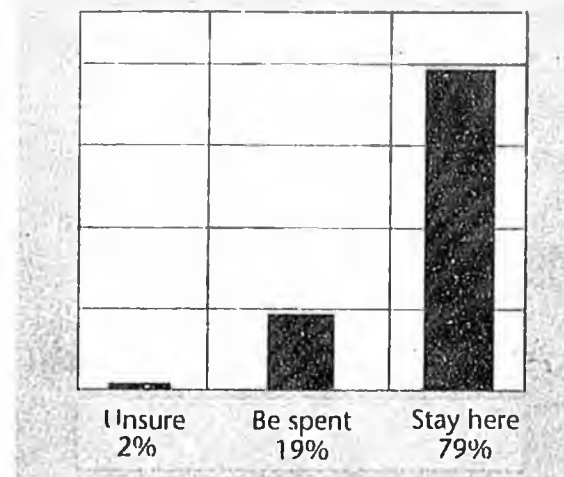
"After the Prince Williams Sound oil spill, Alaska's state legislature established a special tax on the oil industry of 5 cents per barrel to go into an emergency response fund to be available to respond to future oil spills if necessary. The goal was to build the fund up so that 50 million dollars would be available, then eliminate the tax. Do you favor or oppose this goal?"

Favor	86%
Oppose	12%
Unsure	2%



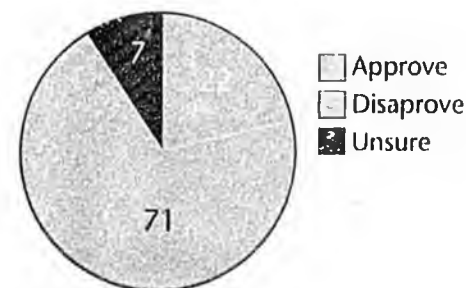
"Do you feel the money placed in the emergency response fund should stay there until it builds up to 50 million dollars, or should it be spent as it is being collected in order to provide money for operating expenses of the Department of Environmental Conservation and other purposes?"

Stay there	79%
Be spent	19%
Unsure	2%



"The special tax was to be eliminated after the emergency fund reached a balance of \$50 million. However, much of the money has been spent, so even though the oil industry has paid over \$100 million in special taxes into the fund, the balance of the fund remains far below \$50 million and the special tax remains in effect. Do you approve or disapprove of the State's current practice of keeping the fund balance below \$50 million so the special tax can stay in effect?"

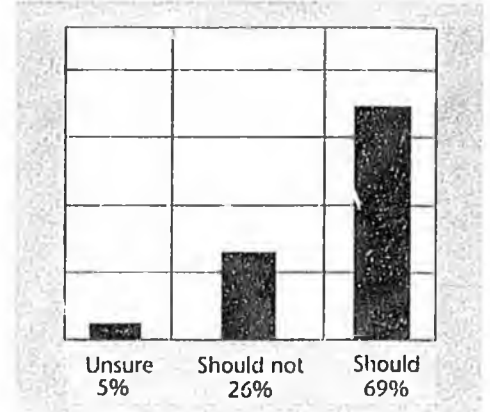
Approve	22%
Disapprove	71%
Unsure	7%



And they would like ANWR to be developed.

"Do you feel oil and gas exploration should or should not be allowed within the ANWR Coastal Plain?"

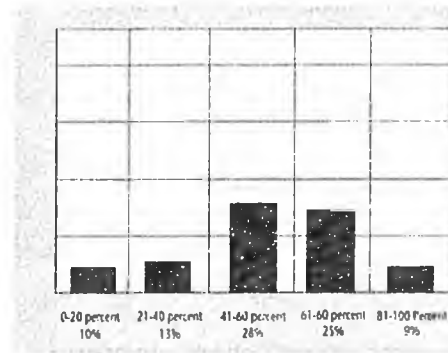
Should	69%
Should not	26%
Unsure	5%



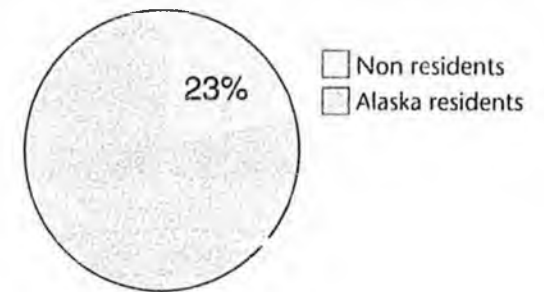
More oil industry workers live here than Alaskans realize.

"As far as local hire is concerned, what percentage of Alaska's oil industry workers are residents of the State of Alaska?"

0-20 percent	10%
21-40 percent	13%
41-60 percent	28%
61-80 percent	25%
81-100 percent	9%



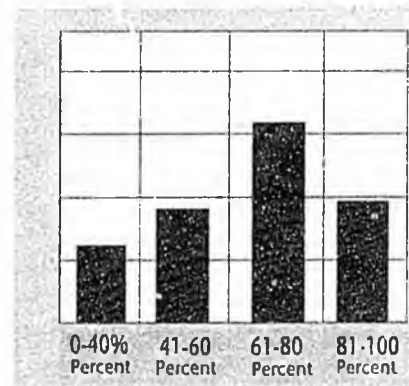
Actual residency of industry workers



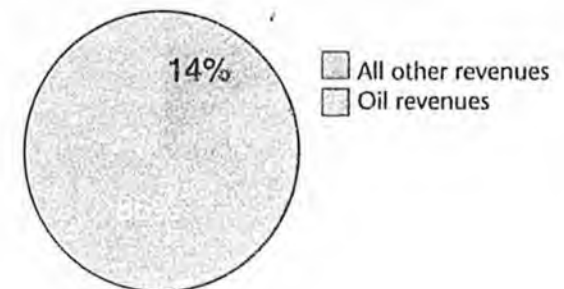
And the industry contributes more to state revenues than Alaskans realize.

"As far as you know, what percentage of Alaska's state budget is provided by the oil industry?"

0-40 percent	12%
41-60 percent	19%
61-80 percent	32%
81-100 percent	20%



Actual state revenue by source



The Methodology

During the period August 24 through September 1, 1993, five hundred and sixteen Alaskans over the age of eighteen, in fifty-five communities were personally contacted by telephone by professional interviewing employees of the Dittman Research Corporation of Alaska. The views and opinions of the individual Alaskan residents were recorded on a strictly confidential basis. A random sample design was featured which provided that all adult residents of the communities selected essentially had an equal chance of being interviewed. The sample was randomly selected from current telephone subscribers listed in the most current directory for each community. Dittman Research Corporation employees completed the coding, editing, data entry and verification and the data was processed using the program Statistical Package for the Social Sciences (SPSS/PC+).

The Alaska Oil and Gas Association (AOGA) is a private, non-profit industry trade organization. Its members are companies engaged in oil and gas exploration, production, refining, transportation and marketing activities in Alaska. The purpose of the organization is to promote and foster the interests of all branches of the Alaska oil and gas industry through cooperative effort.

If you have questions or comments about this survey, or would like to know more about the activities of the Alaska Oil and Gas Association, please write to us at the following address:

AOGA

Alaska Oil & Gas Association

121 West Fireweed Lane, Suite 207, Anchorage, Alaska 99503

DIVISION OF LEGAL SERVICES

**LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA**

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101

130 Seward Street, Suite 409
Juneau, Alaska 99801-2105

Amendment prepared to delete provision in HB238 which would discontinue availability of 470 Fund money for funding of oil spill response ferry (amendment was never proposed in committee)

MEMORANDUM

March 22, 1993

SUBJECT: Amendment R.1 to House Bill 238 (Work Order No. 8-LS0676R.1)

TO: Representative Bill Williams, Chair
House Resources Committee
ATTN: Mary McDowell

FROM: Jack Chenoweth
Legislative Counsel

This amendment addresses the handling of providing for the costs of construction or rehabilitation of one oil-sucking ferry from the "470 Fund."

I appreciate your suggestion on how to address the request. However, in drafting the main bill I made a decision that (1) this would be a bill that would likely receive serious consideration and (2) it would be a bill that would be substantively divisive. Given the differences that exist between majority and minority members of both houses, I decided that obtaining a two-thirds vote for an effective date in this bill was problematical and determined not to draft the bill in a way that operative provisions of it would be dependent upon approval of delayed effective dates.

I am going to stay with that decision and, in drafting this amendment, have decided to forego any mention of an effective date. You will note, then that AS 19.65.025 and AS 46.08.040(d) are amended to authorize construction of **only one vessel**. After that vessel construction is completed, the authorization becomes moot. A legislator, the department, or the revisor of statutes may, at some future date, propose the actual repeal of the language.

JBC:pl
93-223.plm

A M E N D M E N T

OFFERED IN THE HOUSE

TO: HB 238

Page 1, line 3:

Delete "marine highway vessels"

Insert "more than one marine highway vessel"

Page 2, following line 2:

Insert a new bill section to read:

"* **Section 1.** AS 19.65.025 is amended to read:

Sec. 19.65.025. VESSEL DESIGN AND CONSTRUCTION. Under the authority provided in AS 44.42.020(a)(1) to plan, design, construct, and maintain modes of transportation, the commissioner of transportation and public facilities shall, subject to legislative appropriation for the purpose, plan, design, and retrofit or construct one vessel [VESSELS] of the Alaska marine highway system that, in addition to providing the freight and passenger services customarily provided by the state's marine highway vessels, has [HAVE] the capability to assist in responding to, containing, and cleaning up spills of oil and hazardous substances into the marine waters of the state."

Page 2, line 3:

Delete "Section 1."

Insert "Sec. 2."

Renumber the following bill sections accordingly.

Page 5, line 18:

Delete "The [EXCEPT AS PROVIDED IN AS 46.08.040(d)(2), THE]"

Insert "Except as provided in AS 46.08.040(d) [AS 46.08.040(d)(2)], the"

Page 7, line 9, after "(a)(2)":

Insert "and (d)"

Page 7, following line 10:

Insert a new bill section to read:

"* **Sec. 15.** AS 46.08.040(d) is amended to read:

(d) Upon a request from

[(1) THE ALASKA LEGISLATIVE COUNCIL, THE COMMISSIONER SHALL USE MONEY FROM THE FUND TO REIMBURSE THE ALASKA LEGISLATIVE COUNCIL FOR EXPENDITURES THAT IT MAKES FOR THE OPERATION OF THE CITIZENS' OVERSIGHT COUNCIL ON OIL AND OTHER HAZARDOUS SUBSTANCES, ESTABLISHED UNDER AS 24.20.600; AND

(2)] the commissioner of transportation and public facilities, the commissioner shall transfer money from the fund to the Department of Transportation and Public Facilities to pay for the construction or refurbishment of one vessel [OR MORE VESSELS] of the Alaska marine highway system that has [HAVE] the capability to assist in responding to spills of oil and hazardous substances; in expending money in the fund whose use for a vessel [VESSELS] of the marine highway system is authorized by AS 19.65.025 and this paragraph, the commissioner shall give priority to construction of a [ONE OR MORE] new vessel [VESSELS] that has [HAVE] the characteristics required by this paragraph."

Renumber the following bill sections accordingly.

Page 10, line 20:

Delete "AS 19.65.025;"

Page 10, line 21, after "AS 44.46.025(a)(5)":

Insert "and"

Page 10, lines 21 - 22:

Delete "; and AS 46.08.040(d)"

Page 12, line 15:

Delete "sec. 24"

Insert "sec. 26"



Alaska State Legislature

HOUSE RESOURCES COMMITTEE

P.O. Box V
State Capitol
Juneau, Alaska 99811
(907) 465-3715

HOUSE RESOURCES COMMITTEE PLANS "470 FUND" HEARING

3/25/93

FOR IMMEDIATE RELEASE

CONTACT: REP. BILL WILLIAMS, 465-3424

The chairman of the House Resources Committee announced today that he'll schedule a statewide teleconference to take public testimony on a bill dealing with the Oil and Hazardous Substances Release Response Fund. A bill to tighten up the "470 fund" was the subject of a public hearing earlier this week in the Resources Committee.

"We'll seek input from everyone with an interest in the issue," said Resources Committee Chairman Rep. Bill Williams (D) Saxman. "This is a complicated policy matter and we want the people of Alaska to feel comfortable with it." Williams made his comments at a news conference also attended by House Special Committee on Oil and Gas Chairman Rep. Joe Green (R) Anchorage, and House Majority Leader Rep. Gail Phillips (R) Homer.

Representative Green's committee introduced the bill (HB 238) with the intent of increasing financial accountability and increasing the amount of money available in the fund to pay for an emergency first response to an oil or hazardous substances spill.

"We will not fast track this bill," said Green. "My goal is to strengthen the fund and bring the amount of money available for an emergency response to \$50 million." Presently only about \$23 million is in the fund for spill response purposes.

Representative Williams said he planned to schedule a teleconference on a Saturday, to give everyone with an interest in the bill a chance to testify. "We want more input," said Williams, "and it's our intention to act responsibly as we consider this complex policy issue."

###



UNITED FISHERMEN OF ALASKA

211 Fourth Street, Suite 112
Juneau, Alaska 99801
907/586-2820
Fax: 907/463-2545

Testimony of Jerry McCune, President
United Fishermen of Alaska
on House Bill 238
before the
House Resources Committee
March 24, 1993

Mr. Chairman and Members of the House Resources Committee:

My name is Jerry McCune and I am President of the United Fishermen of Alaska.

I would like to advise you that United Fishermen of Alaska does not support House Bill 238. The fishermen cannot re-live the 1989 oil spill all over again. If there is one glaring example from the Exxon Valdez oil spill, it is that prevention is better than clean-up. This bill deletes all language that would authorize the uses of 470 funds for protecting clean-up and restoring the environment.

Since the spill, there has been at least three tankers that have lost power in the Valdez Arm.

If the State becomes lax or funds are not available for the Department of Environmental Conservation, then we are not prepared. The fishermen of Alaska had a great disservice done

MEMBER ORGANIZATIONS

Alaska Crab Coalition • Alaska Longline Fisherman's Association • Alaska Trollers Association • Area K Seiners Association
Bering Sea Fishermen's Association • Bristol Bay Driftnetters Association • Concerned Area "M" Fishermen
Cook Inlet Aquaculture Association • Cordova District Fishermen United • Kenai Peninsula Fishermen's Association
North Pacific Fisheries Association • Northern Southeast Regional Aquaculture Association • Peninsula Marketing Association
Petersburg Vessel Owners Association • Prince William Sound Aquaculture Corporation • Seafood Producers Cooperative
Southeast Alaska Seiners Association • Southern Southeast Regional Aquaculture Association
United Cook Inlet Drift Association • Western Alaska Cooperative Marketing Association

Testimony on HB 238
March 24, 1993
Page Two

to their industry from the oil spill which reached the whole state. In fact, some fishermen have not received any compensation for loss fishing time or their claims. For the sake of time, I will speak to only a couple of the bill's proposed changes.

The state program for community assistance for certain oil and hazardous substance clean-up activities is one which is very important to all coastal communities.

1. Annual review of the State's Master Plan. We need the review by both the public and state agencies so we can upgrade the plan to changing conditions and technology.

2. In Section 3 of this bill takes away the State's authority. We do not want to see the State's authority taken away to seek and obtain financial recovery from oils spills.

In closing, we need the funds provided in the 470 Fund so that all Alaskans can breath a little easier knowing that we are working on prevention and are better prepared to deal with large or small oil spills. Our natural resource on the water are too valuable to gamble with. There was testimony before the Merchant Marine and Fisheries Committee this morning whereby HB 238 was mentioned by one of the Representatives to the Coast Guard. Certainly you must know this matter is being discussed heavily in Washington, D.C., as to just how prepared we (the State of Alaska) are prepared to deal with another oil spill should one occur.



**City of
Ketchikan**

March 22, 1993

~~March 22, 1993~~
334 Front Street
Ketchikan, Alaska 99901
907-225-3444

Representative Bill Williams
State Capitol
Room 102
Juneau, Alaska 99801-1182

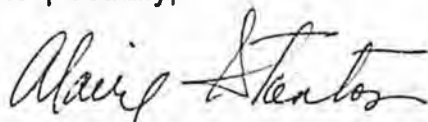
Dear Representative Williams:

MAR 25 1993

The City of Ketchikan is concerned with House Bill 238 as proposed since it eliminates provisions of the Oil and Hazardous Substance Release Response Fund to construct one or more new State Ferries. As I'm sure you realize, the Alaska Marine Highway Fleet is aging and new vessels must be designed and built to serve in general commerce as well as in times of emergency such as the Valdez Oil Spill.

It is the local communities that ultimately bear the greatest burden of release or spill and any provision of law which reduces or denies local participation or assistance is counterproductive. We respectfully request that House Bill 238 be carefully reviewed and any provision which eliminates or restricts either the acquisition of new AMHS Ferries or local support for spill response be removed.

Respectfully,



Alaire Stanton
Mayor

BJ/kk

cc: City Council

✓

Kodiak Audubon Society
P.O. Box 1756
Kodiak, AK 99615

February 8, 1994

Representative Bill Williams
State Capitol
Juneau, AK 99801-1182

Dear Representative Williams,

I am writing on behalf of the Kodiak Audubon Society. The Kodiak Audubon Society is a non-profit conservation and environmental education group with about 80 members. Our members include physicians, teachers, librarians, biologists, fishermen, contractors and other varied members of the Kodiak Community.

We are adamantly opposed to HB 238 for a variety of reasons. Being a community that was adversely affected by the Exxon Valdez Oil Spill, we do not wish to see any restrictions imposed on the use of the 470 Fund or a decrease in the amount of the fund that can be used in oil spill prevention and response.

We agree with the Department of Environmental Conservation that two cents per barrel, especially in times of declining production, is simply not enough money to continue developing a good prevention and response program. We also object to how this bill limits the amount of money that can be used by DEC to clean up any spills smaller than 4.2 million gallons and requires the Governor to declare a disaster before DEC can gain access to the catastrophic fund.

There has been a lot of talk that the fund is currently being misused. The original intent of HB 470 in 1986 was to provide for the clean up of contaminated hazardous waste sites, and to ensure prompt response to oil and hazardous substance spills. It would be fool hardy during these times of severe budget problems to limit either the way the money can be used or the amount available for use.

Lastly we would like to ensure a continuation of the requirements for annual review and revision of the state master plan by both the appropriate State agencies and the general public. If a well reviewed, revised and drilled contingency plan had been in place when the Exxon Valdez had its spill, the damage may have been lessened. People living in spill affected areas as well as the entire state should have the right to participate in contingency plans affecting their communities.

Where the potential for oil and hazardous material spills is concerned, an ounce of prevention is worth a pound of cure.

Thank you for considering our position.

Sincerely,

Mary Forbes

Mary Forbes
Kodiak Audubon Society, Conservation Chair

From the desk of

Richard A. Fineberg
Talkeetna, Alaska 99676

P.O. Box 278

Phone / Fax (907) 733-1457

April 16, 1993

Representative Bill Williams, Chairman
Resources Committee
Alaska State House of Representatives
Room 124, State Capitol
Juneau, Alaska 99801-1182

Dear Rep. Williams:

The enclosed materials place the \$0.05 per barrel "470" Fund oil tax in the context on industry profits and State revenues. These tables and charts are taken from a report I prepared in November 1992 under contract to the Alaska State Senate Finance Committee.

The first table contains an estimate of per-barrel costs, taxes and profits, based on a CY 1991 average West Coast price of \$17.21 per barrel. You will find the \$0.05 per barrel charge at line 14-c. Note that, by comparison, the total industry profit for producing and transporting a barrel of North Slope crude to Valdez during CY 1991 was approximately \$4.77 per barrel after taxes.

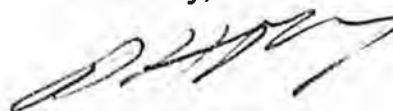
If Alaska North Slope operations were the province of one company — instead of the three that control more than 90% of North Slope operations — in 1991 that company would have ranked among the top three most profitable companies on the Fortune 500 (see the first attached bar graph).

To demonstrate that these figures are rather stable, I have also attached a breakdown of the estimated state, federal and industry "take" from North Slope operations for FY 1991, FY 1992 and FY 2000, as well as CY 1991.

If the \$0.05 per barrel tax were eliminated, industry profits would increase by approximately \$0.025 (2-1/2 cents) per barrel, with the remaining \$0.025 divided equally between the state and federal governments. Thus the effects of eliminating this surcharge would be to enrich the industry by \$0.025 (2-1/2 cents) per barrel and the federal treasury by \$0.0125 per barrel, while the state's total revenue would be reduced by \$0.0375 (3-3/4 cents) per barrel.

I hope this material will prove useful to you in your deliberations.

Sincerely,



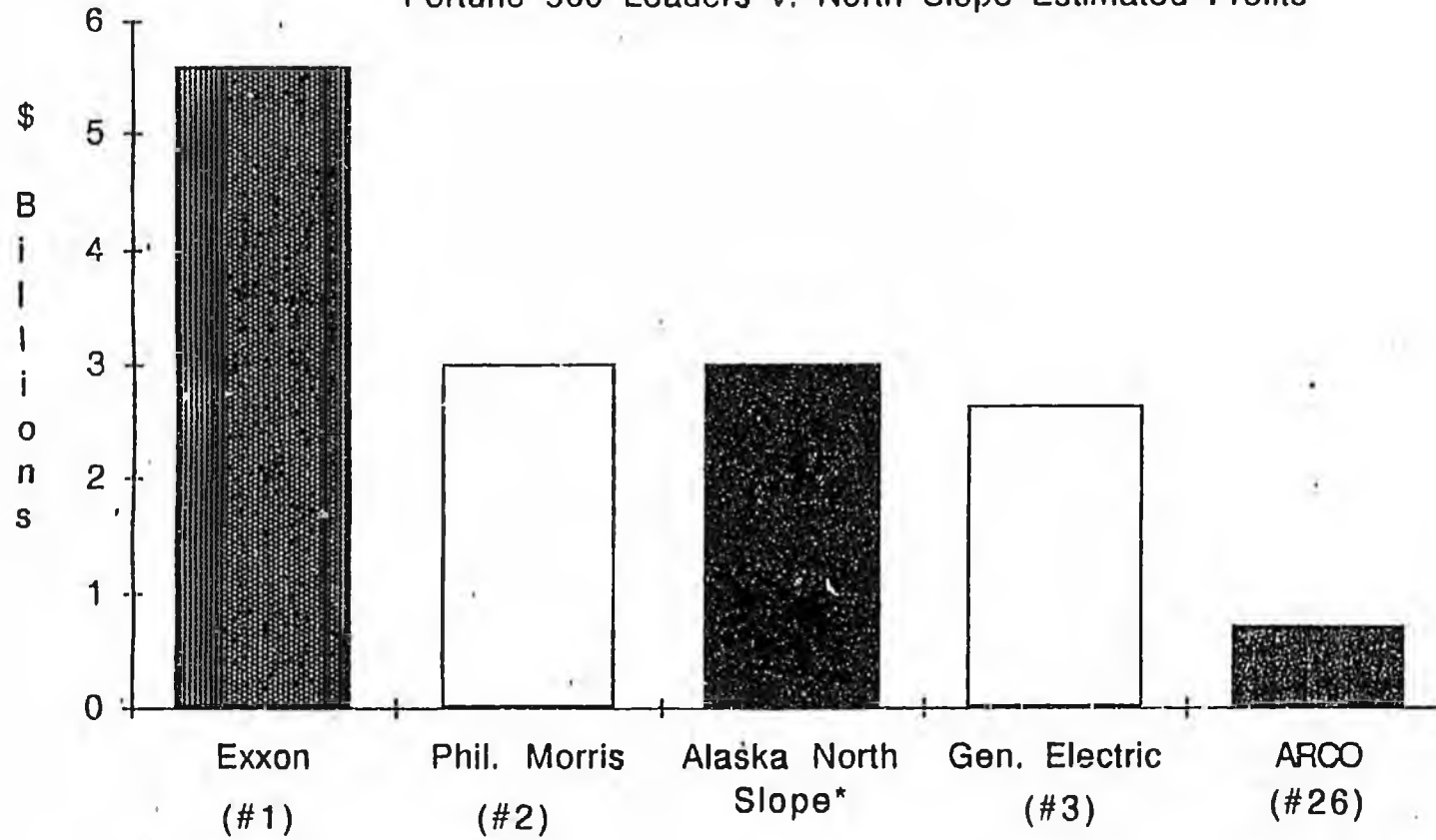
R.A. Fineberg

CY 1991 North Slope Barrel Profit Analysis (Table 12-A)

North Slope Profit Analysis: ALL FIELDS		1991 ANS Avg. (\$/bbl.)		Notes
		Gulf Coast	West Coast	
1	Average Price for ANS (Spot)	\$18.35	\$17.21	Dept. of Revenue data (1)
2	Quality Adjusted Price			
3	Production / Disposition	<i>Bbls./year</i>	<i>Days</i>	
a	Production (mm bbls. yr. / day)	664.870 /	1.822	DNR 1992 Historical Oil Production (incl. NGL's) (2)
b	Volume to East / West Coast (%)	21.93%	78.07%	From DOR data
4	Feeder Pipeline Tariffs	(\$0.10)	(\$0.10)	Weighted avg. sum of items 4a thru 4g (3)
a	Operating & capital costs	(\$0.04)	(\$0.04)	Dept. of Law (7/29/92) less 4b
b	State & local property tax (pipelines)	\$0.00	\$0.00	30% of total DOR property tax
c	State income tax (pipelines)	\$0.00	\$0.00	4d * (eff. state tax rate / eff. fed. tax rate)
d	Federal income tax (pipelines)	(\$0.01)	(\$0.01)	Dept. of Law (7/29/92) less item 4c
e	After-tax margin	(\$0.02)	(\$0.02)	Dept. of Law (7/29/92)
f	Recovery of deferred return	(\$0.01)	(\$0.01)	-
g	DR&R allowance	\$0.00	\$0.00	-
5	TAPS Pipeline Tariff	(\$3.41)	(\$3.41)	Sum of items 5a thru 5h
a	Operating & capital costs	(\$1.31)	(\$1.31)	Dept. of Law (7/29/92) less 5b
b	State & local property tax (pipelines)	(\$0.15)	(\$0.15)	30% of total DOR property tax
c	State income tax (pipelines)	(\$0.09)	(\$0.09)	5d * (eff. state tax rate / eff. fed. tax rate)
d	Federal income tax (pipelines)	(\$0.65)	(\$0.65)	Dept. of Law (7/29/92) less item 5c
e	After-tax margin	(\$0.49)	(\$0.49)	Dept. of Law (7/29/92)
f	Recovery of deferred return	(\$0.64)	(\$0.64)	-
g	DR&R allowance	(\$0.08)	(\$0.08)	-
h	Pumpability Charge			Dept. of Revenue data
6	State Share (Feeder Lines)	(\$0.01)	(\$0.01)	Sum of items 4b, 4c
7	Federal Share (Feeder Lines)	(\$0.01)	(\$0.01)	Item 4d
8	Industry Profit (Feeder Lines)	\$0.03	\$0.03	Sum of items 4c, 4f
9	State Share (TAPS)	(\$0.25)	(\$0.25)	Sum of items 5h, 5c
10	Federal Share (TAPS)	(\$0.65)	(\$0.65)	Item 5d
11	Industry Profit (TAPS)	\$1.13	\$1.13	Sum of items 5c, 5f
12	Tanker (to Gulf / West Coast)	(\$3.83)	(\$1.07)	USFRA data (DOR)
13	Wellhead value	\$11.02	\$12.64	Sum of items 1, 4, 5, 12
14	State Royalties, Production & Property Taxes	(\$3.01)	(\$3.41)	Sum of items 14a thru 14d
a	Royalty	(\$1.30)	(\$1.50)	Item 13 less field costs * est. field royalty
b	Severance tax	(\$1.31)	(\$1.51)	Item 13 * 875 * nominal severance * ELF
c	Spill Response & Conservation Taxes	(\$0.05)	(\$0.05)	\$0.04 * 875
d	State & local property tax (production)	(\$0.36)	(\$0.36)	70% of total DOR property tax
15	Production costs	(\$3.49)	(\$3.49)	Sum of items 15a, 15b (4)
a	Lifting Costs	(\$1.19)	(\$1.19)	Derived from trade publication estimates
b	Depletion, Depreciation & Amortization	(\$2.30)	(\$2.30)	Derived from trade publication estimates
16	Net Revenue (production)	\$4.52	\$5.74	Sum of items 13, 14, 15
17	State Income Tax (production)	(\$0.15)	(\$0.15)	From DOR Spr. 92 forecast (p. 38) less items 4c, 5c
18	Federal Income Tax (production)	(\$1.40)	(\$1.79)	Est. 32.1% of items 16 + 17 (5)
19	Industry Profit (production)	\$2.96	\$3.79	Sum of items 16 thru 18
20	Total State Share (production + pipelines)	\$3.42	\$3.82	Sum of items 6, 9, 14, 17
21	Total Federal Share (production + pipelines)	\$2.06	\$2.45	Sum of items 7, 10, 18
22	Total Industry Profit (production + pipelines)	\$4.12	\$4.95	Sum of items 8, 11, 19
23	CY 91 Industry Avg. per-barrel ANS Profit		\$4.77	

CY 1991 Estimated Profits

Fortune 500 Leaders v. North Slope Estimated Profits

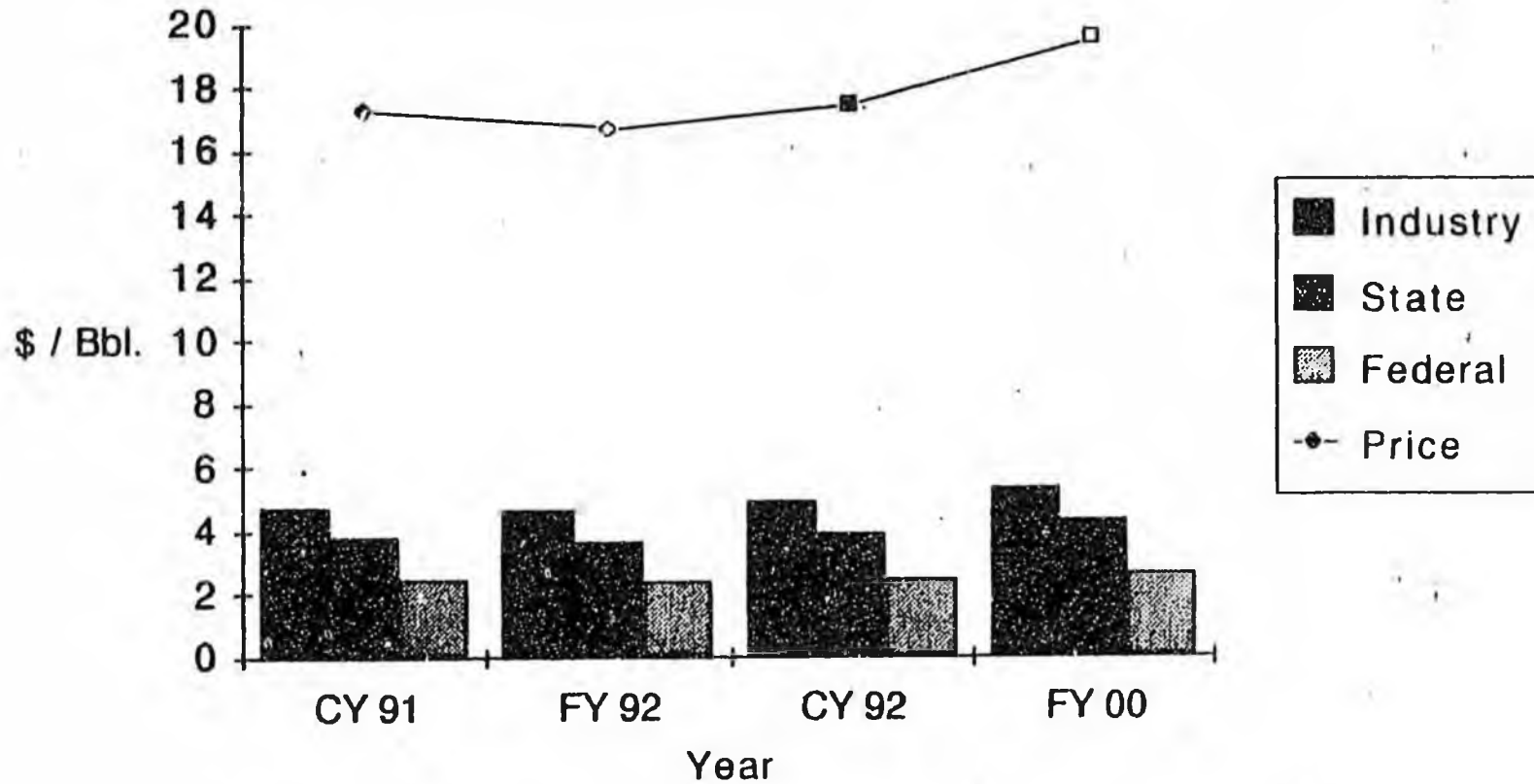


* Principally Exxon, ARCO and BP (BP is not listed in Fortune 500)

Sources: Fortune, April 20, 1992; Table 12-A

Graph 5.

West Coast ANS Prices and Economic Rents
CY 91 - FY 2000 (Selected Years)



CY 1991 (\$17.21 / Bbl.) FY 1992 (\$16.64 / Bbl.) CY 1992 (\$17.42 / Bbl.) FY 2000 (\$19.54 / Bbl.)
(in 1992 \$)

Industry Share	\$4.77 (43.2%)	\$4.67 (43.9%)	\$4.92 (43.9%)	\$5.34 (43.7%)
State Share	\$3.82 (34.6%)	\$3.85 (34.3%)	\$3.85 (34.4%)	\$4.30 (35.2%)
Federal Share	\$2.45 (22.1%)	\$2.31 (21.7%)	\$2.43 (21.7%)	\$2.59 (21.2%)

Source: Tables 12-A, 13-A, 14-A, 15-A

North Slope Profits and Production Prospects

A report by

Richard A. Fineberg

**Research Associates
P.O. Box 278
Talkeetna, Alaska 99676**

November 12, 1992

**Prepared for:
Senate Finance Committee
Alaska State Legislature**

**Project Director:
Senator Jalmar Kerttula, Co-Chair
Senate Finance Committee**



CITIZENS' OVERSIGHT COUNCIL — FAX NO. 907/561-7538 P. 02

Citizens' Oversight Council on Oil and Other Hazardous Substances

3111 C Street, Suite 150 • Anchorage, Alaska 99503
(907) 561-2101 • 561-7538 (FAX)

April 7, 1993

The Honorable Joe Green
Alaska House of Representatives
Alaska State Capitol, Room 114
Juneau, Alaska

Dear Representative Green:

I received today a copy of an April 2 memorandum from the Commissioner of Administration to the Commissioner of Revenue regarding cash flow from the "nickel-per-barrel" conservation surcharge at the end of the first quarter of calendar 1993. The memorandum shows that cumulative expenditures from the Oil and Hazardous Substance Release Response Fund by the end of the quarter exceeded the cumulative cash flow into the Oil Surcharge Account (the "nickel-per-barrel" accounting line in the General Fund).

The information is interesting, but I add a few words of comment and caution about the meaning of this particular piece of math.

If one were to argue, based on this memorandum, that it is a long way to the \$50 million cap, one would be correct. If, however, one were to argue that the memorandum means there is today no money for emergency spill response, one would be incorrect. Here is a shorthand version of why this memo does not reflect the state's actual ability to expend money on emergency spill response.

First, the cash flow from the conservation surcharge *within a given time period* is not necessarily directly related to expenditures during the same time period. Unlike other state programs, under its current financing scheme the OHSRRF usually ends the fiscal year with a surplus, usually because ADEC does not use all of the amount appropriated for emergency spill response every year. Technically, like all state programs, the amount left on June 30 rolls back into the General Fund, but as a practical matter the Legislature rolls whatever is left in the OHSRRF right back into the spill reserve appropriation for the next year. So, in accounting terms, the OHSRRF has a head start on other state programs on July 1; therefore, cash flow from the conservation surcharge from July 1 to June 30 of each year is not necessarily equal to or greater than expenditures during that same period.

In addition, the OHSRRF has had several different sources of funding besides the conservation surcharge: There are settlements collected and placed into the mitigation account within the fund, and there have been direct appropriations of additional General Fund money by the Legislature over

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Gary P. Kompkoff, Tautlek • John H. Lucking, Jr., Unalaska

The Hon. Joe Green

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April 7, 1993

several years. So, there is not an exact, one-to-one relationship between nickels collected from the conservation surcharge and nickels spent from the OHSRRF. The April 2 memo between the commissioners does not reflect that fact.

Next, all the money we're talking about -- the nickel-per-barrel Oil Surcharge Account, the Oil and Hazardous Substance Release Response Fund -- is technically all General Fund money. On any given day, the state spends money from the General Fund for a variety of functions and purposes. As long as each expenditure is within the limits of an authorized GF appropriation (which is really just an authority to spend, not an actual transfer of dollars on July 1 of each year), and as long as the General Fund's *total cash balance* is sufficient to cover all the expenditures on that given day, the checks go out. As a practical matter, the state maintains a healthy amount of cash on hand in the General Fund on a day-to-day basis.

The bill comes due, so to speak, on June 30 of every year, when by law total expenditures from the previous 12 months have to match total income during that time. This memorandum does not reflect whatever payments are due to the state between now and the end of the fiscal year.

The Legislature for the current fiscal year appropriated approximately \$23 million in General Fund money for a spill response reserve. The Legislature made that appropriation, as well as others coded to the OHSRRF, based on two principal factors:

- a) the amount of money left over in the fund from the previous year, and
- b) the amount of money expected to be generated by the nickel-per-barrel surcharge.

Compared the more difficult process of estimating overall state revenue, the nickel-per-barrel projection is not a particularly tricky calculation: The amount generated by the conservation surcharge is a function of pipeline throughput -- the number of barrels that travel down from Prudhoe -- not the volatile price of each barrel. So, while the price of each of the 1.5 million or so barrels per day may fluctuate considerably from March to December, the fund gets its nickel from \$15 oil just as readily as from \$20 oil.

ON July 1, 1992, ADEC was authorized by the Legislature to spend up to \$23.656 million on emergency spill response; the appropriation balance on April 7 was \$23.504 million. Assuming ADEC does not use more than \$23 million for emergency spill response between now and June 30, and assuming the state is not plunged into an extraordinary crisis draining its General Fund,

The Hon. Joe Green

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April 7, 1993

the department has the both the authority *and the cash* to pay for emergency response from the OHSRRF during that time. And assuming there is no substantial or sustained reduction in the current year's pipeline throughput, the OHSRRF's "budget" should balance on June 30, regardless of how expenditures were spaced throughout the year.

I have gone into some detail on this because I feel the "empty issue," as I termed it in my previous letter to you, can be persuasive, especially if one is unfamiliar with the somewhat arcane world of state accounting. There are currently some advertisements on television sponsored by the Alaska Oil and Gas Association that imply the fund can be easily drained and we may wind up in an emergency with no cash to respond. This is not true, as I have explained above.

Although I am confident your understanding of the situation is much more detailed and sophisticated than most, due to your involvement in HB 238, I felt it important to put this somewhat simplified explanation on the committee record.

Thanks for your continuing interest in spill response, its funding and other related issues.

Very truly yours,

A handwritten signature in cursive script, appearing to read 'Ernest Piper', with a horizontal line extending to the right from the end of the signature.

Ernest Piper
Executive Director

MEMORANDUM

W

STATE OF ALASKA
Department of Administration

To: Darrel J. Rexwinkel
Commissioner
Department of Revenue

Date: April 2, 1993

File Ref:

From: Nancy Bear Usara
Commissioner
Department of Administration

Phone: 465-2200

Subject: First Quarter 1993 Report for the Oil Surcharge Account

AS 43.55.230(b) requires that I report to you the difference between the cumulative amount received in the General Fund Oil Surcharge account and the cumulative amount expended from the Oil and Hazardous Substance Release Response Fund (OHSRRF) on a quarterly basis.

AS 43.55.230(c) provides that you suspend imposition and collection of the surcharge when the cumulative revenue of the General Fund Surcharge account equals or exceeds the cumulative amount expended from the OHSRRF by \$50,000,000. For the quarter ended March 31, 1993, the amount expended from the OHSRRF exceeded the revenue of the General Fund Oil Surcharge account by \$12,001,425. The calculation is as follows:

Oil Surcharge Account cumulative revenue	\$100,830,066
Oil and Hazardous Substance Release Response Fund cumulative expenditures	<u>112,831,491</u>
Difference AS 43.55.230 (b)	<u>-\$ 12,001,425</u>

If you have any questions, please call Weldon Blackwell of the Division of Finance at 465-2240.

465-4316

cc: John A. Sander
Commissioner
Department of Environmental Conservation

Don Wanie, Director
Division of Finance
Department of Administration



Citizens' Oversight Council

on Oil and Other Hazardous Substances

3111 C Street, Suite 150 • Anchorage, Alaska 99503

(907)561-2101 • 561-7538 (FAX)

March 31, 1993

The Honorable Joe Green
Alaska House of Representatives
Alaska State Capitol, Room 114
Juneau, Alaska

Dear Representative Green:

As we discussed, I am offering some observations and recommendations concerning the legislation you have sponsored, House Bill 238, which deals with various aspects of the Oil and Hazardous Substance Release Response Fund, and other prevention and response issues.

I am currently the interim executive director for the Citizens' Oversight Council on Oil and Other Hazardous Substances (the executive director is on unpaid leave of absence through May of this year). Obviously, the Council has a direct interest in the outcome of this legislation, since HB238 would eliminate funding for this organization. It is safe to say that the Council members believe in their organization and think it worthy of funding as well. The Council is making its case to the respective Finance committees, and for the purposes of this discussion I will restrict my comments to the larger, more general issues raised by the bill rather than individual funding for a given entity. The chairman of the Council is out of the country on business and the vice-chair is fishing one of his commercial permits in Southeast, so we are unable to assemble the full council (it is, of course, all volunteer) for a formal position vote on this bill. However, I have spoken with the member who deals primarily with oil issues and she has authorized me to offer these comments to you.

Please keep in mind that I am also offering these comments as someone who worked extensively on Exxon Valdez issues at a variety of levels and in a variety of ways: From March 1989 through September 1990, I was a special assistant to Gov. Cowper and either directed or participated in most of the major spill-related policy, political, and technical discussions within the Governor's Office, ADEC, and with local governments. After 1990, I served as state on-scene coordinator and managed the actual state field response for both Commissioner Kelso and Commissioner Sandor.

Clearly, I support the Council and its continued funding by the state. However, I also want to make clear to you and your colleagues that I have no financial interest in the Council's continuation; my job is temporary and was not

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scheduled to extend into the next fiscal year. This is not a case of someone "squealing" about being cut off from funding.

1. General comments

a. This is a very broad piece of legislation. It lumps a wide variety of issues (some of them only marginally related) into a single omnibus proposal. I suggest you separate your concerns and issues in related clusters, and introduce each as a separate bill.

b. Some of the assumptions behind the bill are weak. I have heard proponents of this legislation offer a variety of reasons why legislation such as HB 238 is necessary. It is safe to say that I disagree with most, if not all of them; some are founded on flawed assumptions or misapprehensions of history, while others reflect points of view with which I differ. They include:

b. (i) First response vs. other uses

The Oil and Hazardous Substance Release Response Fund, along with its earlier incarnations, has always been used for response to a variety of pollution incidents. Response includes "emergency first response," but it also includes long-term remediation of known sites and investigation into potentially contaminated sites.

I disagree with the argument that HB 238 somehow returns uses of the fund to its original intent, i.e., a \$50 million reserve fund used only for emergency first response to an oil spill. Neither the history of the fund nor the pollution problems in Alaska justify changing the fund into primarily an "emergency first response" fund, as HB 238 would do.

b. (ii) Accounting of funds

There is no question there were accounting problems during the Exxon Valdez spill. When I became on-scene coordinator in October 1990, one of the department's primary goals was to sort out the paperwork that had accumulated during the "war," and return accounting, personnel, procurement, and other administrative procedures back to normal. We did a pretty good job: At the end of the fiscal year in June 1991, the Exxon Valdez office turned back to the Response Fund nearly \$1 million we had saved by better management.

This was the result of a concentrated effort by the department's leadership and administrative departments (not to mention the fact that things were far less hectic by that time), and demonstrates that ADEC was extremely concerned about management of response funds. Subsequent action by the department officials (audits they initiated themselves, designation of a division-level fund custodian, clear written guidelines for use) backs that up.

There is little to support the contention that money is pouring from a gash in the Response Fund, and going no one knows where. HB 238 would do nothing to improve accounting procedures; it would simply cut off many things for which accounting would be necessary. In terms of both financial management and pollution control, this approach is neither effective nor efficient.

b. (iii) Unauthorized uses of the fund

Every single expenditure from the Response Fund requires a legislative appropriation. ADEC submits a regular budget form, during the regular budget cycle, for every activity or piece of equipment or person the department expects to fund from the Response Fund. The Legislature reviews, approves, disapproves, or modifies those requests in the same way it deals with every other general fund request.

DEC has some discretion about spending money on a given response effort, but even that discretionary authority has definite boundaries. Money spent under that discretionary authority is based on a specific appropriation of funds set aside for the purpose of responding to spills, and use of the fund for response is governed by written guidelines. DEC cannot shuffle Response Funds from emergency response to some other program without specific Legislative approval.

If members of the Legislature disagree with a certain use of the fund, they can eliminate that use by a simple majority vote of each chamber, just like any other appropriation or budget cut. HB 238, as written, would tie the hands of future Legislatures to make their own spending choices based on the will of the elected majority at the time.

b. (iv) The "empty" issue

Several legislators, including you, seem to believe that operating costs paid from the fund have left the fund empty, and that little or no emergency funding would be available should there be a large spill tomorrow. This is not even close to true. At this writing, approximately \$23 million has been appropriated by the Legislature to the spill reserve, where it available right now for a spill response.

b. (v) The intent of the 5-cents-per-barrel conservation surcharge

The conservation surcharge on TAPS oil is paid into the Response Fund. The Response Fund has, since its inception, been used for a variety of response and remediation projects. There was no expectation among Cowper Administration officials, as far as I know, to treat the conservation surcharge any differently than any other nickel in the Response Fund.

British Petroleum's representative, John Ringstad, told the House Resources committee March 24 that the North Slope producers are

willing to pay for their "responsibilities," and implied that other uses of the Response Fund were not the responsibility of the oil industry. I disagree strongly with this position, especially if it is one of the driving forces behind the introduction of this bill. We don't send a checklist of programs around to every business that pays the state's corporate income tax, and allow each to directly designate tax revenue he or she generates to only those programs which with he or she personally agrees.

There is no question that major taxpayers have a legitimate right to express their opinions and to attempt to convince legislators to support those opinions. It is quite another to codify, in statute, the ability of a taxpayer to restrict use of specific tax revenues. This bill legislates oil industry control over state spending for a critical public and environmental safety program.

2. Spill prevention and response issues

a. Prevention programs (Section 12, and at other points)

HB 238 severely limits -- or even eliminates -- ADEC's ability to set up, operate, and administer its prevention program. These are the cornerstone of a coastal protection system. The idea that they can be funded through user fees does not take into account the fact that prevention programs (plan developments, review, and revision) are not specific to a given project or company. Neither, for that matter, are the as-yet undeveloped response corps and depots; the corps and depots are likely to serve areas that see little, if any crude oil shipping traffic (the Aleutians, the inside waters of Southeast).

One of the most clearly demonstrated problems that contributed to the Exxon Valdez disaster was a lack of consistent and aggressive funding by the state for its oil pollution prevention and control program. Traditionally, programs with immediate needs for equipment, maintenance, etc. (village safe water, seafood inspection, and so on) begin, over time, to "crowd out" prevention programs, which generally don't produce some identifiable result. In fact, the result they produce is a non-result, i.e., they avoid spills, which makes them seem less important over time.

The Legislature in 1990 and 1991 specifically addressed this problem by making it clear that prevention programs were eligible for response fund funding. HB 238 would simply reverse a previous action of the Legislature regarding prevention; it would do nothing to make prevention easier or more dependable.

b. Emergency first response (Section 10)

The bill makes emergency first response the primary use -- indeed, almost the sole use -- of the response fund. Emergency first response is the least cost-effective investment one can make in this type of coastal protection scheme. Prevention is more cost-effective by several orders of magnitude. Changing the

purpose of the fund to "emergency first response" is flawed pollution control strategy.

c. Deletion of restoration (Sections 3, 9, 17 and 21)

You have already expressed a willingness to revise or delete the section of this bill that would relieve polluter from the responsibility to restore the environment he damaged. That's good; as written, this section would have given an unscrupulous spiller a golden opportunity to avoid or delay full responsibility for dealing with restoration costs or actions.

d. Changes in definitions (Sections 14, 15, 18 and 19)

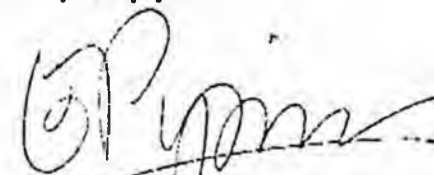
HB 238 narrows at various points the definitions of "release" and "threatened release." These changes add an additional layer of consideration -- and possible delay -- before the commissioner of ADEC can commit response money to the field for the purposes of stopping a spill before it happens. As a matter of public and environmental safety, one would hope that emergency response professionals were given wide latitude to use their best professional judgment, and instructed to err on the side of safety. HB 238's new definitions err on the side of accounting; it provides the bean counters with additional security, but at the expense of the people and resources of the state.

e. Limits to public involvement (Sections 4, 5, 6, 7 and others)

There is no compelling reason to limit public review of contingency planning, nor is there any compelling reason to leave review of, say, the state master plan, entirely to the discretion of the commissioner. This does not make Alaska a safer place. Furthermore, it nearly guarantees that in the event of another major spill, the public will be ignorant of what is supposed to happen and why, which will in turn reduce the public's confidence in the government and the industry, and which will in turn raise the likelihood of irrational and antagonistic reaction from the public.

I think it prudent for the Legislature and the administration to keep a careful eye on the management and accounting of the response fund, and I think it fair to consider the point of view offered by the state's largest and most lucrative industry. However, HB 238, if passed, would do significant damage to virtually every improvement Alaska has made in its prevention and response system since the Exxon Valdez oil spill. I urge you to reconsider your position.

Very truly yours,



Ernest Piper
Executive Director



Regional Citizens' Advisory Council / 601 West Fifth Avenue, Suite 500 / Anchorage, Alaska 99501-2254 / (907) 277-7222 / FAX (907) 277-4521

April 16, 1993

Representative Bill Williams, Chairman
House Resources Committee
Alaska State Legislature
State Capitol
Juneau, Alaska 99811

Dear Representative Williams:

The Regional Citizens' Advisory Council (RCAC) of Prince William Sound is an independent non-profit organization formed in 1989 after the *Exxon Valdez* oil spill. Under its contract with Alyeska Pipeline Service Company, RCAC receives annual funding and provides advice to Alyeska. The Oil Pollution Act of 1990 (OPA 90) established two pilot programs in Alaska for citizen oversight of oil terminal and tanker operations. The RCAC is certified as the program designated for Prince William Sound.

The RCAC membership consists of 18 communities and groups (such as fishing, tourism, and aquaculture organizations) affected by the *Exxon Valdez* oil spill. Through its membership, RCAC provides a voice for communities and citizens on oil industry decisions that may affect them. Even before OPA 90 was passed, the state of Alaska recognized the importance of citizen oversight of marine oil transportation and supported the formation of citizen advisory councils. Since then, the state of Alaska has recognized the important role that RCAC can play in improving spill prevention and response preparedness and codified RCAC involvement in contingency plan review through House Bill 567 regulations.

On behalf of its member communities, I am writing to express our concerns regarding House Bill 238, an act amending the oil and hazardous substance release response fund. Before providing our comments on why the bill is not needed and will not work, I would like to provide some background information on the "470 Fund" and oil spill legislation.

History and Purpose of the Oil and Hazardous Substance Release Response Fund (OHSRRF)

The Alaska State Legislature enacted House Bill 470 in 1986 (Chapter 59, SLA 1986). This legislation repealed the pre-existing "oil spill mitigation account" and

created the OHSRRF. The main purpose of the legislation was to provide a readily available source of funding for:

- 1) the clean up of contaminated hazardous waste sites; and
- 2) prompt response to oil and hazardous substance spills.

As enacted in 1986, the response fund is administered by the Commissioner of DEC, but **all funds are appropriated by the Legislature**. House Bill 470 identified several sources of potential revenue for the response fund including:

- federal and state revenues;
- moneys recovered by the state from the responsible parties to cover the State's costs in the cleanup of hazardous substances releases; and
- fines, penalties, or damage awards.

Under the terms of HB 470, moneys recovered by the state from responsible parties or as a result of fines, penalties or damage awards were to be deposited in the state general fund, accounted for separately, and credited to the newly created "Oil and Hazardous Substance Release Mitigation Account." Once in the Mitigation Account, these funds would be available to the OHSRRF.

Under the terms of the original law, and consistent with the Alaska constitutional prohibition against dedicated funds, it was left to the legislature to determine the appropriate funding levels on an annual basis. Appropriations could be made from the general fund, the Oil and Hazardous Substance Mitigation Account or other sources, as needed, to the OHSRRF. While recognizing that the Alaska Constitution does not allow for dedication of funds or the binding of future legislatures to specific appropriations, HB 470 expressly included a statement of legislative intent in AS 46.08.030, which states, "It is the intent of the legislature and declared to be public policy of the State that funds for the abatement of a release of oil or a hazardous substance will always be available."

Changes to the Oil and Hazardous Substance Release Response Fund

Between 1989 and 1992, the legislature enacted numerous changes to the OHSRRF statute. Following the *Exxon Valdez* oil spill, the Alaska Legislature enacted a

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number of "spill bills" in 1989. Two of these bills---Senate Bills 261 and 264---included substantial amendments to the purposes and uses of the OHSRRF. SB 261 (Chp 90, SLA 1989) directed DEC to prepare, review, and revise state and regional contingency plans and authorized the use of the fund for environmental restoration. SB 264 (Chp 113, SLA 1989) created the Oil and Hazardous Substance Response Office and the Response Corps and Depots.

In addition to SB 261 and 264, passage of SB 260 and 256 also made changes to the OHSRRF. SB 260 (Chp 112, SLA 1989) established a nickel-per-barrel "conservation surcharge" on every barrel of oil produced that is subject to the state oil severance tax. The surcharge was enacted to provide an adequate and permanent funding source for the OHSRRF. The nickel-per-barrel surcharge was intended to provide a recurring annual revenue source that would enable the legislature to capitalize the OHSRRF in an amount up to \$50 million. Under the terms of SB 260, the surcharge remains in effect until the OHSRRF balance reaches \$50 million. Once the balance reaches this level, the tax is to be suspended. If the OHSRRF balance falls below \$50 million, the conservation surcharge is restored. Revenues from the surcharge accrue in the state general fund and are available for appropriations to the OHSRRF.

The finding and purpose in SB 260 stated the "need for the state to have an independent spill containment and cleanup capability in the event of future discharges of oil or a hazardous substance." *While SB 260 clearly increased and developed a source for revenues available to the OHSRRF, it in no way altered the purposes of the fund or limited its uses to crude oil spill prevention and response.*

Oil Spill Legislation

Historically, enactment of the nation's major oil spill legislation has come at the heels of major catastrophic spills because these events have captured the public's, and, thus, the attention of elected officials (Table 1). These disasters focused attention on the need for additional safeguards to prevent recurrence of spills. For example, Alaska's *Exxon Valdez* oil spill prompted passage of numerous pieces of legislation in Alaska as well as the federal Oil Pollution Act of 1990.

While these major spills have prompted legislation and clearly impacted the economy and environment, according to EPA data the vast majority of oil spills (92.4 percent) are equal to or less than 1,000 gallons (Figure 1). An additional 6.3

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Page 4

percent are 1,000 to 10,000 gallons; only 1.3 percent of spills are greater than 10,000 gallon. These smaller spills are the source of chronic and cumulative impacts on the public health and environment. The proposed work draft CS for HB 238 defines a catastrophic discharge "in excess of 100,000 barrels," or approximately 4.2 million gallons (approximately half the size of the *Exxon Valdez* spill), these spills are significantly less than 1 percent of all spills.

In keeping with major oil spill events prompting enactment of prevention and response legislation, the OPA 90 created a \$1 billion fund for the emergency funding of response to catastrophic spills (Section 9001). Access to this \$1 billion fund is limited to catastrophic events. Therefore, focusing the use of Alaska's response fund on catastrophic events is not only redundant but it leaves no source of funds for the cleanup of the far more likely spills. In addition, Alaska has invested considerable funds and effort to ensure that another catastrophic spill does not occur. Therefore, providing adequate response funds for only these (hopefully) unlikely events is irresponsible.

HB 238 - Why it is Not Needed

The legislature controls the use of the response fund through the appropriation process; the legislature also defined the purposes and uses of the fund. The level of funding for each of the specified purposes is determined each year through the budget process. In essence, the proposed CS for HB 238 puts a fence around a portion of state revenues, prohibiting their use except for the dedicated purpose of response to catastrophic oil spills--over 4.2 million gallons. Given that the spill reserve is expected to reach \$50 in FY 96 without HB 238, little if anything is gained by the bill while the public's exposure to oil and hazardous spill impacts increases dramatically.

The proposed CS for HB 238 rewrites the legislative finding and declaration that "release of oil and hazardous substance into the environment presents a real and substantial threat to the public health and welfare, to the environment, and to the economy of the state." Now, only catastrophic spills over 4.2 million gallons pose these threats (section 19).

HB 238 - Why it will Not Work

When introduced, the primary argument voiced by HB 238 proponents was that expenditures from the 470 Fund must be curtailed so an adequate spill reserve would exist for spill cleanup. Unfortunately, the impetus for this concern was an erroneous understanding of the size of the current spill reserve. While proponents of HB 238 have argued that the spill reserve is effectively empty, this is not the case---in fact, there is at least \$23 million available, not the \$100,000 suggested.

Under the proposed CS for HB 238, revenue from the conservation surcharge would be divided into two accounts---the so called "catastrophic account" would get 3 cents and the so called "release prevention and response account" would get 2 cents. Because the \$50 million cap will soon be reached, the 3 cent portion of the surcharge would be suspended.

The 2 cent portion of the surcharge would continue to be paid but it would be insufficient to fund the core prevention programs let alone provide a spill reserve for all oil and hazardous substance spill less than 4.2 million gallons (Table 2). Alaska would return to the days before the *Exxon Valdez* spill. **Under the proposed CS for HB 238, Alaska would have a relatively inaccessible catastrophic oil spill reserve---even in the event of a catastrophic spill, funds in catastrophic spill account could only be accessed for "emergency first response" (section 19).**

For oil spills in excess of 4.2 million gallons, the "catastrophic oil spill reserve" is redundant with the federal \$1 billion fund. *While Alaska would have a redundant spill reserve, it would be under funding its spill prevention and response programs and have no spill reserve for the more likely oil and hazardous substance spill under 4.2 million gallons. Accordingly, the proposed CS fails to meet the most fundamental objective voiced by its proponents : Making sure we have money to respond in a timely manner.*

This proposal limits the response capability of DEC to initial response, even to catastrophic spills. This change in the use of the fund undermines the state's ability to fully and effectively respond to spills. **Does this mean that for phantom spills or spills with an insolvent responsible party that the state would have to walk away after its "initial response?"** The proposal also restricts the state's use of either account for restoration.

April 16, 1993

Page 6

In conclusion, this bill is a giant step backwards for Alaska, undermining our ability to prevent and respond to spills and protect the public health and welfare and the environment. In addition, it reinforces the question of whether Alaska is truly committed to the stewardship of its environment. We urge you not to pass this legislation.

If you have questions or would like additional information, please do not hesitate to contact RCAC.

Sincerely,



Sheila Gottehrer

Executive Director, Prince William Sound Regional Citizens' Advisory Council

Distribution:

House Resources Committee Members

Gary Bader, Citizens' Group Liaison Manager, APSC

RCAC Directors

RCAC Community Legislators:

Senators Lincoln, Little, Zharoff, and Salo

Representatives Olberg, Phillips, Davidson, G. Davis, and Navarre

Governor Hickel

Commissioner Sandor, DEC



Prince of Wales Chamber of Commerce

P.O. Box 497
Craig, Alaska 99921
907-826-3870

March 24, 1993

To: Rep. Bill Williams,
Chairman, House Resources Committee

From: Prince of Wales Chamber of Commerce

Subject: HB 238

The POW Chamber of Commerce strongly urges you to vote against this bill.

The Legislature voted last year to appropriate \$7.5 from the FY 1993 Oil and Hazardous Substance Release Response Fund towards the construction of a new vessel that would be designed to aid in spill cleanups while helping to resolve the transportation problems of the Marine Highway system. The legislation allowed for a similar amount to come from the FY 1994 Fund.

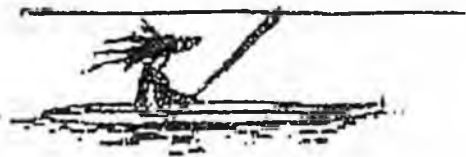
It is critical that this commitment be honored. As you know, the economy of Prince of Wales has been severely impacted by the reduced service of the Marine Highway. All of Southeast and the other areas served by AMHS has felt the impact, as well. Since we do not enjoy the convenience of a hard link highways, as does mainland Alaska, we must depend on the Marine Highway. The new vessel is necessary to meet this need.

Again we strongly urge you to work against passage of this bill.

Sincerely,

PRINCE OF WALES CHAMBER OF COMMERCE

Please distribute this letter to all other Coastal legislators served by AMHS.

**False Pass Tribal Council**

P.O. Box 29
False Pass, Alaska 99583
(907) 548-2227
FAX 548-2214

March 23, 1993

Rep. Bill Williams, Chairman
NANA Resources Committee
Juneau, AK

Dear Rep. Williams:

I am writing on behalf the people of False Pass, in regard to HB238 that would significantly restrict the expenditures from the Oil and Hazardous Substance Release Response Fund.

I am concerned with the one major element of the proposed legislation that would repeal the authority in law by which Alaska Marine Highway system vessels may be designed and constructed to aid in oil and hazardous substance spill clean up using money in the Response Fund.

The new Alaska Marine Highway System vessel, currently under design and scheduled for construction, has been partially financed from this Response Fund. With the \$7.5 million that was appropriated from the fund last year and with an additional \$7.5 million that was supposed to be appropriated from the fund this session for FY94.

When you consider all the time and money that already went to the planning of this vessel. And the consideration for the much needed services it would provide. We feel that the commitment to fund the Alaska Marine Highway System new vessel last year with the first of two \$7.5 million appropriations from the fund, especially when the project is already underway, that this commitment should be honored. And not to have the law changed in mid stream of all the planning and effort to provide a vessel that would serve the much needed service to the people of Alaska.

Sincerely,

Gilda M. Shellikoff
Gilda M. Shellikoff
President

Testimony against HB 283
(House resources -- 3/24/93)

The House Resources Committee called a teleconference meeting to discuss this bill at 8:00 am on the anniversary of the Exxon Valdez oil spill. A lot of people all across the state got up early and skipped work to testify against it. The committee spent two hours hearing from DEC, the Department of Law, and the representative from British Petroleum. The meeting was closed without hearing one citizen. This is what I was thinking of saying.

It's been four years since the Exxon Valdez ran into Bligh Reef for no good reason. I remember the weeks and months that followed very well.

I remember the Bidarka/Best Western motel parking lot crowded with worried people hoping to learn something -- wanting to do something -- about the approaching oil.

I remember men and women quietly weeping as they sat trying to make sense of endless rounds of MACC meetings.

I remember the strangers and the rumors flooding into the community.

I remember the boasts and promises from Exxon and Alyeska representatives to clean up every drop of spilled oil.

I remember state and federal agency people so exhausted that they were giddy or sick.

I remember piles of carcasses reeking of oil and death prior to refrigeration.

Most of all I remember the eyes of English Bay and Port Graham villagers -- dark, honest eyes full of grief, fear, and despair.

Do you remember?

After reviewing House Bill 238 it is hard to believe that anyone who supports it remembers. This bill would gut legislation passed to help assure that memories like mine won't have to be relived. Passage of this bill would make money from the state's "470 response fund" unavailable for most spill prevention and all restoration work. It would prevent villages, municipalities, or the state from obtaining money from the fund to reimburse their expenditures for impact assessment, containment, and cleanup, ~~spills~~. Department of Environmental Conservation programs would be reduced to less than pre-spill levels -- and spillers would be relieved of responsibility for restoring what they spoil.

Maybe supporters of HB 238 just don't remember. Maybe they just don't care.

Defeat HB 238 and do what you can to prevent other reductions in Department of Environmental Conservation and other agencies' programs involving spill prevention, response, and restoration. Then voters like me will have something good to remember next time at the poles.

MICHAEL S. O'MEARA
P O. BOX 1125
HOMER, ALASKA 99603

**KODIAK LONGLINE
VESSEL OWNERS' ASSOCIATION**



326 CENTER AVENUE, P.O. BOX 135
KODIAK, ALASKA 99615
(907) 486-3781 FAX (907) 486-2470

HALIBUT • SABLEFISH • PACIFIC COD • CRAB

April 6, 1993

Representative Williams, Chairman
House Resources Committee

Subject: House Bill 238.

Dear Representative Williams,

House Bill 238, Amending the Oil and Hazardous Substance Release Response Fund is not in our best interest, and would negatively affect our coastal communities.

Coastal communities in Alaska are economically dependent on the resources from the waters we are blessed to live by, and we feel that House Bill 238 would jeopardize not only the livelihood of Coastal Alaskans, but a quality of life if there is another oil spill, and we are not prepared to respond as was the case in the Exxon Valdez oil spill.

House Bill 238 limits the funds available which would significantly reduce the ability to assess impacts and respond to a release of oil.

Sincerely,

Robert Wurm
Robert Wurm
President

TESTIMONY OF THE
 ALASKA OIL AND GAS ASSOCIATION
 BEFORE THE
 ALASKA STATE HOUSE OF REPRESENTATIVES
 RESOURCES COMMITTEE
 ON
 HOUSE BILL 238
 OIL/HAZARDOUS SUBSTANCE RELEASE RESPONSE FUND
 APRIL 17, 1993

Good Morning. I am William W. Hopkins, Executive Director of the Alaska Oil and Gas Association (AOGA). AOGA is a trade association whose member companies conduct the majority of oil and gas exploration, production and transportation in Alaska.

We appreciate the opportunity to testify to the House Resources Committee on House Bill 238 today.

As I testified at the House and Senate Economic Task Force Mini-Summit March 13, our industry considers tax stability an important element for an economic climate to encourage industry investment in Alaska projects. We also identified as a particular industry concern appropriations from the 470 Fund which do not serve the purpose for which the Legislature imposed a nickel per barrel tax on oil production in 1989.

AOGA Testimony
HB 238
April 17, 1993
Page 2

After the Valdez oil spill, the Legislature levied this nickel per barrel surcharge for the purpose of accumulating 50 million dollars in a fund for emergency oil spill containment and cleanup. The original intent of the nickel per barrel tax was that it be used for emergencies only. Three years later, more than 90 million dollars in new taxes has been collected from the oil industry for the Fund.

Most of that money has been spent. Over the past three years, the Legislature took money from the Fund for things like cleaning up campgrounds and privately-owned greenhouses, and buying ferries. These may be important concerns, but they are not oil spill emergencies.

The misuses of the 470 Fund need to be stopped so the Fund is allowed to accumulate and the State will have the independent oil spill emergency fund intended in 1989.

Thank you.



Resource Development Council

for Alaska, Inc.

121 West Fireweed Lane, Suite 250, Anchorage, Alaska 99503-2035
Phone 907/276-0700 Fax 276-3887

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Testimony of the Resource Development Council for Alaska, Inc. before the Alaska State House Resources Committee on House Bill 238

April 17, 1993

My name is Carl Portman, Communications Director of the Resource Development Council. RDC is a private, economic development organization whose members include large and small businesses, local communities, native corporations and individuals.

RDC believes HB 238 offers an important opportunity to accomplish necessary reforms in the 470 Fund. It is imperative that the fund be allowed to accumulate to its \$50 million target level. Alaska will then have an independent oil spill emergency fund as intended in 1989.

The original intent of the fund was to accumulate \$50 million to provide the state with "an independent spill containment and cleanup capability in the event of future discharges of oil or a hazardous substance."

The state, however, has been draining the fund to pay for a wide range of projects that are not directly related to oil spill emergencies. Money from the fund is going out faster than it's coming in, and the fund is nowhere near the intended \$50 million target, despite the fact that industry has paid more than \$100 million into it. Basically, fees assessed under the fund have evolved into a

Page 2/RDC testimony on 470 Fund

permanent tax hike for the oil industry to support expenditures not directly related to oil spill response.

RDC believes the fund should be used only in true emergencies and that it should not be used as a funding mechanism for citizen oversight councils. We believe such expenditures are a needless drain on the fund. If the functions of these organizations are deemed appropriate by the legislature, then perhaps they should be paid for with General Fund dollars.

The 470 Fund is broken and it needs to be fixed now. Time is of the essence, and by allowing the fund to grow, the state will be in a better position to respond to a real emergency.

RDC appreciates the opportunity to testify before the House Resources Committee. Thank you.

March 28, 1993

Representative Bill Williams, Chairman
House Resources Committee
State Capitol
Juneau, AK 99801

Regarding : HB 238

Dear Representative Williams;

I was present at the Kodiak Legislative Information Office on Wednesday March 24 for the teleconference hearing when your committee discussed HB 238. I was the Mayor of the City of Kodiak for 4 years which included the period of the EXXON VALDEZ oil spill. I was also chairman of the group of spill effected communities know as the " Oiled Mayors". Consequently I am very familiar with the legislation enacted during this time and am very concerned at how thoroughly HB 238 attempts to undo this work.

I must say I was quite appalled at sponsor Green's opening remarks during your committee hearing. I believe it showed a complete lack of understanding of the situation that existed during the EXXON VALDEZ spill and the difficulties that the spill affected communities were faced with during such a crisis. Mr. Green's references to feeding at troughs and bureaucratic bumbling and warnings of dire consequences should another spill occur if HB 238 were not enacted were not only ill conceived but offensive. Mr. Green is obviously representing a constituency of multinational petroleum companies rather than the working men and women of Alaska who stand most to loose if this legislation is passed.

I heartily concur with the response by Representative Finkelstein's to Mr. Green's remarks at the teleconference.

As anyone who was involved in the legislative process during EXXON VALDEZ will remember there were sound and specific reasons for adopting the legislation that HB 238 now targets for extinction. Since there are over 20 sections of the bill I will not address each and every one but I will mention some of what I consider the most odious points.

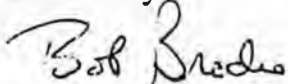
- # Removes some of the state programs of municipal assistance for certain oil and hazardous substance cleanup activities.
- # Eliminates the participation of the public and other agencies in the annual review of the state master plan.
- # Eliminates authority for DEC to require restoration of damaged resources.
- # Severely restricts application of 470 funds to deal with on going and threatened spills of oil or other hazardous materials.

Most of the points that this bill targets were established in legislation that worked its way through the legislative process over the course of 2+ years. Industry, the legislature, the public and the Oiled Mayors all worked to an effective compromise when these items were passed by the legislature. The end goal being to plan for the future and protect the people of Alaska and the environment in the event of another hazardous spill.

The ultimate goal of HB 238 seems to be to severely restrict DEC's ability to deal with hazardous spill situations in the state and to manipulate the calculations of the 470 fund to get the nickel a barrel tax suspended. I have already seen TV ads sponsored by the Alaska Oil and Gas Association criticizing the use of the 470 fund and questioning its future.

In conclusion I would urge you to ignore this particularly ill conceived bill and place some more relevant legislation on your committee's agenda. I see no point in referring it to a subcommittee as it is not salvageable. Please find a tall stack of bills and place this one on the bottom for a long, long time.

Sincerely,



Bob Brodie
PO Box 296
Kodiak, AK 99615

Box 1185
Cordova, AK 99574
March 24, 1993

HOUSERESOURCESCOMMITTEE
State Capitol
Juneau, AK 99801

Dear Members of the House Resources Committee,

I find it difficult to believe that exactly four years after the day that forever changed my life and the lives of every other resident of Prince William Sound, I am having to defend processes designed to prevent and cleanup oil and hazardous substance releases.

Particularly troubling to me is the short notice given for this opportunity for public comment and the proposed amendments in section 5 of HB 238 which delete explicit requirements for public, legislative, and agency review and comment on the state master plan annual review. It is incomprehensible to me that such amendments would be introduced in our country which prides itself on government of, by, and for the People.

As a commercial fisherman in Prince William Sound, my livelihood -as do all others, ultimately- depends on a healthy and clean environment. I question the intent of removing the reference in section 10 to the threat presented to "the economy of the state" by the release of oil or hazardous substances into the environment.

Oil and hazardous substance releases do impact Alaska's economy. The environmental damage to fisheries resources by the EXXON Valdez oil spill directly impacted the fishing industry. Damages to salmon and herring stocks and to subsistence and tourism resources may impact the short and long term economic viability of Prince William Sound. The existing wording in the act reflects economic realities. The proposed change in HB 238 does not.

My perspective on the proposed deletions referring to environmental restoration could be more easily understood if the deletions read "restoration of my livelihood." While the only sensible goal is the prevention of oil and hazardous substance releases, environmental restoration is the only sensible response once a spill has occurred.

I would caution that the search for semantic nuances in section 3 of HB 238 in all likelihood will lead to future difficulties in the interpretation of the provisions of the bill. Compensation to the state for restoration of the environment "to its former state" implies a baseline of environmental quality that must be achieved.

Merely requiring restoration to "a condition as near to the original condition as feasible" will open the state to endless rounds of procedural and legal squabbles. Does "feasible" mean economically feasible? Technologically feasible? Biologically feasible? Sociologically feasible? I have not even tried to define the word "near".

If certain projects attempted with 470 funds may not comfortably fall in a category the oil industry can be expected to pay for, I would suggest that the legislature look carefully at what other future state general funds might be available to the Department of Environmental Conservation to administer the ongoing cleanup of oil and hazardous substance releases. One place that you might look is the savings in state highway maintenance by not building the Copper River Highway or the tunnel to Siberia.

In closing I urge you to carefully consider the implications of the proposed modifications to the 470 fund. I also ask that you solicit additional public comment and not proceed hastily.

Thank you for the opportunity to testify.

A handwritten signature in cursive script that reads "Karl Becker". The signature is written in dark ink and is followed by a horizontal line.

Karl Becker

cc. Senator Georgianna Lincoln
Representative Harley Olberg

Nancy Lord
P. O. Box 558
Homer, Alaska 99603

(907) 235-8252 phone
(907) 235-8253 fax

April 15, 1993

Representative Bill Williams
Chair, House Resources Committee
Box V
Juneau, AK 99801

Dear Representative Williams:

RE: HB 238. Oil and Hazardous Substance Release Response Fund

I am unable to attend the committee teleconference on Saturday and am faxing this letter instead. I would appreciate it if you would include it in committee packets as part of the public record.

I have reviewed both the original bill and the draft CS. I believe very strongly that this is an ill-advised bill, even in its proposed CS form, and I urge the committee to reject it.

This bill was not developed in response to problems with the 470 fund; it was delivered by oil industry representatives whose aim is to reduce their financial burden. As a citizen from an area affected by the Exxon Valdez oil spill, and a commercial fisherperson, I deeply resent efforts by some to misrepresent the purposes of the fund, the intent of the legislature in 1989, and the record of DEC in spending funds on preparedness and prevention.

I do not think it's unreasonable to demand that the oil industry help pay to prevent damage from its activities. It is certainly irresponsible to eliminate programs for prevention and preparedness and to act as though the only important thing is setting aside money to respond to the next big spill. If we learned anything from the Exxon Valdez spill, it should have been the need to prevent additional spills. It is precisely because prevention programs appear less urgent and have a harder time than emergencies competing for attention that the 1989 legislature provided the 470 mechanism for their funding.

While it may in fact make some sense to have two separate funds--one for response to a major spill and one to cover costs associated with preventing spills--the divided nickel in the draft bill is clearly too little to accomplish what needs to be done. Here in Cook Inlet, where new oil finds have recently been

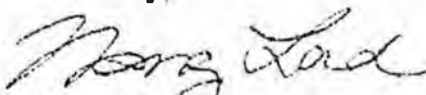
Lord -- HB 238 -- 4/15/93

announced, we are very much at risk. This bill would cut us off before we even have response corps and depots in place and would reverse the progress that's begun. (In addition to the threat of new spills, the Kenai Peninsula is still covered with old pits full of hazardous oil wastes; these must be cleaned up to protect public health and water supplies. Again, it is not unreasonable for the oil industry to be taxed for this purpose.)

I respectfully suggest to you and the committee that you do not move the bill but instead take on the 470 fund as an interim project--or set up a working group to do the same. Clearly, the responsible thing to do is not to try to make a bad bill somewhat better but to start from scratch. Work with the Citizens' Oversight Council (adequately funded, please) and the two Regional Citizens Advisory Councils and others with a good working knowledge of oil issues and the 470 fund. Identify what needs to be done to most responsibly and fairly protect Alaska and Alaskans. Then, if legislation is needed, write a committee bill.

Don't embarrass Alaska by falling victim to oil industry pressure and propaganda. Worse than that, don't return Alaskans to unacceptable risks from oil spills and other hazardous substances. Reject HB 238.

Sincerely,



Nancy Lord

cc: Senator Suzanne Little
Representative Gail Phillips
Representative Mike Navarre
Representative Kay Brown



R C A C

"The mission of the Council is to ensure the safe operation of the oil terminals, tankers, and facilities in Cook Inlet so that environmental impacts associated with the oil industry are minimized."

March 24, 1993

The Honorable William Williams
Alaska House of Representatives
State Capital Building Room 128
Juneau, Alaska 99801-1182

Re: HB 238, Amending the Oil and Hazardous Substance Release Response Fund

Dear Representative Williams:

Cook Inlet Regional Citizens' Advisory Council (Cook Inlet RCAC), formed pursuant to Section 5002 of the Oil Pollution Act of 1990, has been contacted by numerous citizens expressing concern about the implications and ramifications associated with House Bill 238.

Cook Inlet RCAC is supportive of the efforts to review the status of the Oil and Hazardous Substance Release Response Fund, aka "470 Fund". A review of the appropriations and expenditures made from the "470 Fund" indicate limited progress has been made in fulfilling the purposes. Projects which should have been funded and operational remain in limbo. While other projects are either inappropriate or limited in use to only catastrophic events.

During this review of the "470 Fund", Cook Inlet RCAC would recommend the Alaska State Legislature keep in mind the responsibilities of the State of Alaska to protect the lands and water of the State. Through the "470 Fund" and other recently enacted legislation, the Department of Environmental Conservation has been given the responsibility to: review and certify contingency plans; review spill response equipment and inventories; participate in spills and spill drills; establish response depots; develop a corps of response personnel; and develop and implement a nearshore response plan. While this list is not exclusive, it is meant to highlight some of the more vital areas which are suppose to be funded through the "470 Fund".

If the Alaska Legislature eliminates the use for the specific activities identified in the HB238, Cook Inlet RCAC would strongly recommend the Alaska Legislature appropriate sufficient general fund dollars to the Department of Environmental Conservation to adequately review and certify contingency plans, review spill response equipment, register response action contractors, participate in spill drill exercises, respond to identified and unidentified spills, establish response depots, develop a response corps. and implement a nearshore response plan. In order to

Cook Inlet Regional Citizens Advisory Council

11355 Frontage Rd. • Suite 228 • Kenai, Alaska 99611 • (907) 283-7222 • FAX (907) 283-6102

The Honorable William Williams
March 23, 1993
Page Two

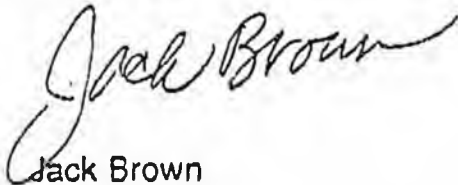
perform the duties and responsibilities as delineated in Alaska Statute, the Department of Environmental Conservation must have the resources to implement the laws.

Cook Inlet RCAC has seen an increase in oil related activity in Cook Inlet over the past year and all indications are that this activity will only increase. The oil companies have been working closely with the State of Alaska to ensure that the proper permits and plans have been submitted and reviewed in a timely manner so as to not unnecessarily impede development. In order for this cooperative effort to continue the State regulatory agencies cannot be stripped of the funds which have allowed these efforts to continue.

Cook Inlet RCAC would recommend serious consideration be given to the overall implications of this proposed legislation. It is much more than reaching the \$50.0 million cap for the "470 Fund". The legislation can also affect the State's ability to control its own destiny.

To provide you with additional information on Cook Inlet RCAC and its activities enclosed please find a copy of the 1992 Annual Report. Cook Inlet RCAC would be willing to meet with the committee to discuss our experience with the application of the "470 Fund" in Cook Inlet. Should you have any questions or require additional information on this or any other issue please feel free to contact me or Lisa Parker, Executive Director at 283-7222.

Sincerely,



Jack Brown
President

Enclosure a/s

JB/LMP/rd

COPY



Citizens' Oversight Council
on Oil and Other Hazardous Substances

3111 C Street, Suite 150 • Anchorage, Alaska 99503
(907)561-2101 • 561-7538 (FAX)

March 31, 1993

The Honorable Joe Green
Alaska House of Representatives
Alaska State Capitol, Room 114
Juneau, Alaska

Dear Representative Green:

As we discussed, I am offering some observations and recommendations concerning the legislation you have sponsored, House Bill 238, which deals with various aspects of the Oil and Hazardous Substance Release Response Fund, and other prevention and response issues.

I am currently the interim executive director for the Citizens' Oversight Council on Oil and Other Hazardous Substances (the executive director is on unpaid leave of absence through May of this year). Obviously, the Council has a direct interest in the outcome of this legislation, since HB238 would eliminate funding for this organization. It is safe to say that the Council members believe in their organization and think it worthy of funding as well. The Council is making its case to the respective Finance committees, and for the purposes of this discussion I will restrict my comments to the larger, more general issues raised by the bill rather than individual funding for a given entity. The chairman of the Council is out of the country on business and the vice-chair is fishing one of his commercial permits in Southeast, so we are unable to assemble the full council (it is, of course, all volunteer) for a formal position vote on this bill. However, I have spoken with the member who deals primarily with oil issues and she has authorized me to offer these comments to you.

Please keep in mind that I am also offering these comments as someone who worked extensively on Exxon Valdez issues at a variety of levels and in a variety of ways: From March 1989 through September 1990, I was a special assistant to Gov. Cowper and either directed or participated in most of the major spill-related policy, political, and technical discussions within the Governor's Office, ADEC, and with local governments. After 1990, I served as state on-scene coordinator and managed the actual state field response for both Commissioner Kelso and Commissioner Sandor.

Clearly, I support the Council and its continued funding by the state. However, I also want to make clear to you and your colleagues that I have no financial interest in the Council's continuation; my job is temporary and was not

Council Members

Harry R. Bader, Fairbanks • Leo J. Hannan, Anchorage • Kathryn L. Kinnear, Kodiak
Gary P. Kompkoff, Tatitlek • John H. Lucking, Jr., Unalaska

COPY

scheduled to extend into the next fiscal year. This is not a case of someone "squealing" about being cut off from funding.

1. General comments

a. This is a very broad piece of legislation. It lumps a wide variety of issues (some of them only marginally related) into a single omnibus proposal. I suggest you separate your concerns and issues in related clusters, and introduce each as a separate bill.

b. Some of the assumptions behind the bill are weak. I have heard proponents of this legislation offer a variety of reasons why legislation such as HB 238 is necessary. It is safe to say that I disagree with most, if not all of them; some are founded on flawed assumptions or misapprehensions of history, while others reflect points of view with which I differ. They include:

b. (i) First response vs. other uses

The Oil and Hazardous Substance Release Response Fund, along with its earlier incarnations, has always been used for response to a variety of pollution incidents. Response includes "emergency first response," but it also includes long-term remediation of known sites and investigation into potentially contaminated sites.

I disagree with the argument that HB 238 somehow returns uses of the fund to its original intent, i.e., a \$50 million reserve fund used only for emergency first response to an oil spill. Neither the history of the fund nor the pollution problems in Alaska justify changing the fund into primarily an "emergency first response" fund, as HB 238 would do.

b. (ii) Accounting of funds

There is no question there were accounting problems during the Exxon Valdez spill. When I became on-scene coordinator in October 1990, one of the department's primary goals was to sort out the paperwork that had accumulated during the "war," and return accounting, personnel, procurement, and other administrative procedures back to normal. We did a pretty good job: At the end of the fiscal year in June 1991, the Exxon Valdez office turned back to the Response Fund nearly \$1 million we had saved by better management.

This was the result of a concentrated effort by the department's leadership and administrative departments (not to mention the fact that things were far less hectic by that time), and demonstrates that ADEC was extremely concerned about management of response funds. Subsequent action by the department officials (audits they initiated themselves, designation of a division-level fund custodian, clear written guidelines for use) backs that up.

COPY

There is little to support the contention that money is pouring from a gash in the Response Fund, and going no one knows where. HB 238 would do nothing to improve accounting procedures; it would simply cut off many things for which accounting would be necessary. In terms of both financial management and pollution control, this approach is neither effective nor efficient.

b. (iii) Unauthorized uses of the fund

Every single expenditure from the Response Fund requires a legislative appropriation. ADEC submits a regular budget form, during the regular budget cycle, for every activity or piece of equipment or person the department expects to fund from the Response Fund. The Legislature reviews, approves, disapproves, or modifies those requests in the same way it deals with every other general fund request.

DEC has some discretion about spending money on a given response effort, but even that discretionary authority has definite boundaries. Money spent under that discretionary authority is based on a specific appropriation of funds set aside for the purpose of responding to spills, and use of the fund for response is governed by written guidelines. DEC cannot shuffle Response Funds from emergency response to some other program without specific Legislative approval.

If members of the Legislature disagree with a certain use of the fund, they can eliminate that use by a simple majority vote of each chamber, just like any other appropriation or budget cut. HB 238, as written, would tie the hands of future Legislatures to make their own spending choices based on the will of the elected majority at the time.

b. (iv) The "empty" issue

Several legislators, including you, seem to believe that operating costs paid from the fund have left the fund empty, and that little or no emergency funding would be available should there be a large spill tomorrow. This is not even close to true. At this writing, approximately \$23 million has been appropriated by the Legislature to the spill reserve, where it available right now for a spill response.

b. (v) The intent of the 5-cents-per-barrel conservation surcharge

The conservation surcharge on TAPS oil is paid into the Response Fund. The Response Fund has, since its inception, been used for a variety of response and remediation projects. There was no expectation among Cowper Administration officials, as far as I know, to treat the conservation surcharge any differently than any other nickel in the Response Fund.

British Petroleum's representative, John Ringstad, told the House Resources committee March 24 that the North Slope producers are

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willing to pay for their "responsibilities," and implied that other uses of the Response Fund were not the responsibility of the oil industry. I disagree strongly with this position, especially if it is one of the driving theses behind the introduction of this bill. We don't send a checklist of programs around to every business that pays the state's corporate income tax, and allow each to directly designate tax revenue he or she generates to only those programs which with he or she personally agrees.

There is no question that major taxpayers have a legitimate right to express their opinions and to attempt to convince legislators to support those opinions. It is quite another to codify, in statute, the ability of a taxpayer to restrict use of specific tax revenues. This bill legislates oil industry control over state spending for a critical public and environmental safety program.

2. Spill prevention and response issues

a. Prevention programs (Section 12, and at other points)

HB 238 severely limits -- or even eliminates -- ADEC's ability to set up, operate, and administer its prevention program. These are the cornerstone of a coastal protection system. The idea that they can be funded through user fees does not take into account the fact that prevention programs (plan developments, review, and revision) are not specific to a given project or company. Neither, for that matter, are the as-yet undeveloped response corps and depots; the corps and depots are likely to serve areas that see little, if any crude oil shipping traffic (the Aleutians, the inside waters of Southeast).

One of the most clearly demonstrated problems that contributed to the Exxon Valdez disaster was a lack of consistent and aggressive funding by the state for its oil pollution prevention and control program. Traditionally, programs with immediate needs for equipment, maintenance, etc. (village safe water, seafood inspection, and so on) begin, over time, to "crowd out" prevention programs, which generally don't produce some identifiable result. In fact, the result they produce is a non-result, i.e., they avoid spills, which makes them seem less important over time.

The Legislature in 1990 and 1991 specifically addressed this problem by making it clear that prevention programs were eligible for response fund funding. HB 238 would simply reverse a previous action of the Legislature regarding prevention; it would do nothing to make prevention easier or more dependable.

b. Emergency first response (Section 10)

The bill makes emergency first response the primary use -- indeed, almost the sole use -- of the response fund. Emergency first response is the least cost-effective investment one can make in this type of coastal protection scheme. Prevention is more cost-effective by several orders of magnitude. Changing the

COPY

purpose of the fund to "emergency first response" is flawed pollution control strategy.

c. Deletion of restoration (Sections 3, 9, 17 and 21)

You have already expressed a willingness to revise or delete the section of this bill that would relieve a polluter from the responsibility to restore the environment he damaged. That's good; as written, this section would have given an unscrupulous spiller a golden opportunity to avoid or delay full responsibility for dealing with restoration costs or actions.

d. Changes in definitions (Sections 14, 15, 18 and 19)

HB 238 narrows at various points the definitions of "release" and "threatened release." These changes add an additional layer of consideration -- and possible delay -- before the commissioner of ADEC can commit response money to the field for the purposes of stopping a spill before it happens. As a matter of public and environmental safety, one would hope that emergency response professionals were given wide latitude to use their best professional judgment, and instructed to err on the side of safety. HB 238's new definitions err on the side of accounting; it provides the bean counters with additional security, but at the expense of the people and resources of the state.

e. Limits to public involvement (Sections 4, 5, 6, 7 and others)

There is no compelling reason to limit public review of contingency planning, nor is there any compelling reason to leave review of, say, the state master plan, entirely to the discretion of the commissioner. This does not make Alaska a safer place. Furthermore, it nearly guarantees that in the event of another major spill, the public will be ignorant of what is supposed to happen and why, which will in turn reduce the public's confidence in the government and the industry, and which will in turn raise the likelihood of irrational and antagonistic reaction from the public.

I think it prudent for the Legislature and the administration to keep a careful eye on the management and accounting of the response fund, and I think it fair to consider the point of view offered by the state's largest and most lucrative industry. However, HB 238, if passed, would do significant damage to virtually every improvement Alaska has made in its prevention and response system since the Exxon Valdez oil spill. I urge you to reconsider your position.

Very truly yours,



Ernest Piper
Executive Director

March 28, 1993

Representative Bill Williams, Chairman
House Resources Committee
State Capitol
Juneau, AK 99801

Regarding : HB 238

Dear Representative Williams;

I was present at the Kodiak Legislative Information Office on Wednesday March 24 for the teleconference hearing when your committee discussed HB 238. I was the Mayor of the City of Kodiak for 4 years which included the period of the EXXON VALDEZ oil spill. I was also chairman of the group of spill effected communities know as the " Oiled Mayors". Consequently I am very familiar with the legislation enacted during this time and am very concerned at how thoroughly HB 238 attempts to undo this work.

I must say I was quite appalled at sponsor Green's opening remarks during your committee hearing. I believe it showed a complete lack of understanding of the situation that existed during the EXXON VALDEZ spill and the difficulties that the spill affected communities were faced with during such a crisis. Mr. Green's references to feeding at troughs and bureaucratic bumbling and warnings of dire consequences should another spill occur if HB 238 were not enacted were not only ill conceived but offensive. Mr. Green is obviously representing a constituency of multinational petroleum companies rather than the working men and women of Alaska who stand most to loose if this legislation is passed.

I heartily concur with the response by Representative Finkelstein's to Mr. Green's remarks at the teleconference.

As anyone who was involved in the legislative process during EXXON VALDEZ will remember there were sound and specific reasons for adopting the legislation that HB 238 now targets for extinction. Since there are over 20 sections of the bill I will not address each and every one but I will mention some of what I consider the most odious points.

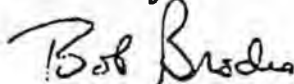
- # Removes some of the state programs of municipal assistance for certain oil and hazardous substance cleanup activities.
- # Eliminates the participation of the public and other agencies in the annual review of the state master plan.
- # Eliminates authority for DEC to require restoration of damaged resources.
- # Severely restricts application of 470 funds to deal with on going and threatened spills of oil or other hazardous materials.

Most of the points that this bill targets were established in legislation that worked its way through the legislative process over the course of 2+ years. Industry, the legislature, the public and the Oiled Mayors all worked to an effective compromise when these items were passed by the legislature. The end goal being to plan for the future and protect the people of Alaska and the environment in the event of another hazardous spill.

The ultimate goal of HB 238 seems to be to severely restrict DEC's ability to deal with hazardous spill situations in the state and to manipulate the calculations of the 470 fund to get the nickel a barrel tax suspended. I have already seen TV ads sponsored by the Alaska Oil and Gas Association criticizing the use of the 470 fund and questioning its future.

In conclusion I would urge you to ignore this particularly ill conceived bill and place some more relevant legislation on your committee's agenda. I see no point in referring it to a subcommittee as it is not salvageable. Please find a tall stack of bills and place this one on the bottom for a long, long time.

Sincerely,



Bob Brodie
PO Box 296
Kodiak, AK 99615



Regional Citizens' Advisory Council / 601 West Fifth Avenue, Suite 500 / Anchorage, Alaska 99501-2254 / (907) 277-7222 / FAX (907) 277-4524

March 24, 1993

Representative Pat Carney
House Resources Committee
Alaska State Legislature
State Capitol
Juneau, Alaska 99811

Dear Representative Carney:

The Regional Citizens' Advisory Council (RCAC) of Prince William Sound is an independent non-profit organization formed in 1989 after the Exxon Valdez oil spill. Under its contract with Alyeska Pipeline Service Company, RCAC receives annual funding and provides advice to Alyeska. The Oil Pollution Act of 1990 (OPA 90) established two pilot programs in Alaska for citizen oversight of oil terminal and tanker operations. The RCAC is certified as the program designated for Prince William Sound.

The RCAC membership consists of 18 communities and groups (such as fishing, tourism, and aquaculture organizations) affected by the Exxon Valdez oil spill. Through its membership, RCAC provides a voice for communities and citizens on oil industry decisions that may affect them. Even before OPA 90 was passed, the state of Alaska recognized the importance of citizen oversight of marine oil transportation and supported the formation of citizen advisory councils. Since then, the state of Alaska has recognized the important role that RCAC can play in improving spill prevention and response preparedness and codified RCAC involvement in contingency plan review through House Bill 567 regulations.

On behalf of its member communities, I am writing to express our concerns regarding House Bill 238, an act amending the oil and hazardous substance release response fund. HB 238 significantly impacts the state of Alaska's oil and hazardous substance spill prevention and response programs by dramatically narrowing the purposes of the oil and hazardous substance release response fund (OHSRRF, "response fund" or "470 fund") and thereby, reducing the funding to support these programs. It is a bit ironic to be hearing testimony on this bill today, the fourth anniversary of the *Exxon Valdez* oil spill.

HB 238 removes many of the essential purposes of the oil and hazardous substance release response fund and reduces requirements for cleanup and restoration. The legislation would return the Alaska Department of Environmental Conservation

(DEC) to the level of funding for oil and hazardous substance release that existed before the *Exxon Valdez* spill. **This legislation would limit the response capability of DEC to a first response capacity and virtually eliminate any and all prevention programs developed since the *Exxon Valdez* oil spill.**

The original purpose of the response fund, created in 1986 by HB 470, was to provide for the cleanup of contaminated hazardous waste sites, and to ensure prompt response to oil and hazardous substance spills posing an imminent and substantial threat to public health and the environment. By eliminating major functions of DEC and the response fund, this bill cripples DEC's ability to prevent and respond to spills.

Many years of effort by the Oil Spill Commission, the Alaska Legislature, DEC, Citizens' Advisory Councils and public interest groups will be entirely undone.

One of the most important sections of the bill is section 12 which makes the following programs ineligible for OHSRRF funding:

- municipal impact grants and assessments, which would significantly reduce the ability of communities to assess impacts, respond to releases, recover response and cleanup costs, and participate in litigation;
- review of oil discharge prevention and response contingency plans;
- verification of financial responsibility;
- training, spill drill and response exercises, inspections, and verification of equipment inventories and response preparedness;
- response corps and depots and spill response office;
- recovery of costs of containment and cleanup resulting from a release or threatened release to the state, a municipality, or a village [these costs are ultimately recoverable by the state from the responsible party but under this provision the government entity would have to front the money for cleanup and containment rather than these funds being provided by the 470 fund];
- preparation of the state's master plan and regional master plans; and

March 24, 1993

Page 3

- restoration of the environment "by addressing the effects of an oil or hazardous substance release."
- maintenance of the oil and hazardous substance response office;

In addition, the bill:

- 1) reduces oversight by state agencies and the Citizens' Oversight Council,
- 2) eliminates all authority for DEC to require restoration of damaged resources,
- 3) changes the definition of release and threatened release, and
- 4) eliminates the annual review of the state master and regional response plans.

This legislation phases in user fees for review of individual vessel and facility contingency plans and verification of financial responsibility and it phases out the use of response funds. It will be virtually impossible to set individual user fees to support the shared services provided by DEC such as the spill prevention program, training and spill drills, and state and regional master plans. In addition, the legislation limits user fees to direct costs and reduces DEC authority to collect fees.

This bill is a giant step backwards for Alaska, undermining our ability to prevent and respond to spills and protect the public health and welfare and the environment. In addition, it reinforces the question of whether Alaska is truly committed to the stewardship of its environment. We urge you not to pass this legislation.

If you have questions or would like additional information, please do not hesitate to contact RCAC.

Sincerely,

Sheila Gottehrer
Executive Director, Prince William Sound Regional Citizens' Advisory
Council

c.c. RCAC Board of Directors

FROM : PARKER ASSOCIATES, INC.

PHONE NO. : 907 333 5189

TESTIMONY ON HB238

TO

THE ALASKA HOUSE RESOURCES COMMITTEE

Walter B. Parker
3724 Campbell Airstrip Road
Anchorage, AK 99504
907 333-5189

1

My name is Walter Parker. My testimony today is in opposition to HB238. I believe passage of this bill would do serious harm to the state's ability to ensure an adequate prevention and response program to oil spills at all levels, including catastrophic spills.

My background in the subject areas of HB238 goes back 25 years now when we first began to plan the transportation of crude oil from Prudhoe Bay to market. I was Transportation Planning Officer for the Federal Field Committee for Development Planning in Alaska (1970-71) during the initial planning phases of the Alyeska Pipeline and the associated tanker routes. Later I was Director of Technical Staff for the State Pipeline Coordinator's Office (1974) and then Chairman of the Oil Tanker Task Force for the state (1975-77). I returned to the fray as Chairman of the Alaska Oil Spill Commission (1989-90) and since 1991 have been Chairman of the Hazardous Substance Technology Review Council. I emphasize at this time that the Council has taken no position on HB238 and the views expressed here today are mine alone.

Passage of HB238 would, to me, begin the process that the State has already taken once before. It would effectively nullify the efforts of the past three years in attempting to build a state presence in the prevention of and response to oil spills that was called for in the legislation passed in 1989 and 1990.

When oil began to flow from the pipeline into the tankers at Valdez in 1977, the State of Alaska has in place a strong prevention and response system. The guarantors for this system were embodied in the Coastal Management Program spelled out in SB406 (1976) which provided incentives to the shipping industry to improve their operations by requiring lesser payments to the Coastal Management Fund if certain standards were attained and maintained. The fund was used to maintain a strong state regulatory presence inspecting tankers at Valdez and insuring that Alyeska's spill response program was maintained.

The Alyeska owners sued the state in 1977 to eliminate the requirements of SB406 and won in 1979 on the grounds of federal preemption. What was left of SB406 after the lawsuit was eliminated by the 1979 and 1980 legislatures. After that the full time spill response team was eliminated by Alyeska and the Coast Guard tanker inspections became less and less until they were hardly noticeable. It is noteworthy that when the state presence was strong the Coast Guard presence was strong.

By March 24, 1989 there was little left of the system that was in place when the Valdez terminal opened. The response of the legislature in 1989 and 1990 was to pass the series of laws that attempted to guarantee it would never happen again. Yet, already a short four years later we are beginning the process of dissolution of the system.

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The original HB238 seemed to take the 470 fund completely out of spill prevention and put the state in the position where we would have \$50 million for the next catastrophic spill and anything that was done to ensure there would not be a spill or to maintain an adequate spill response posture would come from the general fund. Now, the bill wants to split the fund and put a cap on operating costs. This simply means that all flexibility is removed from the Commissioner and from the legislature to use the fund as a tool in fashioning the best possible prevention and response system.

If errors were made in uses of the 470 fund they were approved of by the legislature during the budget process. To me, the major error in the use of the fund thus far is that it has not been used aggressively enough on the prevention measures.

We must not forget that while we have strong vastly improved response systems in Prince William Sound, Cook Inlet and the Arctic, the rest of the state has until now had minimal improvements in response. This process is just beginning.

On the prevention side there has been a lot of planning but little implementation. The same ships are four years older; few changes have been made in crew training or manning practices; the new navigation systems are still in the planning and approval process; there have been only minimal changes in vessel traffic system operations and, only minimal changes in federal and state pilotage

4

There are still 3 billion barrels of known reserves on the North Slope to pass through Valdez. New oil is being announced regularly. But there is about as much left as we have already sent through Prince William Sound even if we discount any new oil finds of any magnitude. We have outlined in federal and state legislation the requirements for a much better system to transport the remaining oil from the North Slope. To do the job right, we should maintain administrative and legislative flexibility in the use of the 470 fund. It is a good tool as it stands to enable the state to play its part in cooperative efforts with the federal government and the oil industry in carrying out the legislative mandates of 1989 and 1990 to build a better oil transportation system.

April 10, 1993
P. O. Box 2176
Palmer, Alaska 99645

Rep. Bill Williams
Chair House Resources
State House
Juneau, Alaska 99811

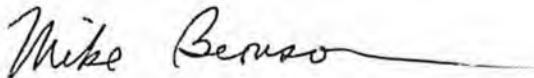
Dear Representative Williams,

Please consider my opposition to HB 238 to change the terms and purpose of the state's oil spill response 470 fund.

The fund is deserving of continuance on the basis of its effectiveness and success over the last three years. As it was intended by the legislature, the fund has allowed the state agencies to significantly reduce the threats posed by oil spills in Alaska. Based on my own experience as a scientist involved with several marine and onshore oil spills since 1989, I know that prevention and planning are more productive than emergency responses, as unfortunate as it is. For that reason, I am happy to see that the fund has been used for spill drills, contingency planning, as well as response preparedness by the Department of Environmental Conservation and the Department of Fish and Game.

By one means or another, the state must ensure full funding for spill cleanup and preparedness. If we've learned much in the last several years here, it is that fulfilling our commitments to protecting the environment from petroleum contamination is a necessary condition for continuation of the oil industry in Alaska.

Sincerely,


Mike Bronson

cc: Sen. Kerttula
Gov. Hickel
Rep. Larson



JAMIE PARSONS, MAYOR
CITY AND BOROUGH OF JUNEAU

March 23, 1993

The Honorable Bill Hudson
House of Representatives
State Capital- Room 108
Juneau, Alaska 99801-1182

Dear Representative Hudson:

I understand that HB 238 offered by the House Special Committee on Oil & Gas is scheduled for a hearing tomorrow, March 24, before the House Resources Committee. This 12 page bill would amend the purposes for which the "470 Fund" (Oil & Hazardous substance release fund) may be expended.

My particular concern is with section 24 of the bill. According to a March 19 memo from legislative counsel to Representative Joe Green, the repealer section (section 24), would have the effect of disallowing the use of 470 Fund money for ferry construction or for the state program of municipal assistance for hazardous waste clean up.

I am concerned that if the \$7.5 million that is now a part of the funding package supported by the Governor for the new state ferry is lost, that this needed addition to the Marine Highway System could be killed or delayed. If the money is replaced by General Funds, does that mean a corresponding lost of funding for other projects in Southeast Alaska?

In addition, if there no provision for emergency funding or for impact grants to help meet the spill or clean up costs Juneau's Local Emergency Planning Committee would lose funding and communities like Juneau would be not be able to recover directly from the 470 Fund for clean up activities.

Thank you, Bill, for addressing our concerns about the present version of this legislation.

Sincerely,

Jamie Parsons
Mayor

cc: All members, House Resources Committee

**KETCHIKAN
GATEWAY
BOROUGH**

OFFICE OF THE MAYOR

Ralph M. Bartholomew
344 Front Street
Ketchikan, AK 99901-6494
Phone 228-6605 Fax 225-7282

March 23, 1993

The Honorable B. Willams
House of Representatives
State Capital - Room 128
Juneau, Alaska 99801-1182

Dear Representative Willams:

As mayor of a coastal Alaska community, I am writing in opposition to HB 238, relating to the oil and hazardous release response fund, which is scheduled for a hearing in the House Resources Committee on Wednesday, March 24. Although I am not familiar with every ramification of this legislation, I would like to address a few areas which I feel will adversely impact my community.

The language in Section 24, which would repeal the use of the response fund for construction of an oil response ferry and repeals the program of municipal assistance for cleanup in communities impacted by an oil or hazardous substance release, concerns me greatly.

In regards to the cleanup activities, this legislation would not allow for community impact grants, which are of the utmost importance, as emergency funding is needed quickly to help pay for the unanticipated costs to a community associated with a spill. In addition, restoration of the environment will no longer be required during containment and cleanup activities. This could have dire effects on a coastal community such as Ketchikan, whose residents rely heavily on the fishing industry for jobs and a healthy local economy. In addition, many in our area participate in subsistence gathering of traditional foods found in the waters and tidelands of Southeast. (Unfortunately, Section 10 of HB 238 deletes any reference to the effects of a spill on the economy.)

As you are aware, we are very close to securing the final funding for the new ferry, and the \$7.5 million from the response fund which is now included in the funding scenario supported by Governor Hickel, is very important to the project. It is felt by

HB 238
Honorable B. Williams
Page 2

some that without the funding available from the response fund, the new ferry project may not become a reality.

Finally, an additional financial burden is placed on those who must submit oil discharge financial responsibility and oil discharge contingency plans by putting in place authority for regulations to establish a new fee structure. Currently, the review and approval of these mandatory plans is paid by the response fund to the Alaska Department of Environmental Conservation (ADEC). A cursory estimate by ADEC staff puts the new fee levels in the neighborhood of \$10,000, although the fees could actually be much higher.

As the legislature begins its long and deliberate review of this wide-sweeping legislation, please take into consideration the concerns addressed in this letter, as well as the concerns of all Alaskans whose livelihood, traditions and lifestyle may be affected by another devastating oil spill.

Sincerely,



Ralph M. Bartholomew
Mayor

cc: All House Resources Committee members

MARCH 24, 1989: THE WRECK OF THE EXXON VALDEZ AND A SPILL
REPOSE THAT WILL LIVE IN INFAMY.

MARCH 24, 1993: HOW SOON WE FORGET. THE LEGISLATURE
IS OVERWHELMED BY OIL LOBBYISTS COME TO
RECOVER THE RIGHT TO SPILL OIL. Bill after
bill is introduced, environmental protection
budgets are slashed, major oil production tax
reductions are proposed, all of which puts us back
on a collision course with Bligh Reef.

RESULT: LESS PREVENTION. LESS REPOSE. MORE
POLLUTION. MORE PROFITS. LESS FISHING. LESS
TOURISM. LESS WILDLIFE. LESS LOCAL ECONOMY.

If multi-national corporations were human I would hope that those
that propose this deal-breaker with Alaska would feel deep shame.

I know many corporate employees that are as offended as the rest
of us when big money mouthpieces interfere with the systematic
solutions we work on together.

Time is precious on this, the fourth anniversary of a spill response
that lives in infamy. I will conclude, therefore, by telling you a
brief but illuminating story of the way the first Exxon
representative in our spill sector reacted to his companies response.

After a great deal of effort, many days after North Slope crude oil
was all over the outer coast of the Kenai Peninsula, the outer coast
of the Kachemak Bay State Park, the Kenai Fjords National Park,
village and borough lands, and the fishing grounds that much of
our livelihood depends on----- many 20 hour days of building
homemade boom and skimmers while rafts of thousands of oiled
birds washed ashore, finally an Exxon representative with a
checkbook and authority to bring response equipment arrived in
Homer.

I was the only local available and ready to sit with this Texas
Exxon stranger the night of his arrival. While he was having his
first meal here, this fine man, a seasoned expeditor for Exxon with
previous experience in Alaska unloaded his personal anger and
frustration at the Exxon Corporation for its double standard, with
the shipping arm allowing drunks to run tankers when drunks
caught in company trucks were summarily fired where he worked,
just as they should be, he thought.

But the worst of his pain and frustration was caused by the

BP EXPLORATION (ALASKA) INC.

TESTIMONY ON HB 238
for
HOUSE RESOURCES COMMITTEE

March 24, 1993

Mr. Chairman, Committee members, my name is John Ringstad. I am the Associate Director , State Government Affairs for BP Exploration (A'aska) Inc. Thank you for the opportunity to testify today.

HB 238 addresses the purpose of the nickel-a-barrel surcharge placed on crude oil production after the *Exxon Valdez* accident. In the 1989 session, three bills were passed dealing with the "470 fund": 1) SB 260 establishing the nickel surcharge, 2) SB 261 requiring the development of statewide and regional contingency plans, and 3) SB 264 establishing response corps and depots.

BP did not oppose the imposition of the nickel. Our understanding was that a \$50 million account would be funded with the nickels to ensure that the State would be able to have an immediate and effective response in case of another major oil spill emergency. We also understood that spill preparedness and planning were critical to an effective response and that they would also be paid for by this fund. Except as needed from time to time to replenish the fund for these costs, the surcharge would stop once the \$50 million cap was reached.

Since 1989, the uses of this nickel surcharge have greatly expanded. Of the approximately 100 million dollars' worth of nickels paid so far, only \$23 million or so has actually been saved for an emergency. This year's budget proposal was to add less than \$2 million to the fund balance, out of the \$27.5 million of surcharge paid by the crude oil producers.

BP is willing to pay for its responsibilities. However, it is very clear to us that many of the items being funded by the crude oil surcharge are not our responsibility nor that of the other crude oil producers. We feel that it is time to go back to the original purpose of the surcharge. BP supports HB 238 in its effort to do that.

MARCH 24, 1989: THE WRECK OF THE EXXON VALDEZ AND A SPILL
REPOSE THAT WILL LIVE IN INFAMY.

MARCH 24, 1993: HOW SOON WE FORGET. THE LEGISLATURE
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I was the only local available and ready to sit with this Texas
Exxon stranger the night of his arrival. While he was having his
first meal here, this fine man, a seasoned expeditor for Exxon with
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frustration at the Exxon Corporation for its double standard; with
the shipping arm allowing drunks to run tankers when drunks
caught in company trucks were summarily fired where he worked,
just as they should be, he thought.

But the worst of his pain and frustration was caused by the

L. Smith F. J.

corporate types who helped write this legislation. Within hours of the spill he had a team ready to respond, the next day three teams, a couple days later his whole division was loaded and ready to come help us.

Meanwhile, he said, Exxon was deploying legions of lawyers and public relations specialists. The same kind of guys as the lobbyists drafting helpful legislation in Juneau were sent for early spill response and they look like they're still interfering with honest solutions to the problem,

Finally, after three weeks, with most of the spill response too late, he made it to Alaska to work on the problem, and the effective way he went about it made him a lot of friends here.

I propose to you that if we had a bill written by people from the trenches of prevention and response -- if Exxon and the other companies sent decent folks with the expertise of my friend from Texas, and kept the lobbyists and lawyers out of the way, we would have an effective proposal to cut the profit-motivated political crap out of present law, and out of these amendments and get along with the business of keeping oil out of the environment and in the marketplace.

Let me suggest an appropriate method to review the effectiveness of existing law as it applies to prevention and response reality. The Citizen's Oversight Council for Oil and Other Hazardous Substances is a respected part of the legislative branch of government. Ask them to draft a bill with a budget to support it; to design and conduct a review to be completed for our use in the 1994 legislative session. As in their previous efforts they will be expected to collect the best of oil company, state and federal regulators and community expertise. Ditch this bill. Pass one to move the real work along and then let the elected representatives of the people of Alaska do the right thing. Ask for prevention and response experts to help with full public hearings. Politely and firmly ask the oil companies to keep their lobbyists occupied elsewhere while you do this serious law-making. Don't add your names to this piece of corporate slyness.

Remember the wreck of the Exxon Valdez. A few seconds of silence please for lives still disrupted by the aftermath. Thank you. That's how I feel. Let's work together.

Larry Smith
3/24/1993

Box 15357, Fritz Creek, 99603
235 3855

BP EXPLORATION (ALASKA) INC.

TESTIMONY ON HB 238
for
HOUSE RESOURCES COMMITTEE

March 24, 1993

Mr. Chairman, Committee members, my name is John Ringstad. I am the Associate Director , State Government Affairs for BP Exploration (Alaska) Inc. Thank you for the opportunity to testify today.

HB 238 addresses the purpose of the nickel-a-barrel surcharge placed on crude oil production after the *Exxon Valdez* accident. In the 1989 session, three bills were passed dealing with the "470 fund": 1) SB 260 establishing the nickel surcharge, 2) SB 261 requiring the development of statewide and regional contingency plans, and 3) SB 264 establishing response corps and depots.

BP did not oppose the imposition of the nickel. Our understanding was that a \$50 million account would be funded with the nickels to ensure that the State would be able to have an immediate and effective response in case of another major oil spill emergency. We also understood that spill preparedness and planning were critical to an effective response and that they would also be paid for by this fund. Except as needed from time to time to replenish the fund for these costs, the surcharge would stop once the \$50 million cap was reached.

Since 1989, the uses of this nickel surcharge have greatly expanded. Of the approximately 100 million dollars' worth of nickels paid so far, only \$23 million or so has actually been saved for an emergency. This year's budget proposal was to add less than \$2 million to the fund balance, out of the \$27.5 million of surcharge paid by the crude oil producers.

BP is willing to pay for its responsibilities. However, it is very clear to us that many of the items being funded by the crude oil surcharge are not our responsibility nor that of the other crude oil producers. We feel that it is time to go back to the original purpose of the surcharge. BP supports HB 238 in its effort to do that.



**WILDLIFE
FEDERATION
OF ALASKA**

The Alaska Affiliate of the
National Wildlife Federation

March 25, 1993

House Resources Committee
ATTN: Mary McDowell
Administrative Aid

* (Please distribute to members of the House Resources Committee)

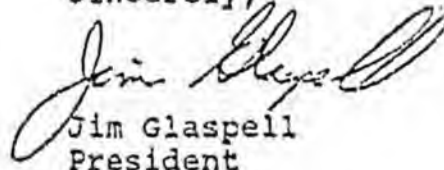
Subject: HB 238

Dear Chairman and Committee Members:

The Wildlife Federation of Alaska, the state affiliate of the National Wildlife Federation, is following with great interest the consideration of HB 238 introduced by Representative Green. The Board of Directors, on behalf of our membership, would like to express strong objection to the intent of this bill and a number of the changes it proposes. We are particularly disturbed that the bill proposes to remove the requirement that spillers restore the environment which they damage, and to add a provision to allow spillers to dispute costs associated with cleanup activities. Clearly, any attempt to limit applicability of the State's spill response fund to initial response only is ill-advised. It should be apparent that up-front contingency planning and preparation of spill response capabilities, including equipment and personnel, is highly preferable to an after-the-fact attempt at containment and cleanup response. Experience has shown that prevention is our greatest tool, followed by a prompt and adequate response to a spill incident. The costs of cleanup efforts for a major spill such as the EXXON Valdez dwarf the relative costs of maintaining the State's spill fund. As an investment with a purpose of limiting damage to the environment through careful planning, preparation, and response capability, the nickel per barrel monies are funds well spent to protect the State's habitats, fish and wildlife resources, and public uses.

We urge you to reject HB 238 and clearly support a continued program of spill response planning and preparation, as intended under the original enabling legislation.

Sincerely,


Jim Glaspell
President



**WILDLIFE
FEDERATION
OF ALASKA**

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March 25, 1993

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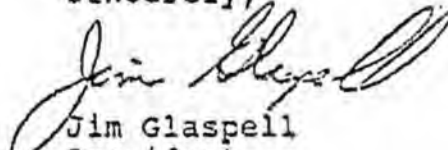
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We urge you to reject HB 238 and clearly support a continued program of spill response planning and preparation, as intended under the original enabling legislation.

Sincerely,


Jim Glaspell
President

How many big oil spills will it take for us to learn that vigilance is worth the price?

Anchorage
Daily News

4/13/93

Don't be fooled by the advertising campaign. The intended purpose and use of Alaska's spill response fund ("470 Fund") are being misrepresented. The move to restrict how the fund is used will not save the state money. It will, however, reduce the amount of taxes the oil industry pays into the fund and increase the risk of pollution, spills and inadequate responses.

Is it really worth the risk?

"Those who cannot remember the past
are condemned to repeat it."

- George Santayana

Save the "470 Fund"



*Citizens promoting
environmentally safe
operation of the Alyeska
terminal and associated*

NEWS CLIPPINGS IN
Anchorage Daily News

Date: 11/19 1993

Adding to spill fund just part

Those who cannot remember the past are condemned to repeat it.

— George Santayana

By STAN STANLEY

In a blatant attempt to increase oil-industry profits, the Alaska Oil and Gas Association has lobbied the first salvo in its renewed attempt to get out of contributing to state oil-spill prevention programs. The salvo came in the form of a newspaper insert purporting to prove that Alaskans agree with industry thinking on several oil-related issues, including the use of the so-called 470 Fund. AOGA's propaganda piece is a blatant distortion of facts and shameless manipulation of the truth.

The message AOGA sends through this campaign is distressing. Notwithstanding expensive TV ads extolling its concerns for the environment, the oil industry has learned little since the Exxon Valdez.

They'll spend millions improving their image in glossy media campaigns, but as soon as the political heat cools, they're at it again, chipping away at the very programs that lower the risk of oil spills and reduce the damage if a spill does occur. It's time we Alaskans let the oil industry, our legislators



and the Hickel administration know that we haven't forgotten 1989, even if they have.

Since the Exxon Valdez oil spill, oil producers have paid a nickel-per-barrel conservation surcharge into a pool called the 470 Fund. By law, the purpose of the surcharge is to ensure a long-term funding source for spill-prevention programs and to respond to future spills.

When the fund balance reaches \$50 million, the surcharge is suspended until the fund drops below that level. Because the fund is used to pay for ongoing programs, such as review of industry contingency plans and evaluation of spill drills, it takes longer to reach the cap than if the money simply stayed there.

AOGA and its members want to limit how the fund can be used so they don't have to keep paying the surcharge. If the 470 Fund were strictly a response reserve, to be used only if a spill occurs, the \$50 million

of oil business overhead

balance would be reached quickly and stay there, unless and until there was a big oil spill. In the meantime, industry would not have to pay the nickel per barrel.

Their strategy is to rewrite legislative history by claiming that a response reserve is the only valid use of the 470 Fund. It simply isn't true and a glance at the law proves it.

We agree that there have been some abuses of the 470 Fund and we wholeheartedly support clear-cut guidelines to stop questionable uses of the fund in the future. We, too, want assurances that the fund is spent well and wisely and for the purposes it was established to serve.

Most Alaskans believe oil has been good for our state. But oil development and oil transportation carry significant risk, as we learned all too vividly in 1989.

It's only right that a hugely profitable industry help pay for state programs to reduce the risk created by that industry's activities. It ought to be part of the cost of doing business. But apparently the oil companies that comprise AOGA don't want to pay it any more and they're distorting the truth to try to get their way.

AOGA claims its survey shows that Alas-

It's time we Alaskans let the oil industry, our legislators and the Hickel administration know that we haven't forgotten 1989, even if they have.

kans don't want money from the 470 Fund used except as a spill reserve. Anybody familiar with this type of survey knows it's easy to get answers that serve your purpose if you know how to phrase the question. The AOGA survey manipulated responses by providing only part of the picture.

Last year, oil industry lobbyists tried but failed to push through legislation to limit how the 470 Fund can be used. AOGA's survey is a clear and unmistakable offensive ploy to get a bill passed early in the coming legislative session.

□ Stan Stanley is executive director of Prince William Sound Regional Citizens' Advisory Council.

NEWS CLIPPINGS IN
Anchorage Daily News

Date: 11/19/1993

Logging limits?

State allows liberal cutting near streams

The way Alaska is policing so-called no-harvest logging buffer zones defies logic and environmental sense. With Wally Hickel at the helm, state logging officials are allowing liberal amounts of cutting.

The 66-foot buffer zones were created in a state law that did not even pass until 1990 — well after many private lands had been thoroughly cut. Since then, timber firms have filed 83 requests to log in streamside no-harvest zones on private land in Southeast and Southcentral, the state's two busiest logging regions.

And in how many of those cases has the state insisted that the no-harvest zone actually be a no-harvest zone?

No: a single one.

Through early October, Southeast operators asked to cut 5,667 buffer-zone trees. The state granted permission to cut 79 percent of them. In Southcentral, the state has acted on requests to cut 998 buffer-zone trees. It has let operators cut 806, or 81 percent.

This liberal cutting is not how the law is supposed to work. The trees at issue tend to be the larger ones, which are the most valuable, both economically and environmentally. The law presumes that protecting fish streams takes precedence in no-harvest zones, except for special circumstances. The burden of proof is supposed to be on those who want to log there.

Under the law, selective cutting is allowed in buffers only when "the harm intended to be avoided by the (no-cut) requirement is not likely to occur because of site-specific circumstances" and where cutting "is not likely to cause significant harm to fish habitat or water quality."

Policing the buffer zones falls under the jurisdiction of the state Division of Forestry. Seeing that agency's enthusiasm for buffer-zone logging, the state's director of habitat protection wrote, "We have granted too many variations for trees where there are no site specific circumstance (sic) to justify their removal."

The law allowing any possibility of logging in buffer zones was a major concession to private landowners. So was the 66-foot width; earlier proposals called for 100 feet. Sixty-six feet is the absolute minimum necessary to protect fish in the streams. If these buffer zones must be open to selective cutting, the state should be a lot more selective about the cutting it allows.

On patrol

Fairview citizens have the right idea

We're glad to see the people of Fairview care enough to help defend their neighborhood from crime, as highlighted in Sunday's *We Alaskans*.

Any police officer will tell you that even the biggest and best-trained police force can only do so much. Concerned citizens are a community's first line of defense.

By their mere presence, they help discourage crime, especially the open-air drug dealing and prostitution now troubling Fairview. Alert citizens also aid police by reporting crimes in progress and ongoing suspicious activities.

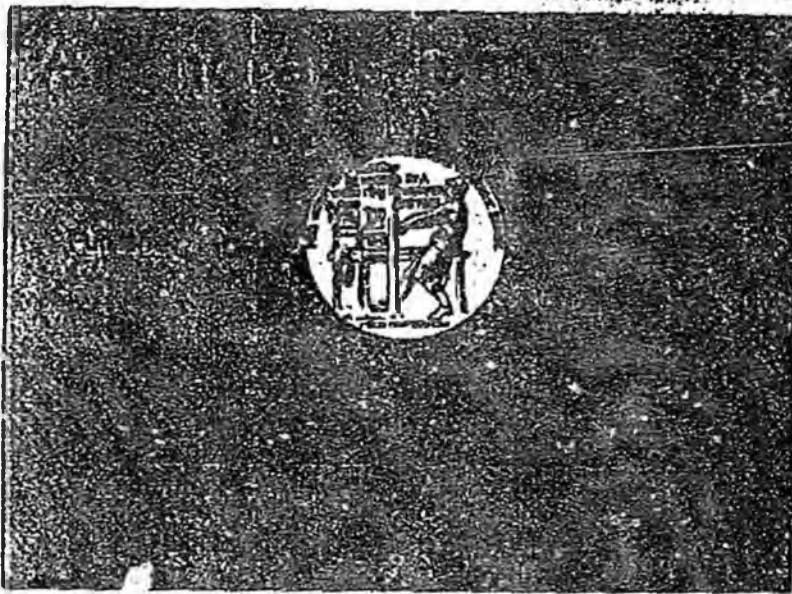
From what we can tell, Fairview Community Patrol is doing a good job on that score. An editorial page staffer rode with the patrol one Friday night. With several vehicles staying in constant radio contact, the patrol disrupted the work of two street prostitutes and shadowed the area's drug-dealing hot spots.

Some may criticize the patrol as nosybodies or vigilantes. As with any such effort, there's a risk citizens may get carried away and interfere with legitimate activities. That's even more of a concern in a place like Fairview, where many suspects are black and the patrol is mostly white.

But the desire for safe and orderly neighborhoods crosses all color lines. When people decide to watch out for each other, it helps allay fears and rebuild a sense of common good.

So far, the Fairview patrol has avoided the factional fighting plaguing a similar effort in Mountain View. And it has avoided embarrassing political sideshows, such as the Spenard patrol's campaign to outlaw hitchhiking, which as it turned out was already illegal.

As a neighborhood starts to slide toward decay, the temptation to surrender can be strong. Those who can move out often do. Those who can't move often retreat indoors, seeking safety in fortress-style living. We commend the Fairview patrol's volunteers for caring enough to spend many evenings on the street, making their community safer for all.



Rep. Joe Green

Can he spell E-X-X-O-N V-A-L-D-E-Z?

Rep. Joe Green's attempt to gut the state's oil-spill response law should have Alaskans seeing red.

If legislators pass the measure he introduced March 19, the state won't be able to use its Oil and Substance Release Response Fund, underwritten by a nickel-barrel crude oil tax, for anything but initial spill response.

How in the world could Alaskans ever trash their oil spill preparation, assessment, and management program yet still successfully handle Exxon Valdez II?

That means Alaskans no longer will have money for spill drills, statewide and regional spill contingency plans, cleanup technology research, site restoration, and oil spill community impact assessments grants. Meanwhile, the oil companies, who've paid \$28 million a year into the fund for the last three years, will save

themselves a fortune.

Rep. Green, a former Arco Alaska Inc. engineer, says his bill actually would improve the state's ability to respond to a spill. John Ringstad, a BP Exploration lobbyist who helped write the Green bill, says the measure is needed because current law treats the oil industry unfairly.

Rep. Green's sales pitch defies logic. How in the world could Alaskans ever trash their oil spill preparation, assessment, and management program yet still successfully handle Exxon Valdez II? If Rep. Green actually believes this, then he probably also thinks hiding in a trailer court is the best way to escape a tornado.

As for lobbyist John Ringstad's fairness argument, we think that it's fair that the oil industry live up to its promise to protect Alaskan waters from tanker spills.

Members of the Alyeska consortium made this promise repeatedly during debate over construction of the trans-Alaska oil pipeline. But, as the Exxon Valdez disaster demonstrated, they weren't willing to spend the money required to protect Alaska.

The Green bill is not only bad policy, it's bad politics. If it passes, national environmental groups are sure to argue that Alaskans can't be trusted to protect their own resources, let alone participate in development of the Arctic National Wildlife Refuge. They're also sure to make the bill Exhibit Number One when arguing that the Alaska legislature is in the oil industry's pocket. And what will Alaskans say to counter these arguments — that we don't give a damn how they do it Outside?

Gov. Wally Hickel deserves credit for quickly recognizing the Green bill as Bligh Reef committed to paper. As long as the Hickel administration remains opposed to the bill, lawmakers never will have the votes to make it law.

Finally, it's nothing less than astonishing that the first legislative hearing on the Green bill was held on the fourth anniversary of the Exxon Valdez spill. Timing is everything in comedy, but this is ridiculous. What a message of indifference to the spill — what a symbol of political amnesia.

It's often said that those who fail to remember the past are condemned to repeat it. Rep. Green's bill is evidence that some people, particularly in the oil industry, don't remember anything that happened March 24, 1989, and don't care if history repeats itself.

Where is that spill tax going?

By IAN MADER

THE ASSOCIATED PRESS

Legislation has been introduced to place new limits on the state's use of a nickel-a-barrel tax on crude-oil production earmarked for spill-response expenses.

Supporters of the bill say much of the \$27.5 million a year that oil companies pay into the spill-response fund goes to state agency expenditures not directly related to the fund's purpose.

But environmentalists say the legislation would drastically reduce the Department of Environmental Conservation's ability to clean up polluted state lands and prepare for spills.

The Legislature passed a law creating the tax after the Exxon Valdez oil spill in 1989. The law requires that when the fund reaches \$50 million, the tax is to be suspended.

But Rep. Joe Green, R-Anchorage and chairman of the House Oil and Gas Committee, said state agencies have been spending the revenue as fast as it is raised.

House Bill 238, introduced by Green's committee, would tighten up the spending rules so that the \$50 million mark would be reached sooner.

"There are so many holes and leaks in the container that we've never been able to fill it up," Green said. "If they were to have a major spill now, they'd go to the coffer and there wouldn't be anything there."

Green, a retired ARCO Alaska petroleum engineer, said oil producers should not be paying for DEC to clean up spills of refined petroleum from underground storage tanks at sites ranging from Anchorage to Barrow.

Such costs are supposed to be recovered from the spillers, but the DEC has been using spill-response money, Green said.

Green also criticized the Legislature's \$15 million appropriation from the fund for a state ferry.

Please turn to Tax, Page A-6



Locks of trouble: This barrel is

Singing New impound

By TIM HUBER

THE JUNEAU EMPIRE

A new company formed to solve an old problem — illegal parking on private lots — learned a lesson recently: Never chain a barrel to the bumper of a pickup truck.

Instead of paying to get the barrel moved, the truck owner put the barrel back and drove off. That led to a minor theft charge against the driver, the criminal charge filed in the first three months of business for PARK-N-LOCK.

In the other pending case, an unheeded warning led a truck owner who found a barrel chained to his bumper to get rid of the problem with a pair of pliers. He was charged with criminal mischief.

Dear Abby: 'Al

died about two years ago. "We had no idea she had diabetes," he says.

Soon after that close call, a list of diabetes risk factors appeared in Abby's column. "I wrote Abby and said, had I known, had I seen that list before, I would have taken my daughter to the doctor right away."

Before long, a staff member called to say that Abby liked his letter and planned to print it. And expect people from the past to start popping up, the caller warned d'Armand.

After the column ran, d'Armand says he got letters from 14 states - including one from a childhood friend in Chicago whom he hadn't heard from in 35 years.

A year later, a spokesman from

mand says his wife called to say there was good news and bad: A pipe burst and flooded part of the house and the truck repairs would cost at least \$1,600 - "but you have a letter in 'Dear Abby' and the northern lights are beautiful."

Having had his say, d'Armand maintains a sense of humor about the geographical ignorance of his countrymen. He even keeps a personal collection of anecdotes.

There was the Texas mail-order clerk who asked if Alaska was on the Atlantic. And another clerk from Pennsylvania who needed his address. D'Armand told her, "Juneau, Alaska."

He swears she replied: "No I don't, but I've heard so much about it."

Audit...

Continued from Page A-1

was felt last year when the division was faced with a major election complicated by reapportionment and the switch to a closed Republican primary, the audit says.

"Elections lost most of its institutional knowledge with the termination of those individuals. We feel the resulting lack of expertise and understanding of election processes contributed significantly to the amount of overtime and number of temporary employees hired."

Coghill said the employees he and Thickstun hired were fully qualified. "I want to assure you there are no political hacks in the Division of Elections."

Coghill also disputed the claim of poor morale.

The audit says the most commonly cited reasons for the poor morale "are that favoritism rather than hard work and job merit determines personnel actions."

A former regional supervisor told Welker she felt pressure to hire people whose only qualification was that they were friends of Coghill or Thickstun. No jobs were filled through open recruitment, the audit says.

But the finding of most concern to the Legislature is that the division recklessly overspent its budget.

"We're disappointed and dissatisfied with the way the money was

handled," said Sen. Steve Frank, R-Fairbanks and co-chairman of the Senate Finance Committee.

The audit notes the division was given an extra \$424,000 to cover a shortfall last year, and was as much as \$240,000 in the red by mid-February - with 4½ months to go in the fiscal year.

Welker wrote that Thickstun felt she was justified in overspending because of the unusual delays and other problems caused by the reapportionment litigation.

The audit also says the division gave some employees large raises, while others in similar jobs went without. In some cases, raises were given temporarily as an incentive to meet deadlines.

- Improperly hired temporary workers and paid large amounts of overtime that was not budgeted.

- Entered into improper contracts with other state agencies and private suppliers. Three procurement violations were blamed on employees' ignorance of the state procurement code.

- Manipulated the state's expense-reimbursement rules to avoid forcing an employee to repay \$906 in "per diem" that had been overpaid. The worker ended up getting an additional \$2,700 because of the manipulation.

The audit says the Legislature should consider changing the long-standing policy of having all Elections employees exempt from state personnel rules. That would prevent the firing of lower-level employees without cause.

"Somebody took a 20-pound LP tank with a hose on it and stuck the hose into the fresh air intake for the furnace," said Mike Carlson, a security guard at the Robbinsdale Clinic. "I'm sure they wanted the gas to hit the furnace" and explode, Carlson said.

The propane did not ignite, however, and the building was not damaged. Carlson said the staff noted a strange odor in the building, found the LP bottle outside and evacuated the clinic almost immediately after arriving.

The Robbinsdale police and fire departments were called and found no one injured. The clinic is next door to the Crystal Lake Health Center, a nursing home

went into the building. The bottle had placed outside the night, but neither officials would say when. The Robbinsdale federal Alcohol Firearms Bureau is investigating.

Authorities did not name any suspects.

Carlson said the bombing was the first in a series of attacks on the clinic.

"It's a significant level of terrorism," he said.

Previous incidents included squirting superglue into the clinic's door lock.

Tax...

Continued from Page A-1

The spending was justified because the vessel would be designed to help respond to oil spills.

"That's really stretching it," Green said.

Russell Heath, executive director of Alaska Environmental Lobby, said the law that created the spill-response fund was broad enough to allow money to be used for all kinds of hazardous spills.

Because Green's bill would substantially reduce DEC's budget, it should have been referred to the House Finance Committee, Heath said. It was referred only to the Resources and State Affairs committees.

"They're doing a major rewrite of the guts of legislation passed in response to the Exxon Valdez spill, and they're trying to ram it through," Heath said.

The bill is scheduled for a House Resources Committee hearing Wednesday.

DEC officials said they had not completed their review of the bill, but that the measure appears to eliminate money for what they consider important spill-related programs.

Ed Collazzi, an environmental specialist at DEC, said the bill would wipe out money for spill drills, government preparedness programs and reviews that determine a company's financial ability to respond to a spill.

Yeltsin

Continued

come backwardness be able to provide tranquility for our citizens.

"Under the circumstances, the president added, "the president assume the responsibility of the country."

Yeltsin signed a decree on the day governing the state would remain in a crisis of power had come."

Under that order, 1,033-member Congress 220-member Supreme Court will continue. But they will be powerful presidential order government official posts.

The presidium of Soviet met late Saturday Yeltsin of "trying dictatorship" and agency session of the today. Its chairman Khasbulatov, rushed visit to Kazakhstan duties called for Yeltsin ment.

Moscow's streets its competing leadership appeared headed for a title of executive decree. Yeltsin's dictatorial powers feared cannot without force.

Presidential adviser

IT'S AMAZING HOW FAR
YOU CAN GO WITH A

Bill would cut spill-response funds

Bad timing: Measure comes up in shadow of Exxon Valdez

By RALPH THOMAS
Daily News reporter

JUNEAU — Four years to the day after the Exxon Valdez unleashed the nation's worst oil spill, Alaska lawmakers today begin work on a bill that could weaken many of the state's spill prevention and response programs.

The legislation also would narrow state cleanup laws so companies responsible for spills would no longer have to restore the environments they

■ **'WHERE HAS ALL THE OIL GONE?'** On the fourth anniversary of the Exxon Valdez spill, a congressional panel wants to find out. B-1

damage.

Sponsors say it's needed because the programs are too much of a drain on the oil-industry-financed fund that pays for them.

An armada of opponents — including the Hickel administration, municipalities, tourism and commercial fishing groups and environmentalists

— says otherwise.

"This bill really cripples (the state's) ability to prevent and respond to spills," said Sheila Gotterher, executive director of the Prince William Sound Regional Citizens' Advisory Council, a non-profit group that oversees industry

Please see Back Page. **SPILL BILL**



Daily News file photo

Rep. Joe Green

ADN March 24, 1993 (A-1)

Measure would cut prevention programs

The state now uses the fund for a wide array of purposes, including spill response drills, the creation of statewide and regional spill response plans, and research to improve cleanup technology. Some of the money has been used to clean up industry-related waste sites on the Kenai Peninsula. The state has also set aside part of the fund to help purchase a new ferry equipped with spill cleanup gear.

Under Green's bill — House Bill 238 — none of this would be allowed.

"It's gone far beyond what was originally intended," Green said.

Green agreed the timing of today's hearing was odd and said he would have preferred a different date. But he said his bill, by allowing the fund to grow, would improve the state's ability to respond to a major spill.

"What will happen is we'll have a spill and we'll go to the fund and it'll be dry," Green said.

The spill response fund was created in 1980, primarily for cleaning up hazardous waste sites across the state. But in 1989, in the wake of the Exxon Valdez spill, lawmakers established the nickel-per-barrel tax and began expanding the original purpose of the fund.

Under the 1989 changes, the nickel-per-barrel tax is to be suspended once the fund reaches the \$50 million cap. But because the state has been draining the fund to pay for the spill-response and other programs, the industry is nowhere close to

“This legislature is so out of it, not only have they forgotten the lessons from the spill, but they’ve forgotten the day.”

— RIKI OIT

reaching its tax cap.

This has angered industry officials. Lowell Humphrey, former president of the Alaska Support Industry Alliance, wrote a letter to the group's members last year complaining that lawmakers and the administration were using the money as "an eternal slush fund for their pet projects."

In drafting the bill, Green said he got help from Exxon's Parish and BP Exploration lobbyist John Ringstad. Neither Parish nor Ringstad returned calls Tuesday.

Besides blocking the state from using the fund on anything but early, short-term spill response, Green's bill would allow money other than the nickel-a-barrel tax to count toward the \$50 million cap. That would mean the fund would reach the cap sooner, ending the oil industry's payments into it.

Janice Adair, assistant commissioner at the Department of Environmental Conservation, said Green's bill could devastate the state's spill prevention and response programs.

"We do not support the bill," Adair said after a meeting with Pat Ryan, Gov. Wally Hickel's chief of

staff.

"The governor's been wrong before," Green responded. "He's certainly wrong on this."

But, Adair said, Green is the one who's wrong, especially about the original purpose of the response fund. She said the spill prevention and response programs — even the money for the ferry — were approved by the legislature.

"The legislative history is very clear that the nickel-a-barrel tax was intended to, in part, fund these programs," Adair said.

Adair said the administration was also alarmed by the provisions in Green's bill that would eliminate an oil spiller's duty to restore the environment. She said such a law might prevent the state from requiring polluters to do anything after the initial cleanup.

Another clause in Green's bill would remove from law a legislative finding that oil spills like the Exxon Valdez pose a threat to the state's economy.

"It actually benefited the economy," Green said. "Tourism went up, fishermen were more than compensated for their lost fishing time."