

LEGISLATIVE FINANCE-HOUSE/SENATE FINANCE COMM. FILES 8879

HB 566 cont. , HB 567 546 137

Sections 1-7

Sections 1-7 will not require additional resources for the Department of Environmental Conservation.

Section 8

This legislation establishes the State Emergency Response Commission (SERC) in statute. The scope of the SERC, currently established under administrative order, is broadened to include contingency planning for oil spill response, as well as providing additional representation by resource agencies (DNR, F&C) and health and safety agencies (Labor, Public Safety).

The Department presently funds .5 FTE as technical staff to the SERC. This legislation will require two additional FTE (153.4) to serve as technical support to the SERC, coordinate SERC meetings, coordinate establishment of LEPCs, provide technical information to LEPCs, and other duties as required by the statute. The Department considers it essential that SERC/LEPC plans are coordinated with the State and Regional Oil and Hazardous Substance Discharge Prevention and Contingency Plans.

Travel expenses and per diem for commission members attending quarterly SERC meetings (6-8 persons) and quarterly subcommittee meetings (6-8 persons) are paid by the Department. There are four subcommittees. Based on an air fare of \$360 and one day per diem at \$80/day, travel and per diem amount to \$70.4.

This legislation will require the commission to establish LEPCs for each emergency planning district. Approximately 12 Local Emergency Planning Committees (LEPC) are in the process of being established at an estimated cost of \$20.0 to each community. Contractual services monies in the amount of \$120.0 (\$10 per LEPC) will be necessary to help insure that LEPCs are established, members receive appropriate training, and that the requirements of this proposed statute and SARA Title III are complied with. This cost will recur in subsequent fiscal years as additional LEPCs are established.

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

SUMMARY

	<u>100</u>	<u>200</u>	<u>300</u>	<u>400</u>	<u>500</u>	<u>Total</u>
ECO III	57.7	5.0	8.0	1.0	5.0	\$ 76.7
ECO III	57.7	5.0	8.0	1.0	5.0	\$ 76.7
Travel/per diem		70.4				\$ 70.4
Contractual			127.0			\$127.0
TOTALS	115.4	80.4	143.0	2.0	10.0	\$350.8

H B

567

HOUSE COMMITTEE REPORT FILE

(11)

Date Referred: April 2, 1990

FURTHER REFERRALS:

Date of Committee Action: 4/23/90

The FINANCE Committee considered:

HB 567

HOUSE BILL NO. 567

OIL SPILL CONTINGENCY PLANS/REQUIREMENTS

"An Act relating to the strengthening of the state's oil contingency plan requirements, financial responsibility requirements, and inspection authority under AS 46.04; and providing for an effective date."

RECOMMENDATIONS:

- be replaced with CS HB 567 (FIN) the same title a new title
- have attached amendment(s)
- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the _____ Committee

ADOPTS: _____ letter of intent

ATTACHES NEW FISCAL NOTE(S):

APPROVES PREVIOUS:

(Date/Dept)

- (2) fiscal impact ^{DEC} # FIN CMTE. fiscal note(s) _____
- zero fiscal note _____ zero fiscal note(s) _____
- zero with analysis _____ zero fn/analysis _____

SIGNING DO PASS:

SIGNING:

(Check approp. column)

Do Not-Pass
No Rec
Amend

[Signature] Ulmer
[Signature] Brown
[Signature] Koponen

Name	Do Not-Pass	No Rec	Amend
<u>[Signature]</u> Hoffman	X		
<u>[Signature]</u> Carson	X		
<u>[Signature]</u> Swackhammer	X		
<u>[Signature]</u> Shultz	X		
<u>[Signature]</u> Rieger	✓		
<u>[Signature]</u> Barnes	✓		
<u>[Signature]</u> Phillips	✓		

[Signature] Hoffman
 _____ Chairman's Signature
[Signature] Carson

**STATE OF ALASKA
1990 LEGISLATIVE SESSION**

BILL VERSION : CSHB 567 (Res)

PUBLISH DATE : _____

FISCAL NOTE

REQUEST:

Revision Date 4/2/90
 Title: An act relating to contingency
 plan requirements, financial responsibility...
 Sponsor: Rules/Governor
 Requestor: HFinance

Agency Affected: Environ. Conservation
 BRU: Environmental Quality
 Components: Environmental Quality

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES	665.0	614.0	563.0	563.0	563.0	563.0
TRAVEL	60.0	52.5	45.0	45.0	45.0	45.0
CONTRACTUAL	562.0	554.0	546.0	546.0	546.0	546.0
SUPPLIES	14.0	13.0	12.0	12.0	12.0	12.0
EQUIPMENT	70.0	65.0	60.0	60.0	60.0	60.0
LAND&STRUCTURES						
GRANTS,CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	1,371.0	1,298.5	1,226.0	1,226.0	1,226.0	1,226.0

CAPITAL	0.0	1,298.5	1,226.0	1,226.0	1,226.0	1,226.0
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REVENUE	0.0	0.0	0.0	0.0	0.0	0.0
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FUNDING: (Thousands of Dollars)

GENERAL FUND	0.0	0.0	0.0	0.0	0.0	0.0
FEDERAL FUNDS	0.0	0.0	0.0	0.0	0.0	0.0
OTHER	1,371.0	1,298.5	1,226.0	1,226.0	1,226.0	1,226.0
TOTAL	1,371.0	1,298.5	1,226.0	1,226.0	1,226.0	1,226.0

POSITIONS:

FULL-TIME	12.0	12.0	12.0	12.0	12.0	12.0
PART-TIME	0.0	0.0	0.0	0.0	0.0	0.0
TEMPORARY	2.0	1.0	0.0	0.0	0.0	0.0

ANALYSIS: (Attach a separate page if necessary)

Further analysis attached.

Prepared by: Lynn Kent
 Division: Environmental Quality

Phone: 465-2630
 Date: 4/2/90

Approved by Commissioner: ADK
 Agency: Environmental Conservation

Date: 4/2/90

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

Adopted

FISCAL ANALYSIS

Sections 1, 2, and 3

These sections allow the Department and municipalities to enter into agreements relating to vessel traffic control and monitoring systems and alter penalty provisions. There is no fiscal impact to the Department from these sections.

Section 4

This section requires certain facilities and vessels to include prevention measures in their contingency plans. One Ecologist II is necessary to develop prevention regulations such as design, construction and operation standards for the various types of facilities and vessels. In addition, field staff will require additional time to review the prevention portions of the plan and to perform more detailed facility inspections. Statewide, this will increase the workload by two FTE (Environmental Field Officer II's)

In addition, this section requires a new class of facilities - onshore exploration and production facilities - to develop oil discharge prevention and contingency plans. There are approximately 60 sites with multiple currently operating in the state. Two Environmental Field Officers are necessary to evaluate these contingency plans, inspect facilities for compliance with the approved contingency plans, and to develop and participate in spill drills designed to test the ability of the contingency plans.

Section 5

Section 5 of the bill requires the Department to provide a copy of a contingency plan to the Departments of Fish and Game and Natural Resources and provide those agencies with an opportunity to review and comment on the plans. The coordination of review for over 70 plan reviews annually will require one additional FTE (Ecologist II).

Section 6

Section 6 has no fiscal impact on the Department.

Section 7

Section 7 requires approximately 60 additional facilities (onshore exploration and production facilities) to demonstrate proof of financial responsibility. One-half of an Administrative Assistant III is necessary to carry out the additional workload of reviewing and approving the financial responsibility documentation for these facilities.

Sections 8 and 9

Sections 8 and 9 have no fiscal impact on the Department.

Sections 10, 11 and 12

These sections broaden the forms of security acceptable to demonstrate financial responsibility. The Department will need to evaluate what forms of security will be acceptable to the state and define those by regulation (.5 Administrative Assistant III)

Section 13

Section 13 has no fiscal impact on the Department.

Section 14

This section requires crude oil terminals with a capacity between 5,000 and 10,000 barrels to have approved contingency plans. This will not significantly increase the workload for the Department.

Section 15

This section provides authority to the Department to inspect the structural integrity of tank vessels, oil barges, oil terminal facilities, pipelines. Outside expertise is necessary for some of this activity. The Department will require two FTE (Environmental Field Officer III) and contractual funds (\$450.0) to implement this section.

Sections 16 and 17

Sections 16 and 17 are for drafting clarification and do not have a fiscal impact on the Department.

Section 18

Section 18 has no fiscal impact on the Department.

Section 19

Section 19 broadens the use of the Oil and Hazardous Substance Release Response Fund. The fiscal impact to the Department comprises the total of this fiscal note.

Section 20

This section requires the Department to conduct a survey of small non-crude oil terminal facilities with storage capacities between 5,000 and 10,000 barrels. There are over 30 of these facilities, most of which are located in rural areas. The inspections will involve a technical review of facility design and construction, prevention measures, and spill response capability. The Department will provide technical assistance to the facility owners/operators to enhance their spill prevention and response capabilities. In addition the Department will submit a report to the legislature outlining the types of problems at these facilities and suggestions for improvement. The inspections and technical assistance will require two Environmental Field Officers. Compilation of the statewide inspection information and recommendations report to the legislature will require one Ecologist II. The survey is required to be done within two years. One EFO position is for just one year, while the other one is for the two years of the survey. The Department proposes to keep the Ecologist II for subsequent years to initiate implementation of accepted recommendations.

Position	100	200	300	400	500	Total
Ecologist II	51.0	5.0	8.0	1.0	5.0	70.0
2 Env. Field Ofc II's	102.0	10.0	16.0	2.0	10.0	140.0
2 Env. Field Ofc III's	102.0	10.0	16.0	2.0	10.0	140.0
Ecologist II	51.0	5.0	8.0	1.0	5.0	70.0
Admin. Asst. III	36.0	0.0	8.0	1.0	5.0	50.0
2 Env. Field Ofc III	102.0	10.0	16.0	2.0	10.0	140.0
Contractual (inspections)			450.0			450.0
2 Env. Field Ofc III	102.0	15.0	16.0	2.0	10.0	145.0
Ecologist II	51.0	5.0	8.0	1.0	5.0	70.0
2 Clerk Typist III's	68.0	0.0	16.0	2.0	10.0	96.0
TOTALS	665.0	60.0	562.0	14.0	70.0	\$1,371.0

FISCAL NOTE

REQUEST:

Revision Date: _____ Agency Affected: Fish and Game
 Title: An Act strenghtening DEC's BRU: Habitat Division
contingency plan and inspection requirements.
 Sponsor: Rules Committee/Governor Components: Habitat
 Requestor: House Finance

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES	135.9					
TRAVEL	6.0					
CONTRACTUAL	13.6					
SUPPLIES	1.0					
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	156.5					

CAPITAL	0					
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REVENUE	0					
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FUNDING: (Thousands of Dollars)

GENERAL FUND	0					
FEDERAL FUNDS	0					
OTHER *	156.5					
TOTAL	156.5					

POSITIONS:

FULL-TIME	2					
PART-TIME	1					
TEMPORARY	0					

ANALYSIS : (Attach a separate page if necessary)

* Oil and Hazardous Substance Release Response Fund

Prepared by: House Finance Committee Phone: 465-3727
 Division: Co-Chairman Ron Larson Date: 4/23/90
Co-Chairman Lyman Hoffman
 Approved by Commissioner: _____ Date: 4/23/90
 Agency: _____

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

Adopted

Continuation of fiscal note analysis

FY91 Line Itemization -

PCN/NEW	RANGE/STEP	CLASSIFICATION	NO. MONTHS (COST)	LOCATION
New	18C	Habitat Biologist III	12 (54.0)	Anchorage
New	18C	Habitat Biologist III	12 (61.1)	Fairbanks
6118	16J	Cartographer III	3 (13.5)	Anchorage
New	8C	Clerk/Typist III	1.5 (3.8)	Anchorage
6131	7A	Clerk/Typist III	1.5 (3.5)	Fairbanks
TOTAL			\$135.9	

EXPLANATION

As a result of the Exxon Valdez oil spill, it has become apparent that existing oil spill contingency plans are inadequate. Consequently, the U.S. Coast Guard (USCG) is reviewing and updating its regional contingency plans, and the state intends to re-evaluate the adequacy of at least the major nongovernmental contingency plans. This effort has already been initiated and we anticipate that, at a minimum, the state will participate in planning projects for Prince William Sound, Cook Inlet, the Beaufort Sea, and possibly other areas such as the Chukchi Sea. The state will also be involved in re-evaluating and potentially expanding the Dispersant Use Guidelines and Wildlife Protection Guidelines, which have incorporated into the USCG Alaska Region spill contingency plan. In order to protect the state's interests in fish and wildlife populations, habitats, and public uses of these resources, ADF&G will require additional staff to dedicate specifically to contingency planning.

The principal resources at risk because of oil and other hazardous substance releases are fish and wildlife, and the ADF&G is the state agency with the expertise and statutory mandate to provide information and recommendations regarding these resources. The department must compile and provide information on the distribution, abundance, and critical life function needs of fish and wildlife populations that may be affected by a spill or other release. Based on this information, the department must recommend mitigation measures that will afford the highest possible level of fish and wildlife protection. Examples of mitigation decisions are

Continuation of Explanation

the identification of areas that are biologically suitable for oil dispersant use, identification of areas of highest priority for containment or defensive booming, identification of criteria for deploying shoreline cleanup equipment and crews, and the selection of shoreline cleanup techniques that will maximize biological benefits and minimize biological costs.

At present, ADF&G has no funding allocated to perform this function. Between February 16 and June 30 of FY90, ADF&G will need: 9 months of HBIII, 2.25 months of CTIII, and 1.0 month of CartIII. ADF&G will also require two computers and funding for other support services as noted above.

Original sponsor(s): Rules/Governor

1 IN THE HOUSE

BY THE FINANCE COMMITTEE

2 CS FOR HOUSE BILL NO. 567 (Finance)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to oil discharge prevention and
7 contingency plan requirements, financial respon-
8 sibility requirements related to oil, civil penalties
9 for discharges of crude oil, and inspection authority
10 of the Department of Environmental Conservation; au-
11 thorizing certain additional uses of the oil and
12 hazardous substance release response fund and re-
13 stricting use of the fund for municipal grants and
14 reimbursable service agreements; authorizing the
15 Department of Environmental Conservation and munic-
16 ipalities to enter into agreements pertaining to
17 vessel traffic control and monitoring systems; relat-
18 ing to reporting requirements; and providing for an
19 effective date."

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

21 * Section 1. AS 29.35.020 is amended by adding a new subsection to
22 read:

23 (d) A municipality may enter into agreements with the United
24 States Coast Guard, the United States Environmental Protection Agency,
25 and other persons relating to development and enforcement of vessel
26 traffic control and monitoring systems for oil barges and tank vessels
27 carrying oil operating in or near the waters of the state.

28 * Sec. 2. AS 46.03.759(c) is amended to read:

29 (c) Subject to the \$500,000,000 maximum set under (a) of this

1 section the court shall assess five [FOUR] times the penalty set out
2 in (a) of this section if the court finds

3 (1) the discharge was caused by the gross negligence or
4 intentional act of the defendant;

5 (2) the defendant did not take reasonable measures to
6 contain and clean up the discharged oil; or

7 (3) the defendant did not act or respond in accordance with
8 an approved oil discharge prevention and contingency plan.

9 * Sec. 3. AS 46.04.020(e) is amended to read:

10 (e) The department shall enter into negotiations for memoranda
11 of understanding or cooperative agreements with the United States
12 Coast Guard, the United States Environmental Protection Agency, and
13 other persons in order to

14 (1) facilitate coordinated and effective oil prevention and
15 discharge response in the state, including agreements relating to
16 development and enforcement of vessel traffic control and monitoring
17 systems for tank vessels and oil barges operating in or near the
18 waters of the state;

19 (2) provide for cooperative review of oil discharge preven-
20 tion and contingency plans submitted to the department under AS 46.-
21 04.030;

22 (3) provide for cooperative inspections of oil terminal
23 facilities by the department and the United States Coast Guard or
24 United States Environmental Protection Agency; and

25 (4) provide for cooperative oil discharge notification
26 procedures.

27 * Sec. 4. AS 46.04.030 is amended to read:

28 Sec. 46.04.030. OIL DISCHARGE PREVENTION AND CONTINGENCY PLANS.

29 (a) A person may not cause or permit the operation of an oil terminal

1 facility in the state unless an oil discharge prevention and contin-
2 gency plan for the facility has been approved by the department and
3 has been properly implemented [. THE DEPARTMENT IS THE ONLY STATE
4 AGENCY WHICH HAS THE POWER TO APPROVE AN OIL DISCHARGE CONTINGENCY
5 PLAN FOR THE PURPOSES OF THIS SECTION].

6 (b) A [AFTER JANUARY 1, 1981, A] person may not cause or permit
7 the operation of an [OFFSHORE] exploration or production facility in
8 the state unless an oil discharge prevention and contingency plan for
9 the facility has been approved by the department and has been properly
10 implemented.

11 (c) A person may not operate a tank vessel or an oil barge
12 within the waters of the state, or cause or permit the transfer of oil
13 to or from a tank vessel or [, OR, AFTER JANUARY 1, 1981, TO OR FROM]
14 an oil barge, unless an oil discharge prevention and contingency plan
15 for the tank vessel or oil barge has been approved by the department
16 and has been properly implemented [EXCEPT FOR PROSECUTIONS UNDER
17 AS 46.03.790(b), IT IS NOT A DEFENSE TO AN ACTION BROUGHT FOR VIOLA-
18 TION OF THIS SUBSECTION THAT THE PERSON CHARGED BELIEVED THAT A CUR-
19 RENT OIL DISCHARGE CONTINGENCY PLAN FOR THE TANK VESSEL OR OIL BARGE
20 HAD BEEN APPROVED BY THE DEPARTMENT].

21 (d) A [AN OIL DISCHARGE] contingency plan must be renewed at
22 least every three years.

23 (e) The department may attach reasonable terms and conditions to
24 its approval or modification of a [AN OIL DISCHARGE] contingency plan
25 that the department [WHICH IT] determines are necessary to ensure
26 [INSURE] that the applicant for a [AN OIL DISCHARGE] contingency plan
27 has access to sufficient resources to protect environmentally sensi-
28 tive areas and to contain, clean up, and mitigate potential oil dis-
29 charges at or from the facility or vessel as provided in (j) of this

1 section, and to ensure that the applicant properly implements the
2 contingency plan [WITHIN THE SHORTEST FEASIBLE TIME]. The [OIL DIS-
3 CHARGE] contingency plan must provide for the use [OF THE BEST AVAIL-
4 ABLE TECHNOLOGY] by the applicant of the best technology that was
5 available at the time the contingency plan was submitted or renewed.

6 The department may require an applicant or holder of an approved
7 contingency plan to take steps necessary to demonstrate its ability to
8 carry out the contingency plan, including

- 9 (1) periodic training;
10 (2) response team exercises, and
11 (3) verifying access to inventories of available equipment,
12 supplies, and personnel.

13 (f) Upon request of a plan holder or on the department's own
14 initiative, the [THE] department, after notice and opportunity for
15 hearing, may modify its approval of a [AN OIL DISCHARGE] contingency
16 plan if the department [IT] determines that a change has occurred in
17 the operation of a facility [, MARINA] or vessel necessitating an
18 amended or supplemented plan, or the operator's discharge experience
19 demonstrates a necessity for modification. The department, after
20 notice and opportunity for hearing, may revoke its approval of a [AN
21 OIL DISCHARGE] contingency plan if the department [IT] determines that

- 22 (1) approval was obtained by fraud or misrepresentation;
23 (2) the operator does not have access to the quality or
24 quantity of resources identified in the plan; [OR]

25 (3) a term or condition of approval or modification has
26 been violated; or

27 (4) the plan has not been properly implemented and the
28 deficiency materially affects the plan holder's response capability.

29 (g) Failure of a holder of an approved or modified [OIL

1 DISCHARGE] contingency plan to properly implement the plan, or to have
2 access to the quality or quantity of resources identified in the plan
3 or [AND, IN THE EVENT OF A SPILL,] to respond with those resources
4 within the shortest possible [FEASIBLE] time in the event of a spill
5 is a violation of this chapter for purposes of AS 46.03.760(a),
6 46.03.765, 46.03.790, and any other applicable law. If the holder of
7 an approved or modified [OIL DISCHARGE] contingency plan fails to
8 respond to and conduct cleanup operations of an unpermitted discharge
9 of crude oil with the quality and quantity of resources identified in
10 the plan and in a manner required under the plan, the holder is
11 strictly liable, jointly and severally, for the civil penalty assessed
12 under AS 46.03.758, 46.03.759, or 46.03.760 against any other person
13 for that discharge.

14 * Sec. 5. AS 46.04.030 is amended by adding new subsections to read:

15 (h) The department is the only state agency that has the power
16 to approve, modify, or revoke a contingency plan for the purposes of
17 this section. The department shall exercise its power under this
18 section in a timely manner. Except for prosecutions under AS 46.03.-
19 790(b), it is not a defense to an action brought for a violation of
20 (a) - (c) of this section that the person charged believed that a
21 current contingency plan had been approved by the department.

22 (i) Before the department approves or modifies a contingency
23 plan under this section, the department shall provide a copy of the
24 contingency plan to the Department of Fish and Game and to the Depart-
25 ment of Natural Resources for their review. The department shall by
26 regulation establish the procedures and time limits applicable to
27 agency review of contingency plans.

28 (j) Except as provided in (l) of this section, the holder of an
29 approved contingency plan required under this section shall maintain

1 in its region of operation, singly or in conjunction with other opera-
2 tors in its region of operation, sufficient oil discharge containment,
3 storage, transfer, and removal equipment, personnel, and resources to
4 rapidly contain a

5 (1) realistic maximum oil discharge and to remove that
6 discharge within 72 hours if the contingency plan is for an explora-
7 tion or production facility;

8 (2) discharge in an amount equal to the capacity of the
9 largest oil storage tank at the facility and to remove that discharge
10 within 72 hours if the contingency plan is for an oil terminal facil-
11 ity; if the department determines that the oil terminal facility is
12 located in an area of high risk because of natural or manmade condi-
13 tions outside of the facility, the department may increase the volume
14 requirement under this paragraph so that the contingency plan must be
15 designed for response to a discharge that is greater in amount than
16 the capacity of the largest oil storage tank at the facility;

17 (3) discharge of oil in an amount equal to the maximum
18 capacity of the vessel or barge and to remove that discharge within 72
19 hours if the contingency plan is for a tank vessel or oil barge.

20 (k) Notwithstanding (j) of this section, failure to remove a
21 discharge within 72 hours does not constitute failure to properly
22 implement a contingency plan for purposes of (g) of this section.

23 (l) Notwithstanding (j) of this section, the department may
24 approve a contingency plan for a noncrude oil terminal facility or for
25 a tank vessel or barge carrying noncrude oil that provides for the
26 holder of the plan to maintain the equipment, personnel, and resources
27 required under (j) of this section outside the holder's region of
28 operation upon a showing satisfactory to the department that the
29 planning requirements of (j) of this section are otherwise satisfied.

1 (m) In this section

2 (1) "contingency plan" means an oil discharge prevention
3 and contingency plan required under this section;

4 (2) "properly implement" means, with respect to a contin-
5 gency plan, to

6 (A) establish and carry out procedures identified in
7 the plan as being the responsibility of the holder of the plan;

8 (B) have access to and have on hand the quantity and
9 quality of equipment, personnel, and other resources identified
10 as being accessible or on hand in the plan;

11 (C) fulfill the assurances espoused in the plan in the
12 manner described in the plan;

13 (D) comply with terms and conditions attached to the
14 plan by the department under the authority of (e) of this sec-
15 tion; and

16 (E) successfully demonstrate the ability to carry out
17 the plan when required by the department under (e) of this sec-
18 tion;

19 (3) "realistic maximum oil discharge" means the maximum and
20 most damaging oil discharge that the department estimates could occur
21 during the lifetime of the facility based on the size, location, and
22 capacity of the facility; on the department's knowledge and experience
23 with the facility or with similar facilities; and on the department's
24 analysis of possible mishaps at the facility or at similar facilities;

25 (4) "region of operation," with respect to the holder of a
26 contingency plan, means the area where the operations of the holder
27 that require a contingency plan are located, the boundaries of which
28 correspond to the regional boundaries established by the commissioner
29 for regional master planning purposes under AS 46.04.210.

1 * Sec. 6. AS 46.04.040(a) is amended to read:

2 (a) A person may not cause or permit the operation of an oil
3 terminal facility in the state unless the person has furnished to the
4 department, and the department has approved, proof of financial abil-
5 ity to respond in damages. Proof of financial responsibility for a
6 crude oil terminal may not be less than \$50,000,000 per incident.
7 Proof of financial responsibility for a noncrude oil terminal may not
8 be less than \$25, per incident, for each barrel of total noncrude oil
9 storage capacity at the terminal or [WHICH HAS BEEN ACCEPTED BY THE
10 DEPARTMENT. ABILITY TO RESPOND IN DAMAGES NEED NOT EXCEED \$50,000,000
11 BUT MUST BE IN AN AMOUNT (1) NOT LESS THAN \$10, PER INCIDENT, FOR EACH
12 BARREL OF STORAGE CAPACITY AT THE OIL TERMINAL FACILITY: OR (2)]
13 \$1,000,000, whichever is greater, subject to a maximum of \$50,000,000.
14 For purposes of this subsection, an oil terminal facility that stores
15 both crude oil and noncrude oil is subject to the financial responsi-
16 bility requirements applicable to the type of facility that corre-
17 sponds to the type of oil storage that predominates at the facility.
18 However, if the facility stores more noncrude oil than crude oil, the
19 \$25 per incident, per barrel requirement of this subsection applies to
20 each barrel of oil storage capacity at the facility.

21 * Sec. 7. AS 46.04.040(b) is amended to read:

22 (b) A [AFTER JULY 1, 1981, A] person may not cause or permit the
23 operation of an [OFFSHORE] exploration or production facility in the
24 state unless the person has furnished to the department, and the
25 department has approved, proof of financial ability to respond in
26 damages [HAS BEEN ACCEPTED BY THE DEPARTMENT]. Proof of financial
27 responsibility for an offshore exploration or production facility may
28 not be less than \$50,000,000 [\$35,000,000] per incident. Proof of
29 financial responsibility for an onshore exploration or production

1 facility may not be less than \$20,000,000 per incident.

2 * Sec. 8. AS 46.04.040(c) is amended to read:

3 (c) A person may not operate a tank vessel or an oil barge
4 within the waters of the state, or cause or permit the transfer of oil
5 to or from a tank vessel [,] or [, AFTER JANUARY 1, 1981, TO OR FROM]
6 an oil barge, unless the person operating the tank vessel or oil barge
7 has furnished to the department, and the department has approved,
8 proof of financial ability to respond in damages. Proof of financial
9 responsibility under this subsection may not be less than

10 (1) \$300, per incident, for each barrel of storage capacity
11 or \$100,000,000, whichever is greater, for a tank vessel or barge
12 carrying crude oil;

13 (2) \$100, per incident, for each barrel of storage capacity
14 or \$1,000,000, whichever is greater, subject to a maximum of
15 \$35,000,000, for a tank vessel or barge carrying noncrude oil in an
16 amount of 5,000 barrels or more [RESPONSIBILITY FOR THE TANK VESSEL OR
17 BARGE HAS BEEN ACCEPTED BY THE DEPARTMENT. FINANCIAL RESPONSIBILITY
18 UNDER THIS SUBSECTION SHALL BE IN THE FOLLOWING AMOUNTS:

19 (1) FOR A TANK VESSEL OR OIL BARGE INVOLVED IN THE TRANS-
20 PORTATION OF TRANS-ALASKA PIPELINE OIL, THE AMOUNT REQUIRED BY THE
21 FEDERAL MARITIME COMMISSION UNDER 43 U.S.C. 1653(c)(3) (SEC. 204
22 (c)(3), TRANS-ALASKA PIPELINE AUTHORIZATION ACT);

23 (2) FOR ANY OTHER OIL BARGE, THE AMOUNT REQUIRED BY
24 SEC. 311(p)(1) OF THE CLEAN WATER ACT, OR \$1,000,000, WHICHEVER IS
25 GREATER;

26 (3) FOR ANY OTHER TANK VESSELS, THE AMOUNT REQUIRED BY
27 SEC. 311(p)(1) OF THE CLEAN WATER ACT, OR \$20,000,000, WHICHEVER IS
28 GREATER].

29 * Sec. 9. AS 46.04.040(d) is amended to read:

1 (d) Except for prosecutions under AS 46.03.790(b), it is not a
2 defense to an action brought for violation of (a) - (c) [(c)] of this
3 section that the person charged believed in good faith that proof of
4 financial ability to respond in damages had been furnished to, and
5 approved by, the department [THE VESSEL OPERATOR POSSESSED PROOF OF
6 FINANCIAL RESPONSIBILITY ACCEPTED BY THE DEPARTMENT].

7 * Sec. 10. AS 46.04.040(e) is amended to read:

8 (e) Financial responsibility may be demonstrated by (1) self-
9 insurance, (2) insurance, (3) surety, (4) [OR] guarantee, (5) letter
10 of credit approved by the department, or (6) other proof of financial
11 responsibility approved by the department, including proof of finan-
12 cial responsibility provided by a group of insureds who have agreed to
13 cover pollution risks of members of the group under terms the depart-
14 ment may prescribe. An action brought under AS 46.03.758, 46.03.759,
15 46.03.760(a) or (e), 46.03.822, or AS 46.04.030(g) [OR TO COLLECT
16 PENALTIES IMPOSED UNDER AS 46.03.759] may be brought in a state court
17 directly against the insurer, the group, or another person providing
18 evidence of financial responsibility. The applicant, and an insurer,
19 surety, [OR] guarantor, person furnishing an approved letter of cred-
20 it, or other group or person providing proof of financial respon-
21 sibility approved by the department shall appoint an agent for service
22 of process in the state. For purpose; of this subsection, an [AN]
23 insurer, other than a group of insureds whose agreement has been
24 approved by the department, must either be authorized by the Depart-
25 ment of Commerce and Economic Development to sell insurance in the
26 state or be an unauthorized insurer listed by the Department of Com-
27 merce and Economic Development as not disapproved for use in the
28 state.

29 * Sec. 11. AS 46.04.040(f) is amended to read:

1 (f) Acceptance of proof of financial responsibility expires
2 (1) one year from its issuance for self-insurance;
3 (2) on the effective date of a change in the surety bond,
4 guarantee, [OR] insurance agreement, letter of credit, or other proof
5 of financial responsibility; or
6 (3) on the expiration or cancellation of the surety bond,
7 guarantee, [OR] insurance agreement, letter of credit, or other proof
8 of financial responsibility.

9 * Sec. 12. AS 46.04.040(g) is amended to read:

10 (g) The person whose proof of financial responsibility is ac-
11 cepted by the department under this section shall notify the depart-
12 ment at least 30 days before the effective date of a change, expira-
13 tion or cancellation in the surety bond, guarantee, [OR] insurance
14 agreement, letter of credit, or other proof of financial responsibil-
15 ity. Application for renewal of acceptance of proof of financial
16 responsibility under this section must be filed at least 30 days
17 before the date of expiration.

18 * Sec. 13. AS 46.04.040 is amended by adding new subsections to read:

19 (j) Upon acceptance and approval of proof of financial responsi-
20 bility under this section, the department shall issue to the applicant
21 a certificate stating that the state's financial responsibility re-
22 quirements have been satisfied. The certificate must include the name
23 of the facility, tank vessel, or barge for which it is issued and the
24 expiration date of the certificate.

25 (k) Notwithstanding the requirements of (e) of this section, the
26 applicant may provide evidence of financial responsibility provided by
27 an insurer or other person who does not agree to be subject to direct
28 action in state courts or to appoint an agent for service of process
29 if

1 (1) the department is satisfied that the insurance or other
2 form of financial responsibility covers judgments under the statutes
3 listed in (e) of this section;

4 (2) proof of at least \$50,000,000, or the amount required
5 by (a) - (c) of this section, whichever is less, in insurance or other
6 form of financial responsibility that meets the requirements of (e) of
7 this section is provided; and

8 (3) the applicant provides a sworn statement or affidavit
9 that insurance or other form of financial responsibility that meets
10 the requirements of (e) of this section is not available in greater
11 amounts.

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

13 Sec. 46.04.045. ADJUSTMENT OF DOLLAR AMOUNTS. (a) The dollar
14 amounts in AS 46.04.040 change, as provided in this section, according
15 to and to the extent of changes in the Consumer Price Index for all
16 urban consumers for the Anchorage metropolitan area compiled by the
17 Bureau of Labor Statistics, United States Department of Labor (the
18 index). The index for January of the year in which this section
19 becomes effective is the reference base index.

20 (b) The dollar amounts change on October 1 of each third year
21 according to the percentage change between the index for January of
22 that year and the most recent index used to determine whether to
23 change the dollar amounts. After calculation of the new amounts, the
24 resulting amounts shall be rounded to the nearest cent.

25 (c) If the index is revised, the percentage of change is cal-
26 culated on the basis of the revised index. If a revision of the index
27 changes the reference base index, a revised reference base index is
28 determined by multiplying the reference base index applicable by the
29 rebasing factor furnished by the United States Bureau of Labor

1 Statistics. If the index is superseded, the index referred to in this
2 section is the one represented by the Bureau of Labor Statistics as
3 reflecting most accurately changes in the purchasing power of the
4 dollar for Alaskan consumers.

5 (d) The department shall adopt a regulation announcing

6 (1) on or before June 30 of each third year, the changes in
7 dollar amounts required by (b) of this section; and

8 (2) promptly after the changes occur, changes in the index
9 required by (c) of this section, including, if applicable, the numer-
10 ical equivalent of the reference base index under a revised reference
11 base index and the designation or title of any index superseding the
12 index.

13 (e) The department shall also provide notification of a change
14 in dollar amounts required under (b) of this section to the clerks of
15 court in each judicial district of the state.

16 * Sec. 15. AS 46.04.050 is amended to read:

17 Sec. 46.04.050. EXEMPTIONS. The provisions of [BECAUSE OF THE
18 RESTRICTED NATURE OF THE OPERATIONS AND THE MINIMAL DANGER TO THE
19 ENVIRONMENT POSED BY THE ACTIVITIES,] AS 46.04.030, 46.04.040, and
20 46.04.060 do not apply to an oil terminal facility that has an effec-
21 tive storage capacity of less than 5,000 [10,000] barrels of crude oil
22 or less than 10,000 barrels of noncrude oil.

23 * Sec. 16. AS 46.04.060 is amended to read:

24 Sec. 46.04.060. INSPECTIONS. In addition to other rights of
25 access or inspection conferred upon the department by law or other-
26 wise, the department may at reasonable times enter and inspect oil
27 [OIL] terminal facilities, [OFFSHORE] exploration and production
28 facilities, tank vessels, and oil barges within the territorial juris-
29 isdiction of the state in order [ARE SUBJECT TO INSPECTION BY THE

1 DEPARTMENT] to

2 (1) ensure compliance with the provisions of this chapter;

3 (2) examine the structural integrity of tank vessels, oil
4 barges, oil terminal facilities, oil exploration and production facil-
5 ities, pipelines, and other facilities related to the exploration,
6 production, storage, and transportation of oil; or

7 (3) participate in an examination of the structural integ-
8 riety of tank vessels and oil barges by the United States Coast Guard.

9 * Sec. 17. AS 46.04.200 is amended to read:

10 Sec. 46.04.200. STATE MASTER PLAN. (a) The department shall
11 prepare an annually review and revise a statewide master oil and
12 hazardous substance discharge [AND] prevention and contingency plan.

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

14 (1) take into consideration the elements of an oil dis-
15 charge prevention and contingency plan approved or submitted for
16 approval under AS 46.04.030;

17 (2) clarify and specify the respective responsibilities of
18 each of the following in the assessment, containment, and cleanup of a
19 catastrophic oil discharge or of a significant discharge of a hazard-
20 ous substance into the environment of the state:

21 (A) agencies of the state;

22 (B) municipalities of the state;

23 (C) appropriate federal agencies;

24 (D) operators of facilities;

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

27 (F) other parties identified by the commissioner as
28 having an interest in or the resources to assist in the contain-
29 ment and cleanup of an oil or hazardous substance discharge;

1 (3) specify the respective responsibilities of parties
2 identified in (2) of this subsection in an emergency response; and

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

6 (c) In preparing and annually reviewing the state master plan,
7 the commissioner shall

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

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

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

15 (4) require or schedule unannounced oil spill drills to
16 test the sufficiency of an oil discharge prevention and contingency
17 plan approved under AS 46.04.030 or of the cleanup plans of a party
18 identified under (b)(2) of this section.

19 * Sec. 18. AS 46.04.210(a) is amended to read:

20 (a) For any region of the state, the boundaries of which are
21 determined by the commissioner by regulation, in which the department
22 is required to review and approve an oil discharge prevention and
23 contingency plan submitted by a person under AS 46.04.030, the depart-
24 ment shall prepare and annually review and revise a regional master
25 oil and hazardous substance discharge [AND] prevention and contingency
26 plan.

27 * Sec. 19. AS 46.04.900(8) is amended to read:

28 (8) "[OFFSHORE] exploration or production facility" means a
29 platform, vessel, or other facility used to explore for or produce

1 hydrocarbons in the waters of the state or on land in the state; the
2 term does not include vessels used for stratigraphic drilling or other
3 operations that [WHICH] are not authorized or intended to drill to a
4 producing formation;

5 * Sec. 20. AS 46.04.900(15) is amended to read:

6 (15) "tank vessel" means a self-propelled waterborne vessel
7 that is constructed or converted to carry liquid bulk cargo in tanks
8 and includes tankers, tankships, and combination carriers when carry-
9 ing oil; the term does not include vessels carrying oil in drums,
10 barrels, or other packages, or vessels carrying oil as fuel or stores
11 for that vessel;

12 * Sec. 21. AS 46.08.040 is amended to read:

13 Sec. 46.08.040. PURPOSES OF THE FUND. The commissioner may use
14 money from the fund to

15 (1) investigate and evaluate the release or threatened
16 release of oil or a hazardous substance, and contain, clean up, and
17 take other necessary action, such as monitoring and assessing, to
18 address a release or threatened release of oil or a hazardous sub-
19 stance that poses an imminent and substantial threat to the public
20 health or welfare, or to the environment;

21 (2) pay all costs incurred

22 (A) to establish and maintain the oil and hazardous
23 substance response office and for the expenses of the oil and
24 hazardous substance response corps and the oil and hazardous
25 substance response depots established by that office;

26 (B) to review oil discharge prevention and contingency
27 plans submitted under AS 46.04.030;

28 (C) to conduct training, response exercises, inspec-
29 tions, and tests, in order to verify equipment inventories and

1 ability to prevent and respond to oil and hazardous substance
2 release emergencies, and to undertake other activities intended
3 to verify or establish the preparedness of the state, a munic-
4 ipality, or a party required by AS 46.04.030 to have an approved
5 contingency plan to act in accordance with that plan; and

6 (D) to verify or establish proof of financial respon-
7 sibility required by AS 46.04.040;

8 (3) provide matching funds for participation in federal oil
9 discharge cleanup activities and under 42 U.S.C. 9601 - 9657 (Compre-
10 hensive Environmental Response, Compensation, and Liability Act of
11 1980); [AND]

12 (4) recover the costs to the state or to a municipality of
13 a containment and cleanup resulting from the release or the threatened
14 release of oil or a hazardous substance; [.]

15 (5) prepare, review, and revise

16 (A) the state's master oil and hazardous substance
17 discharge [AND] prevention and contingency plan required by
18 AS 46.04.200; and

19 (B) a regional master oil and hazardous substance
20 discharge [AND] prevention and contingency plan required by
21 AS 46.04.210; and

22 (6) restore the environment by addressing the effects of an
23 oil or hazardous substance release.

24 * Sec. 22. AS 46.08.040 is amended by adding a new subsection to read:

25 (b) Except for direct response to a declared disaster emergency
26 relating to an oil or hazardous substance discharge or for specific
27 projects authorized by the legislature, the department may not receive
28 or expend money in the fund as grants to municipalities or for reim-
29 bursable service agreements with any state agency.

1 * Sec. 23. AS 46.08.060(a) is amended to read:

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

6 (1) the amount of money expended under AS 46.08.040 during
7 the preceding fiscal year;

8 (2) the amount and source of money received and money
9 recovered during the preceding fiscal year as specified in AS 46.08.-
10 020;

11 (3) a summary of municipal participation in responses
12 funded by the fund;

13 (4) a detailed summary of department activities in re-
14 sponses funded by the fund during the preceding fiscal year, including
15 response descriptions and statements outlining the nature of the
16 threat; in this paragraph, "detailed" includes information describing
17 each personal services position and total compensation for that
18 position, each contract in excess of \$20,000, and each purchase in
19 excess of \$10,000; and

20 (5) the projected cost for the next fiscal year of monitor-
21 ing, operating, and maintaining sites where response has been com-
22 pleted or is expected to be continued during the fiscal year.

23 * Sec. 24. SURVEY OF SMALL NONCRUDE OIL TERMINAL FACILITIES. (a) By
24 January 31, 1992, the Department of Environmental Conservation shall sur-
25 vey, inspect, and prepare an inventory of noncrude oil terminal facilities
26 in the state with an effective storage capacity of 5,000 to 10,000 barrels
27 in order to determine for each facility

28 (1) its actual storage capacity;

29 (2) the type of noncrude oil products stored;

- 1 (3) its age, design, construction, and general condition;
2 (4) the design and construction standards applicable or rele-
3 vant;
4 (5) the presence or absence of containment structures and equip-
5 ment;
6 (6) its ability to respond to a release or threatened release;
7 (7) the environmental sensitivity of the surrounding area and
8 the potential risk to the environment if a release occurs;
9 (8) the presence or absence of surface and subsurface pipelines
10 and storage tanks; and
11 (9) other appropriate information.

12 (b) By January 31, 1992, the Department of Environmental Conservation
13 shall report to the legislature the results of the survey required under
14 (a) of this section and its written recommendations concerning discharge
15 prevention and contingency requirements or design review requirements that
16 should be enacted for noncrude oil terminal facilities with storage capac-
17 ities of less than 10,000 barrels.

18 (c) Upon completion of the survey required under (a) of this section,
19 the Department of Environmental Conservation may

20 (1) notify each facility of the results of the facility's in-
21 spection; and

22 (2) provide each facility with recommendations and technical
23 assistance concerning identified deficiencies.

24 (d) The Department of Environmental Conservation may conduct the
25 inspections required under this section notwithstanding the provisions of
26 AS 46.04.050. The department shall conduct the inspections at reasonable
27 times.

28 * Sec. 25. This Act takes effect immediately under AS 01.10.070(c).
29

4/20/90
Rep. Kay Brown

PROPOSED CHANGES TO HOUSE BILL 567
from
CS HB 567 (Res) to CS HB 567 () draft 4/20/90
changes relative to CS HB 567 (Res)

Section 4

page 4, lines 1-2

Amends language requiring that contingency plans must provide for the "best available technology." Clarifies that the plan must provide for the best available technology at the time the plan was submitted or renewed.

page 4, line 10

Adds language to provide that a plan holder may request modification of a contingency plan in the event of changed circumstances that would warrant changes to the contingency plan.

Section 5

page 5, lines 20-21

Amends language concerning the review of contingency plans by ADF&G and DNR to provide that regulations will be issued to describe the process and timelines for the conduct of agency reviews.

page 5, line 22

Amends language to clarify that the holder of an approved contingency plan (not just an applicant for approval of a plan) must maintain sufficient containment equipment to contain a spill.

page 5, line 23-24

Amends language concerning the requirement that contingency plan holders maintain sufficient equipment in the "area" of operation to the "region" of operation as defined in regulations under AS 46.04.210 (a) (i.e., SB 261/Regional and Master Contingency Plans).

page 7, line 12

Adds definition of "region of operation" as a region established by regulation under AS 46.04.210 (a) (i.e., SB 261/Regional and Master Contingency Plans).

Section 6

page 7, line 25

Adds language to define the type of facility (crude vs. non-crude) in terms of the "type of oil that predominates at the facility" for purposes of establishing applicable financial responsibility requirements.

Section 8

page 8, line 14

Amends the financial responsibility requirements for crude oil tank vessels and barges. Changes the flat \$500,000,000 coverage requirement to a sliding scale of coverage based on the size of storage capacity (\$300 per barrel of capacity). Minimum requirement of \$100,000,000 coverage.

page 8, line 18-19

Amends the financial responsibility requirements for non-crude oil (i.e., refined products) tank vessels and barges. Deletes phrase "or other hazardous substance" to eliminate ambiguity about what substances are or are not covered.

Section 10

page 9, lines 12-25

Rewritten to clarify that financial responsibility requirements may be met through the use of "letters of credit" or "protection and indemnity" clubs (so-called "group of insureds" or "P&I" clubs). Language added to exclude P&I clubs from the regulatory jurisdiction of the Department of Commerce and Economic Development.

Section 11

page 10, line 1

Adds "letter of credit" or "other proof of financial responsibility" to the list of means by which financial responsibility may be demonstrated.

page 10, line 4

Adds "letter of credit" or "other proof of financial responsibility" to the list of means by which financial responsibility may be demonstrated.

Section 12

page 10, line 11

Adds "letter of credit" or "other proof of financial responsibility" to the list of means by which financial responsibility may be demonstrated.

page 10, line 15

New Section 13 added to provide that the department shall issue a certificate to an applicant upon the department's acceptance and approval of financial responsibility.

Other sections renumbered accordingly.

Section 15

page 12, line 11

Adds authority for DEC to participate in the examination of tank vessels and oil barges with the US Coast Guard.

Section 18

page 14, line 7

Adds new Section 20. Amends definition of "tank vessel" to clarify that this refers to "waterborne" vessels.

Other sections renumbered accordingly.

Adopt 5/90
U.C.

AMENDMENT # 1

P. 10, line 18

by BROWN

HB567 CS HB 567 (FIN)

46.04.040. Add a new subsection, to read:

(f) Notwithstanding the requirements of (e), the applicant may provide evidence of financial responsibility provided by an insurer or other person who does not agree to be subject to direct action in state courts or to appoint an agent for service of process, if (1) the department is satisfied that the insurance or other form of financial responsibility covers judgments under the statutes listed in (e); (2) proof of at least \$50 million, or the amount required by (a)-(c) of this section, whichever is less, in insurance or other form of financial responsibility which meets the requirements of (e) is provided; and (3) the applicant provides a sworn statement or affidavit that insurance or other form of financial responsibility which meets the requirements of (e) is not available in greater amounts.

Renumber accordingly

A:\HB567.OIL

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REC

7/23/90
go0530Ma ✓
Lauterbach

By BROWN
ADPT
u.c.

AMENDMENT #2

OFFERED IN THE HOUSE

TO: CSHB 567()

Page 5, line 24:

Delete "The"

Insert "Except as provided in (1) of this section, the"

Page 6, after line 17:

Insert a new subsection to read:

"(1) Notwithstanding (j) of this section, the department may approve a contingency plan for a noncrude oil terminal facility or for a tank vessel or barge carrying noncrude oil that provides for the holder of the plan to maintain the equipment, personnel, and resources required under (j) of this section outside the holder's region of operation upon a showing satisfactory to the department that the planning requirements of (j) of this section are otherwise satisfied."

Reletter the following subsection accordingly.

Adpt
U.C.

Amendment #4

By Ricger

To: CS HB 567

Page 16, Line 25 Add a new section to read:

" * Sec. 10. AS 46.08.060 (a)(4) is amended to read:

(4) a detailed summary of department activities in responses funded by the fund during the preceding fiscal year, including response and descriptions and statements outlining the nature of the threat; for purposes of this section "detailed" includes each personal services position and total compensation for that position, each contract in excess of \$20,000, and each purchase in excess of \$10,000; and "

4/23/90

~~W~~
adpt
uc

AMENDMENT # ~~4~~ 5

by RIEGER

Page 16, line 26

insert new subsection (b) to AS 46.08.040:

"(b) Except for direct response to a declared disaster emergency relating to an oil or hazardous substance discharge or for specific projects authorized by the legislature, the department may not receive and expend funds as grants to municipalities or reimbursable service agreements to any state agency."

W. Gene Burden
Vice President
Administration & Government Relations

April 21, 1990

HOUSE FINANCE COMMITTEE MEMBERS:

Representatives Lyman Hoffman,
Ramona Barnes,
Randy Phillips,
Niilo Kaponen
Dick Shultz
Fran Ulmer

Kay Wallis,
Ron Larson,
C.E. Swackhammer
Kay Brown
Steve Rieger

Subject: H.B. 567

The current version of HB 567, if passed, will present the State of Alaska and Tesoro Alaska with a difficult problem:

If the bill is passed as presently written the State will have the option of not enforcing the provisions requiring financial assurance or refuse a permit for Tesoro Alaska to operate.

Alaska currently has a "direct action" requirement for insurers used for demonstrating financial responsibility. Tesoro Alaska anticipates a requirement to provide \$200 Million in insurance and is not large enough to meet the new higher requirements via self insurance. There is inadequate capacity among insurers who have registered agents in the State and are subject to direct action to meet this level of financial responsibility. Our only option is to meet the level required via an insurance pool which will be made up of predominately international insurers who will not register for service in Alaska or any other state.

Additional information is attached. We suggest that the implications of this problem be considered and that further Administration evaluation be completed before this portion of the bill proceeds. Otherwise, this bill poses a serious threat to Tesoro Alaska, its 200+ Alaska employees, and the economy of the Kenai Peninsula Borough as well as Alaska's supply of jet fuel, gasoline, and heating oils.

Sincerely,


Gene Burden

Enclosures

EXAMPLE OF EFFECT OF HB 567/SB504 ON DEMONSTRATION OF FINANCIAL RESPONSIBILITY

1. CURRENT STATUS:

- 1. Financial responsibility met via self-insurance evidenced by corporate assets.**
- 2. Also maintains primary and excess liability insurance coverage in excess of the statutory requirements with insurance pool consisting of 15 underwriters and over 100 insurance entities.**
- 3. Provisions of AS 46.04.040(e) [regarding requirement for insurance companies providing party evidence of financial responsibility to be subject to "direct action" in Alaska courts, appoint an agent in Alaska, and be authorized by the Division of Insurance] have not been of concern to due to the self-insurance.**

2. PROPOSED STATUS:

- 1. Tesoro expects to carry as much as \$200 Million to cover largest tanker that may be chartered for transport of ANS royalty crude oil.**
- 2. Tesoro can not self insure to the level of \$200 Million.**
- 3. The insurance industry registered in Alaska does not have the capacity to underwrite \$200 Million in pollution liability requiring the majority (projected to be all amounts in excess of \$25 Million) to be obtained via the insurance pools whose members will not register for service in Alaska or any other state.**
- 4. In the absence of a waiver, or little change in the level of financial responsibility requirements it is unlikely that Tesoro Alaska's insurance coverage will meet the requirements called for in these bills.**
- 5. Compliance with this statute is a prerequisite to maintaining a permit to operate.**

***Example of Tesoro Alaska Petroleum Company**



April 18, 1990

Mr. Gene Burden
Tesoro Alaska Petroleum Company

Re: Insurance Companies admitted in Alaska

Dear Gene:

In light of recent proposed legislation in Alaska that may require evidencing financial responsibility for Pollution Liability we discussed the following:

1. Number of separate underwriters required on a given account;
2. Number of insurance companies licensed to conduct business in Alaska; and
3. Direct action by Alaskan government against underwriters.

We previously discussed the number of underwriters on any given large commercial account. Please refer to my letter of April 12, 1990, wherein I advised that a substantial number of underwriters are required in order to subscribe to any account needing high levels of insurance protection.

The main theme behind this letter is to focus on if Alaska requires evidence of financial responsibility which could be addressed by the procurement of insurance, whether the subscribing underwriters are admitted in Alaska, and would accept direct action against them.

As respects the number of insurers that are "admitted", which effectively means licensed to conduct business in Alaska, I consulted A.M. Best Company's Key Rating Guide for Property-Casualty Insurers and can confirm that there are a substantial number (over one hundred) of companies licensed in Alaska. Most of these are standard stock companies underwriting Automobile Liability, Workers Compensation and General Liability Insurance subject to Insurance Services Organization (ISO) forms. ISO is a national firm designed to promote uniformity in rating and policy wordings between states and insurers. Most companies subscribe to their rating structure and policy wordings as these have been tried and tested in court and provide a common ground for comparison.

Pollution Liability would be considered a coverage afforded under a General Liability placement but, unfortunately, the ISO form has a specific exclusion whereby coverage for Pollution Incidents is virtually excluded. As such, this impedes our ability to obtain Pollution coverage from the standard stock companies.

Some companies, though, may delete this exclusion subject to an additional premium but then we are back to the dilemma of obtaining adequate capacity. I would suspect that sole use of these carriers would enable an insurance buyer to purchase only 25 Million in coverage. Consequently, the buyer would be required to access "non-admitted insurers". These underwriters offer abundant capacity but would not be amenable to direct action by the state.

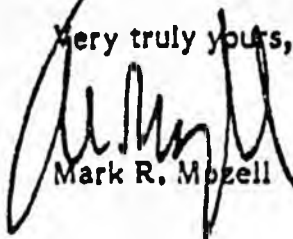


Mr. Gene Burden
April 18, 1990
Page 2

A direct action statute would be onerous for the buyer because underwriters typically will not agree to this since liability policies are written on an indemnity basis. In other words, the underwriters will reimburse the Assured once the Assured has paid the claim. By having direct action the underwriters effectively take the place of the insured and this violates the principal of indemnification. Ultimately, a direct action statute will reduce the number of underwriters that a buyer can access for Pollution Liability whereas to the contrary, if there is no direct action statute, adequate capacity for Pollution Liability will exist.

Gene, the above is a brief summary of the difficulties involved in obtaining Pollution coverage and agreement from underwriters for direct action. If you or any members of the House committee would like to discuss this further, I would welcome the opportunity to meet with you or them, or at least call them to hear their concerns.

Very truly yours,



Mark R. Mozell

MRM:dg

MRM-1727

MEMORANDUM

State of Alaska

TO: The Honorable Steve Cowper
Governor

DATE: March 16, 1990

FILE NO.:

THRU:

TELEPHONE NO.: 465-2600

FROM: Dennis D. Kelso *adkylel*
Commissioner *DK*
Department of Environmental
Conservation

SUBJECT: Financial
Responsibility
and Contingency
Plans

Per your request, the following is a briefing/decision memorandum presenting alternatives to the provisions currently in HB 567/SB 504 on the issue of additional requirements for financial responsibility and oil spill contingency plans for non-crude oil facilities.

Summary of the Issue

The current House and Senate bills increase the amounts of financial responsibility required at most currently regulated facilities. They also lower the threshold at which oil terminals are required to have both contingency plans and proof of financial responsibility from 10,000 barrels to 5,000 barrels of storage capacity.

You have asked us to revisit this issue and propose alternatives that may be more workable for smaller operators.

Attached in Table 1 is a comparison of existing requirements for financial responsibility, the levels proposed in the 2/21 legislation, and proposed new levels.

Decision Required

It is necessary to decide whether to propose amendments to the governors bills on this subject.

The House Resources Committee is marking up all the oil spill bills within the next couple of days, and it would be prudent to propose any changes to this committee.

Key Agencies and Interest Groups

There was some concern expressed by the Department of Natural Resources over the financial responsibility requirements. They felt it was important not to prevent any further development of the oil industry by making the

requirements so onerous as to preclude exploration and production of oil.

DEC has felt that it is necessary to protect the state and its citizens by ensuring that shippers and handlers of oil have the financial capability and preparedness to deal effectively with spills. The exemption from current law for facilities or shippers of less than 10,000 barrels leaves a group of facilities with a significant spill potential without contingency plans or any demonstrated readiness to deal with a spill. Some method needs to be developed that will allow us to adequately protect the state's interests.

Various other groups have been testifying at the legislative hearings on these issues. Some of the owners and operators of oil distribution companies have said that the financial responsibility requirements are too high and that insurance to meet these requirements would be prohibitively expensive.

Concern has been expressed about the effect on villages bulk fuel storage tanks. No villages have testified on these issues, but the concern has been raised by others.

A variety of others have been involved with this issue, including many people from the communities affected by the Exxon oil spill. In general, these people seem to want strong legislation requiring contingency plans for facilities such as refineries, pipelines and onshore facilities. Some have suggested that financial responsibility levels for tankers should be \$1 billion.

Options

Options for contingency plans and financial responsibility are presented separately.

Contingency Plans

1. Leave the threshold for contingency plans at 5,000 barrels of storage, as currently proposed in the legislation.

Pro: Demonstrates a commitment by the administration to deal with a broader group of facilities with the potential for significant spills.

Con: Does not address the issue of requiring contingency plans for a whole new group of operators. By still requiring the contingency plan, this group of facilities and operators now become part of the regulated community.

2. Delete the new requirement for contingency plans at the

5,000 barrel level.

Pro: Removes the opposition to the bill that is coming from the newly regulated community.

Con: Leaves the state in exactly the same position we are in now without any means to deal with spill response for this group of potential spillers. May be construed that the administration is backing down at the slightest hint of controversy.

3. Replace the contingency plan requirements with statutory authority for DEC to survey, inventory and inspect facilities with less than 10,000 barrels storage capacity. This authority will direct DEC to conduct inspections, identify problem areas, and report back to the Legislature with findings.

Pro: Provides a method for the department to begin getting a handle on the facilities that fall into the 5-10,000 barrel category. This type of approach would allow us to prepare design standards, examine secondary containment methods, and take a more detailed look at what should be required for contingency plans for this size facilities. It would provide the data necessary to structure a program that has realistic standards that can be properly incorporated.

Con: May be construed that the administration is backing down on its original stance in favor of stronger environmental protection laws. Giving DEC the authority to begin inspecting new facilities will still meet some resistance.

Financial Responsibility

A. Leave the proof of financial responsibility levels for non-crude facilities as proposed in the existing legislation.

Pro: Assures that operators working in the state have the capability of dealing with the damages caused by a major spill.

Con: Guarantees opposition to the bill from small operators who feel that the cost of this proof would be prohibitively high.

B. Drop the financial responsibility requirements for non-crude facilities.

Pro: Removes all of the controversy over the increased

financial responsibility requirements for non-crude facilities.

Con: Leaves the state in a position to have to pay cleanup costs in the event of a spill by a party that cannot afford cleanup and damage costs. Also may be construed that the administration is backing down from its original proposal to tighten safeguards.

C. Modify the financial responsibility requirements to include a tiered approach for non-crude facilities. We have attached a proposal that does this.

Pro: Tries to deal fairly with the issue and makes the proposal less onerous than the existing legislation. Reinforces the concept that the administration wants to continue moving along a path that will help us have environmentally responsible development.

Con: Will not completely satisfy all parties, since there will be increased financial responsibility requirements for some operators (while others will be lowered from existing requirements).

Recommendations

We recommend a modification to both the financial responsibility requirements for non-crude facilities and the contingency plan requirements (options 3 and C). It is essential that the state have some assurance of financial responsibility and we believe that the tiered approach we have developed is fair and attainable. A recent presentation by representatives of the insurance industry showed that industry standards for tankers would be in line at the \$900 million level and that policies are available for terminals at the \$10 million level. (See the attached memo by Jeff Bush.)

The recommended approach to the contingency plan issue allows us to begin gathering the data necessary to develop the most appropriate standards to address spills at smaller facilities. This approach starts off by educating people about spill issues and contingency plans and provides them with technical assistance and recommendations. This would provide a nonregulatory approach for the small business person.

cc: Garrey Peska, Chief of Staff
Bob Evans, Deputy Chief of Staff
Denby Lloyd, Special Staff Assistant

TABLE 1

**Oil Contingency Plan Requirements
Financial Responsibility Requirements
Vessel Inspection**

TYPE OF FACILITY	CURRENT FINANCIAL RESPONSIBILITY REQUIREMENTS	SB 504 HB 567	PROPOSED 3/15 REVISION
Crude Oil Terminals			
> 10,000 bbl.	\$1 million up to \$50 million @ \$10/bbl. capacity	\$50 million	\$50 million
5 - 10,000 bbl.	None	\$50 million	\$50 million
Non-Crude Terminals			
> 10,000 bbl.	\$1 million up to \$50 million @ \$10/bbl. capacity	\$50 million	10 to 20,000 bbl. = \$5 million > 20,000 bbl. = \$10 million
5 to 10,000 bbl.	None	\$1 million	None
Offshore exploration and production facilities	\$35 million	\$50 million	\$50 million
Crude Oil Tank Vessels and Barges	TAPS = \$14 million, Non-TAPS = \$20 million. TAPS covered for an additional \$86 million per vessel.	\$500 million	\$500 million
Non-Crude Oil Tank Vessels and Barges	Tank Vessels = \$20 million, Barges = \$1 million	\$20 million	< 5,000 bbl. = None 5,000 to 10,000 bbl. = \$5 million 10,000 to 50,000 bbl. = \$1 million 50,000 to 100,000 bbl. = \$10 million 100,000 + bbl. = \$20 million

Note: the following notes are not based on a comprehensive review of vessels and facilities; rather, they are examples of how the proposed revisions might affect some operators.

Currently there are 6 Tanker Vessels chartered by Petro-Diamond and Petro-Marine that are under 50,000 bbl. capacity and are required to have \$20 million coverage. Under proposed revisions of 3/15 their Financial Responsibility requirement would drop to \$1 million.

From information provided in contingency plans, all of Yutana Barge Lines barges are under 10,000 bbl., therefore their Financial Responsibility requirement would be cut in half to \$500 thousand.

Crowley has 10 barges listed at over 100,000 bbl., but they are covered by surety bond and not a regular insurance policy.

United Marine Tug and Barge, Inc. has at least 2 barges over 50,000 bbl., so their coverage would increase from \$1 million to \$10 million.

MEMORANDUM

State of Alaska

TO: Bob Evans
Deputy Chief of Staff
Office of the Governor

DATE: March 16, 1990

FILE NO.:

THRU: TELEPHONE NO.: 465-2600

SUBJECT: Oil Spill
Legislation

FROM: Amy D. Kyle *AD Kyle*
Deputy Commissioner
Department of Environmental
Conservation

We have further analyzed two issues related to the oil spill legislation that we discussed briefly at our session with the Governor last week. (We have also prepared a more detailed briefing memo on issues related to financial responsibility and contingency plans for the governor) A separate memo on the issue of onshore facilities is being prepared for Denby Lloyd.

The two issues addressed herein are the "72 hour" requirements for contingency plans and an issue related to dollars per gallon penalties that has arisen during hearings on these bills.

1. 72 hours - As you will recall, the original proposal for oil spill contingency plan legislation included a requirement that the plans address a "worst case" spill in 72 hours. The provision for "worst case" was changed to "maximum realistic discharge." The provision for a timeframe for planning was dropped.

During the discussion last week, it appeared that the reason for dropping the 72 hour provision was a concern that the language, as written, did not appear to be a design standard but rather a performance standard. There was a concern about whether a spill could be always be cleaned up in 72 hours.

To address this, we have, with the assistance of the Department of Law, drafted language that would rectify this issue and make it clear that the 72 hour requirement is a design standard for contingency plans. This language is attached as item 1. We are seeking your concurrence to go forward with this language.

2. Dollars per gallon penalties - During the hearings on the oil spill legislation package, concerns about the "dollars per gallon" penalties for non-crude oil spills have been raised. To respond to these concerns, we would propose

to reduce the dollar amount of the penalties for non-crude oil spills from what has been proposed in the current legislation to levels that are close to what was adopted last year for crude oil. This language is attached as item 2. We are seeking your concurrence to go forward with this language.

The House Resources Committee is planning to mark up this legislation this weekend and move it next Tuesday. For our thoughts to be of help to them, we need to decide how to proceed today. We appreciate your assistance.

cc: Denby Lloyd, Special Staff Assistant
Jeff Bush, Department of Law
Rod Swope, Department of Natural Resources

Proposed Amendments to HB 567
Regarding the "72 Hour" Provisions

1. Revise proposed AS 46.04.030(f) (pg. 2, ln. 17--23) to read as follows:

An applicant for an oil discharge contingency plan required by this section shall maintain in its area of operation, singly or in conjunction with other operators in its area of operation, sufficient oil discharge containment, storage, transfer, and removal equipment, manpower, and resources to immediately contain a realistic maximum oil discharge and to remove that discharge within 72 hours after the discharge. The requirements of this subsection apply for planning and equipping purposes only.

2. Revise proposed AS 46.04.030(h) (pg. 2, ln. 26--pg. 3, ln. 14) to read as follows:

The department may attach reasonable terms and conditions to its approval or modification of an oil discharge contingency plan which the department [IT] determines are necessary to insure that the applicant for an oil discharge contingency plan has access to sufficient resources to protect environmentally sensitive areas, [AND] to immediately contain a realistic maximum oil discharge, and to [,] cleanup [,] and mitigate the oil discharge from the facility or vessel within 72 hours after the discharge [THE SHORTEST FEASIBLE TIME]. The oil discharge contingency plan must provide for the use of the best available technology by the applicant. The department may require an applicant or holder of an approved contingency plan to take steps necessary to demonstrate its ability to carry out the contingency plan, including

- (1) periodic training;
- (2) response team exercises; and
- (3) verifying access to inventories of available equipment, supplies, and personnel.

3. Revise proposed AS 46.04.030(j) (pg. 3, ln. 29--pg. 4, ln. 13) to read as follows:

Failure of a holder of an approved or modified oil discharge contingency plan to properly implement the plan, or to have access to the quality or quantity of resources identified in the plan or [AND, IN THE EVENT OF A SPILL] to respond with those resources within the shortest possible [FEASIBLE] time in the event of a spill, is a violation of this chapter for

Proposed Amendments to HB 565
Regarding Dollars Per Gallon Penalties

1. Revise proposed AS 46.04.758(b) (1) (pg. 2, ln. 24--pg. 3, ln. 3) to read as follows:

Subject to (2) of this subsection, the penalties for the following categories of receiving environments may not exceed

- (A) \$12.50 per gallon of oil that enters any surface or subsurface freshwater environment;
- (B) \$8.00 per gallon of oil that enters an estuarine, intertidal, or confined saltwater environment;
- (C) \$6.00 per gallon of oil that enters an unconfined saltwater environment or onto the land or subsurface land of the state.

2. Revise proposed AS 46.04.758(f) (pg. 4, ln. 27--pg. 5, ln. 6) to read as follows:

For purposes of assessing a penalty under (b) of this section, in determining how many gallons of oil have been discharged onto a surface freshwater or saltwater environment or onto the surface land of the state, the court shall deduct the number of discharged gallons of oil that the defendant proves were removed by the defendant from the environment within the first 36 hours after the discharge as a result of a cleanup operation undertaken in conformity with applicable state and federal law. The dispersal of oil through burning, the use of chemical agents, biological additives, sinking agents, or other means is not considered removal for purposes of this subsection. This subsection does not apply to oil discharged into subsurface water or land of the state.

CORRECTION

**THIS DOCUMENT
HAS BEEN REPHOTOGRAPHED
TO ASSURE LEGIBILITY**

Proposed Amendments to HB 565
Regarding Dollars Per Gallon Penalties

1. Revise proposed AS 46.04.758(b) (1) (pg. 2, ln. 24--pg. 3, ln. 3) to read as follows:

Subject to (2) of this subsection, the penalties for the following categories of receiving environments may not exceed

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(B) \$8.00 per gallon of oil that enters an estuarine, intertidal, or confined saltwater environment;

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Loss of Entire Cargo

CARGO AND REFINED PRODUCT VESSELS SUNK, WORLDWIDE, WITH A TOTAL LOSS OF CARGO (1979 TO PRESENT)

Record#	DATE	NAME	SIZE	COUNTRY	SPILL	CARGO	CAUSE
1	1/79	Betelguse	121,000 tons	French	40,000 tons	Crude	Exploded at dock
2	4/79	Gino	49,000 tons	Liberia	32,000 tons	Carbon Blk.	Collision
3	7/79	Atlantic Empress	293,000 tons	Greek	275,00 tons	Crude	Collision
4	9/79	Chevron Hawaii	71,000 tons	U.S.A.	3,000 tons	Crude	Exploded at dock
5	2/80	Irenes Serenade	150,000 tons	Cyriot	40,000 tons	Crude	Exploded at anchor
6	3/80	Tanio	29,000 tons	Malagasy	13,000 tons	Fuel Oil	Broke up
7	1/83	Assimi	59,000 tons	Greek	55,000 tons	Crude	Fire, explosion
8	8/83	Castillo De Bellver	267,000 tons	Spanish	260,000 tons	Crude	Fire, broke up
9	11/83	Proc Basilan	16,000 tons	Phillipines	13,000 tons	Gasoline	Fire, sunk
10	10/84	Puerto Rican	35,000 tons	U.S.A	5,000 tons	Fuel Oil	Fire & explosion at port
11	3/85	Lyudrik Svobode	16,000 tons	Russia	1,000 tons	Crude	Explosion while loading
12	5/85	Petrugen I	30,000 tons	Panama	5,000 tons	Refined oil	Explosion and sunk in port
13	4/88	Athenim Venture	31,000 tons	Cypriot	30,000 tons	Crude	Explosion
14	11/88	OJyssey	140,000 tons	Liberia	131,000 tons	Crude	Sunk
15	3/89	Maagusar	39,000 tons	Liberia	30,000 tons	Chemicals	Explosion and fire

933,000 tons
90,000 tons*

1,023,000
x 7.4

=7,570,200 barrels

x310

=317,130,000 gallons

* Vessels can reasonably be expected to be carrying 2,000-10,000 tons of fuel, (mean 6,000).

Source = Phone conversation with Mr. Arthur McKinzie, Tanker Advisory Center, Inc. NY, NY 3-6-90.

STATE OF ALASKA

STEVE COWPER, GOVERNOR

DEPT. OF ENVIRONMENTAL CONSERVATION

OFFICE OF THE COMMISSIONER
P.O. BOX 0, JUNEAU, ALASKA 99811-1800

(907) 465-2600

March 27, 1990

The Honorable Drue Pearce, Chair
Special Committee on Oil & Gas
Alaska State Senate
P.O. Box V
Juneau, AK 99811

Dear Senator Pearce:

You have requested information concerning the new authority that would be granted the department under Senate Bill 504 regarding structural integrity inspections of tank vessels. Specifically, you have asked us to detail what a structural integrity test would entail. I have outlined below the manner in which we would handle this, should this legislation pass.

1) The first phase would entail a record check by a qualified marine architect with the United States Coast Guard to determine the history of the vessel. The Coast Guard is authorized to begin its vessel oversight program while the vessel is still on the drawing board. A review of existing inspection records and maintenance history would provide some basic structural integrity information, such as type of steel used in construction, use of certified welding procedures, and other similar details.

2) If the record check indicated that an inspection is warranted, we would request that the Coast Guard conduct an inspection. The Coast Guard currently does two types of inspection - an annual inspection that simply looks at the history of the vessel and a biennial inspection that includes actually entering the tanks. In addition, they have the authority to require that the vessel be drydocked two times in a five year period, with no more than 30 months between drydocking. From the initial review, we would target the type of inspection desired and then review the methods and results of the inspection.

3) Should the results from this inspection provide cause for concern, we would contract for an inspection with a qualified marine architectural firm. We would likely be interested in

Senator Pearce

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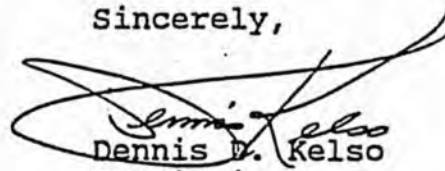
March 27, 1990

examining corrosion, testing power, checking steering mechanisms, props, bearings, piping and valves, as well as tanks and welding. Depending upon the circumstances, we may detail a member of DEC's field staff to participate in the inspection.

4) Decisions to ensure safe operations of inspected tankers will be based on the technical reviews described above. We will confer, as necessary, with our marine architectural consultants and the Coast Guard in reaching these determinations. By coordinating our efforts with those of the Coast Guard we can avoid duplication and ensure efficient safety evaluations.

I hope that this has provided you with the information that you need. Please do not hesitate to contact us if you need more information.

Sincerely,



Dennis D. Kelso
Commissioner

MEMORANDUM**State of Alaska**

TO: ADEC Staff

DATE: September 19, 1989

FILE NO:

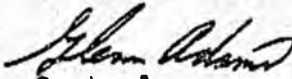
TELEPHONE NO:

THRU:

SUBJECT: 465-2630

Vessels w/Approved
Proof of Financial
Responsibility

FROM:

Glenn Adams 
Oil Pollution Control

The following tank vessels have approved proof of financial responsibility through June 30, 1990 except as noted:

Vessel Owner/Operator <i>MANAGER</i>	Vessel Name	Comments	Financial Responsibility
Amerada Hess Corp. 1185 Ave. of the Americas New York, NY 10036	St. Lucia Mt. Cabrite Seal Island	Taps only Taps only Taps only	Guaranty Amerada Hess
Arco Marine Inc. 300 Occoangate Long Beach, CA 90802-5617	Arco Alaska Arco Anchorage Arco Juneau Arco Prudhoe Bay Arco California Arco Fairbanks Arco Independence Arco Sag River Arco Spirit Arco Texas		Self-insured Arco
Bay Tankers 270 Sylvan Ave. Suite 100 Englewood Cliffs, NJ 07632	Bay Ridge	Taps only	Guaranty B.P. America
America Trading Transportation Co. 555 Fifth Avenue New York, NY 10017	American Trader		Guaranty B.P. America

ADEC STAFF

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September 19, 1989

Vessel Owner/Operator	Vessel Name	Comments	Financial Responsibility
Chevron Shipping Co. 225 Bush St., Rm 1015 San Francisco, CA 94104	Chev. California Chev. Mississippi Chev. Oregon Chev. Washington Chev. Colorado Chev. Louisiana Chev. Arizona	Taps only	Self-insurance Chevron Corp.
Exxon Shipping Co. P.O. Box 1512 Houston, TX 77251-1512	Exxon Benicia " " New Orleans " " North Slope " " Philadelphia " " San Francisco " " Baton Rouge " " Baltimore " " Baytown " " Galveston " " Jamestown " " Lexington " " Long Beach " " Princeton " " Washington " " Valdez " " Yorktown	Taps only "	Guaranty Exxon Corporation
Interocean Management Corporation Three Parkway Suite 1300 Philadelphia, PA 19102	Brooks Range Thompson Pass	Taps only Taps only	Guaranty B.P. America
Keystone Shipping Co. 313 Chestnut Street Philadelphia, Pa. 19106	Antigun Pass Kenai Keystone Canyon Tonsina Chestnut Hill Golden Gate Kittanning	Taps only Taps only Taps only Taps only " "	Guaranty B.P. America Chas Kurtz Co. Inc
Marithon Oil Co. Natural Gas Division P.O. Box 3128 77253 Houston Texas	Polar Alaska Arctic Tokyo	LNG LNG	Guaranty Marithon Oil

DEC Staff

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September 19, 1989

Vessel Owner/Operator	Vessel Name	Comments	Financial Responsibility
Maritime Overseas Corporation 43 West 42nd Street New York, N.Y. 10036	Eastern Lion	Taps only	Guaranty Amerada Hess
	Northern Lion	Taps only	
	Southern Lion	Taps only	
	Western Lion	Taps only	
	Overseas New York	Taps only	Guaranty
	Overseas Washington	Taps only	
	Overseas Boston	Taps only	
	Overseas Ohio	Taps only	
	Overseas Juneau	Taps only	Guaranty/Overseas Shipholding Group
Mobil Oil Corp. 150 East 42nd Street New York, N.Y. 10017-5666	Mobil Arctic Mobil Meridian Syosset		Self-insurance Mobil Oil Corp.
OMI Corp. 280 Park Avenue New York, NY 10017-1282	OMI Columbia	Taps only	Guaranty B.P. America
Shell Oil Company P.O. Box 2463 Houston, TX 77252	B.T. San Diego B.T. Alaska		Guaranty Shell Oil
Sun Transport, Inc. P.O. Box 2224 Aston, PA 19014-2224	Texas Sun	Taps only	Self-insurance Sun Co., Inc.
	New York Sun	" "	
	Philadelphia Sun	" "	
	Tropic Sun	" "	
	Prince William Sound	" "	
Texaco Marine Ser., Inc. 2000 Westchester Ave. White Plains, NY 10650	Texaco California		Self-insurance Texaco Inc.
	" " Connecticut		
	" " Florida		
	" " Georgia		
	" " Massachusetts		
	" " Minnesota		
	" " Mississippi		
	" " Montana		
	" " New York		
" " Rhode Island			
" " Brooklyn	Taps only		

ADEC

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September 19, 1989

Vessel Owner/Operator	Vessel Name	Comments	Financial Responsibility
Trinidad Corporation P.O. Box 11787 St. Louis, MO 63105-3721	Admiralty Bay Aspen Glacier Bay	Taps only " " " "	Guaranty B.P. America
West Coast Shipping Company P.O. Box 4258 Los Angeles, CA 90051-2258	Coast Range Sansinena II Sierra Madre		Guaranty Union Oil
Flyum's Barge Ser., Inc. P.O. Box 2838 Homer, AK 99603	Bradley River	Self-propelled barge	Insurance
Western Hemisphere P.O. Box 2401 Santa Monica, CA 90406-2401	Lion of Calif.		Self-insurance Tosco Corporation
White Pass Transportation, Ltd. P.O. Box 4070 Whitehorse, Yukon YIA 3TI	Frank H. Brown	Cargo/Tanker	Insurance
Marine Transport Lines, Inc. 150 Meadowland Pky. Secaucus, NJ 07096-1550	Various vessels		Military Sealift Command - U.S.N.S.
BP America 200 Public Square Cleveland, Ohio 44114-2375	Various vessels		Guaranty
<i>H.B. Oil Refining Co. P.O. Box 21913 L.A., Cal. 90063</i>	<i>Core Leader</i>	<i>" "</i>	<i>Insurance</i>

ADEC

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September 19, 1989

Companies providing guarantees or insurance coverage for spot charters.

COMPANY		Financial Responsibility
Tesoro Alaska Petroleum Company 8700 Tesoro Drive San Antonio, TX 78217	20 M	Guaranty
Petro-Diamond, Inc. P.O. Box 92713-9617 Irvine, CA 92713-9617	20 M	Surety bond
Pacific Resources, Inc. P.O. Box 3379 Honolulu, HI 96842	20 M	Insurance
Petro-Marine Services 1600 A Street, Suite 307 Anchorage, AK 99501	20 M	Insurance
Mapco-Alaska Petroleum Inc. 1800 South Baltimore Avenue Tulsa, OK 74101-0645	20 M	Guaranty
Pacific Fuel Trading Corporation (Japan Air Lines) c/o Alexander & Alexander of Washington 2800 Columbia Center 701 Fifth Avenue Seattle, WA 98104-7074	20 M	Insurance
Astra Oil Company, Inc. 100 Oceangate, Suite 940 Long Beach, CA 90802	20 M	Insurance
Chinese Petroleum Corporation c/o Unical International Supply & Trading Co. 1201 West Fifth Street Los Angeles, CA 90017	20 M	Insurance
Wickland Oil Company 2 Embarcadero Center, Suite 610 San Francisco, CA 94111	20 M	Insurance
Cove Shipping Incorporated 200 Virginia Street Mobil, AL 36603		

H.S. Oil and Refining Co.
P.O. Box 36913
L.O. Co. 90036

2011 Insurance

MEMORANDUM

State of Alaska

TO: ADEC Staff

DATE: November 1, 1989

FILE NO:

TELEPHONE NO: (907) 465-2630

THRU:

SUBJECT: Barges with Approved
Proof of Financial
Responsibility

FROM:

Glenn Adams *Glenn Adams*
Oil Pollution Control

The following barges have approved proof of financial responsibility through June 30, 1990:

OWNER/OPERATOR	BARGE NAME OR NUMBER	PROOF FOR FINANCIAL RESPONSIBILITY
Crowley Maritime Corporation 101 California St. San Francisco, CA 94111-5875	Satco 10	Surety Bond
	Satco 21	
	S.T. 23	
	Kodiak #1	
	Orca #2	
	14	
	450-10-	
	16-	
	254-	
	B&R 5	
	B&R 80-2	
	120-1	
	160-1	
	BC 151	
	BC 154	
	211	
	213	
	251	
	312-3	
	CINNABAR	
	Cordova	
	McKinley	
	Palmer	
	Juneau	
	✓102	
	450-3	
	450-6	
Satco 20	Surety Bond	
S.T. 22		
Napamute		
EEK		
Oil #1		
17		
500-2-		
18-		
DB 300-		
B&R 80-1		
B&R 80-3		
120-2		
160-4		
BC 152		
210		
212		
218		
255		
Artic Challenger		
PAC 570		
Nikiski		
Ketchikan		
Kodiak		
101		
450-2		
450-4		
450-7		

WNER/OPERATOR	BARGE NAME OR NUMBER	PROOF FOR FINANCIAL RESPONSIBILITY
	<p> <i>CC: 148,237</i> <i>348,502</i> ✓ 450-8 ✓ 450-11 ✓ 250-10 </p>	<p> <i>CC: 178,237</i> 450-9 UT-10 </p>
<p> Foss Maritime Co. 660 West Ewing Street Seattle, WA 98119-1587 </p>	<p> ✓ Foss 255 Foss 248-P1 Tesoro Energizer Foss 255 </p>	<p> Foss Tongass Insurance Foss 248-P2 SEA 76 Phoenix 121 HANLER (2/1/90) </p>
<p> Boyer Towing Inc. 7318 4th Ave. So. Seattle, WA 98108 </p>	<p>Callapooya</p>	<p>Kootznahoo Insurance</p>
<p> Delta Western P.O. Box 102916 Anchorage, AK 99501-2916 </p>	<p>D.W. 282</p>	<p>Self-insured</p>
<p> United Marine Tug & Barge, Inc. 1441 N. Northlake Way Seattle, WA 98103 </p>	<p> KRS 180-1 UMTB 180-2 MLC 260 MLC 165 </p>	<p> MLC 332 MLC 333 ✓ MLC 340-1 MLC 344 </p>
<p> Seaspan International, Limited 10 Pemberton Avenue North Vancouver, B.C. V7P 2R1 </p>	<p> Seaspan 822 Seaspan 824 Seaspan 870 </p>	<p>Insurance</p>
<p> Yutana Barge Lines, Inc. P.O. Box 220 Nenana, AK 99760 </p>	<p> Riverways7 Riverways8 Riverways9 Riverways10 Riverways11 Riverways12 Frank Turner #1 Stewart Lucky </p>	<p> Oil Barge 1 Oil Barge 2 Oil Barge 3 Oil Barge 4 Oil Barge 5 Oil Barge 6 Polaris #6 Barge 17 </p>
<p> Trident Seafoods Corp. 5303 Shilshole Ave., N.W. Seattle, WA 98107 </p>	<p>NC-S-1</p>	<p>J-8-1 Insurance</p>
<p> Knappton Corporation P.O. Box 83018 Portland, OR 97203 </p>	<p>Palmer</p>	<p>Sitka Insurance</p>

OWNER/OPERATOR	BARGE NAME OR NUMBER	PROOF FOR FINANCIAL RESPONSIBILITY
Exxon Corporation P.O. Box 3342 Houston, TX 77253	Exxon Barge #502	Self-insure
Samson Tug & Barge Co., Inc. P.O. Box 559 Sitka, AK 99835	ANNAHOOTZ	Insurance
Texaco Marine Services, Inc. 2000 Westchester Ave. White Plains, NJ 10650	Valiant/Pennsylvania Victory/Texas (tug/barges)	Self-insure
Smith Lighterage Co., Inc. P.O. Box 106 Dillingham, AK 99576	Skip I	Ray 'Sons Insurance
Moody's Sea Lighterage, Inc. Aleknagik, AK 99555	Sealite I	ST 20 Insurance
Kugkaktlike Limited General Delivery Kipnuk, AK 99614	Chalin	Kangitsuk Insurance
Alaska Marine Charters, Inc. 106 110th Place S.E., Suite B Bellvue, WA 98004	Investigator	ST 1720 47 610 14,419 Insurance
Northland Services, Inc. 601 South Myrtle Street Seattle, WA 98124	ZPC 401	ST 1720 47 610 2250 Kvichak Trader Insurance
Bering Sea Fisheries, Inc. 4413 83rd Avenue, S.E. Everett, WA 98205	King Salmon	Insurance
Brice Inc. P.O. Box 668 Fairbanks, AK 99707	OBS-4000	Insurance
Bering Marine Corporation P.O. Box 3757 Seattle, WA 98124	KC-4	KC-251 Insurance

*White Star Transportation, Ltd.
1. 2/20/90*

Alaskan Spirit

Insurance

MEMORANDUM

State of Alaska

TO: ADEC Staff

DATE: November 20, 1989

FILE NO:

TELEPHONE NO: (907) 465-2630

THRU:

SUBJECT: Oil Terminal with
approved Proof of
Financial Responsibility

FROM:

Glenn Adams *Glenn Adams*
Oil Pollution Control

The following Oil Terminals have approved proof of financial responsibility through June 30, 1990.

<u>Owner/Operator</u>	<u>Fuel Storage Location</u>	<u>Proof for Financial Responsibility</u>
Alaska Pulp Corp. P. O. Box 1050 Sitka, AK 99835	Sitka	Surety bond
Alyeska Pipeline Service Company 1835 S. Bragaw St. Anchorage, AK 99512	Valdez Marine Terminal (TAPS)	Self-insurance and Guaranty
Anchorage Fueling and Service Company 810 "N" Street Anchorage, AK 99501-3293	Port of Anchorage and Anchorage International Airport	Insurance
Crowley Maritime Corp. P.O. Box 2287 Seattle, WA 98111	Captain's Bay Terminal Nome Tank Farm Kotzebue Tank Farm	Surety bond
Chevron U.S.A. Inc. 225 Bush St., Rm. 1015 San Francisco, CA 94104	Anchorage Terminal Valdez Terminal	Guaranty
Kenai Pipeline Company 555 Market Street San Francisco, CA 94120 -7141	Kenai Pipeline Terminal	Self-insurance

<u>Owner/Operator</u>	<u>Fuel Storage Location</u>	<u>Proof for Financial Responsibility</u>
Delta Western P.O. Box 102916 Anchorage, AK 99501 -2916	Dillingham Bulk Plant Juneau Bulk Plant Dutch Harbor Bulk Plant Wood River Tank Farm Naknek Bulk Plant Yakutat Bulk Plant Captain's Bay (offshore)	Self-insurance
Ketchikan Pulp Company P.O. Box 6600 Ketchikan, AK 99901	Ward Cove	Self-insurance
Mobil Oil Corporation 150 East 42nd Street New York, NY 10017-5666	Ketchikan Terminal	Self-insurance
Marathon Oil Company P.O. Box 102380 Anchorage, AK 99510	Trading Bay Production Facility Granit Point Production Facility	Self-insurance
Yutana Barge Lines, Inc. P.O. Box 220 Nenana, AK 99760	Fort Yukon Oil Terminal (Yukon Fuel Inc.) Galena Oil Terminal (Nenana Fuel Co.) St. Michael Fuel Co.	Insurance
Phillips Petroleum Co. P.O. Box 66 Kenai, AK 99611	Kenai LNG Plant	Self-insurance
Reeve Aleutian Airways, Inc. 4700 W. International Airport Road Anchorage, AK 99502-1091	Cold Bay Airport Terminal (Frosty Fuel Company)	Self-insurance
Shell Oil Company 601 W. Fifth Ave., Suite 810 Anchorage, AK 99501	Onshore Gathering System facilities (Middle Ground Shoal Field) Cook Inlet	Self-insurance
Tesoro Alaska Petroleum Company 3380 "C" Street Anchorage, AK	Kenai Terminal Anchorage Terminal Valdez Terminal Fairbanks Terminal	Self-insurance
Texaco U.S.A. P.O. Box 7812 Universal City, CA 91608-7812	Anchorage Sales Terminal	Self-insurance

<u>Owner/Operator</u>	<u>Fuel Storage Location</u>	<u>Proof for Financial Responsibility</u>
UNOCAL Refining & Marketing P.O. Box 76 Seattle, WA 98121	Juneau Bulk Plant (Taku Oil Sales) Ketchikan Terminal Sitka Bulk Plant (Sitka Sound Seafoods, Inc.)	Self-insurance
White Pass & Yukon Corporation, Ltd. P.O. Box 4070 Whitehorse, Yukon Y1A 3T1	Skagway (Pacific & Arctic Railway & Navigation Company) Haines, Skagway, Sitka, Ketchikan, Petersburg, Wrangell (Haines Terminal & Highway Company) Craig (Southeast Alaska Oil Companies, Inc.)	Self-insurance
Eskimos Inc. P.O. Box 129 Barrow, AK 99723	Block B Tank Farm Browerville Tank Farm Wainwright Storage Facility	Insurance
Saupe' Enterprises, Inc. P.O. Box 510 Fairbanks, AK 99707	Fairbanks Bulk Plant Fairbanks Bulk Lube Oil Plant	Insurance
Alaska Petroleum, Incorporated Pouch 720 Fairbanks, AK 99707	North Pole Refinery Fairbanks Bulk Facilities Anchorage Bulk Facilities <i>GALENA BULK STORAGE 11/4/90</i>	Self-insurance
Naknek Electric Assn., Incorporated P.O. Box 118 Naknek, AK 99633	Tank Farm in Naknek	Insurance
Municipality of Anchorage P.O. Box 6650 Anchorage, AK 99519-6650	George M. Sullivan Power Plant	Self-insurance
Harbor Enterprises, Inc. P.O. Box 389 Seward, AK 99669	Seward (Harbor Fuel Serv.) Dutch Harbor Main Plant-RESOFF Dutch Harbor-Ballyhoo (Petro Marine Services) Nikiski (Arness)	Insurance
Nushagak Electric Cooperative, Inc. P.O. Box 350 Dillingham, AK 99576	Tank Farm in Dillingham	Insurance

<u>Owner/Operator</u>	<u>Fuel Storage Location</u>	<u>Proof for Financial Responsibility</u>
Conoco Incorporated 3201 "C" St., Suite 200 Anchorage, AK 99503	Milne Point Central Facilities pad	Surety bond
Trident Seafood Corp. 5303 Shilshole Ave., N.W. Seattle, WA 98107	Sand Point (Popoff Is. Fuel Co.)	Insurance
Kodiak Oil Sales, Inc. P.O. Box 1487 Kodiak, AK 99615	Kodiak Bulk Plant (North Pacific Fuel)	Insurance
Nome Joint Utility Systems P.O. Box 70 Nome, AK 99762	Nome Tank Farm	Self-insurance
Golden Valley Electric Association, Inc. P.O. Box 1249 Fairbanks, AK 99707-1249	North Pole Fuel storage facility	Self-insurance
North Slope Borough P.O. Box 69 Barrow, AK 99723	Barrow Tank Farm Point Hope Tank Farm Wainwright Generator Plant	Self-insurance
Peter Pan Seafoods 1000 Denny Building Sixth & Blanchard Seattle, WA 98121-1802	King Cove False Pass	Self-insurance
Highland Resources, Inc. P.O. Box 636 Haines, AK 99827	Haines Terminal	Insurance

MEMORANDUM

State of Alaska

TO: ADEC Staff

DATE: November, 29, 1989

FILE NO:

TELEPHONE NO: (907) 465-2630

THRU:

SUBJECT: Offshore & Productions
Facilities with Approved
Proof of Financial
Responsibility

FROM:

Glenn Adams



The following offshore and production facilities have approved proof of financial responsibility through June 30, 1990.

Owner/Operator Name	Facility Name	Location
Amerada Hess Corp. 1185 Ave. of the Americas New York, NY 10036	Northstar "A" Gravel Island Seal Gravel Island	Beaufort Sea Beaufort Sea
Arco Alaska, Inc. P.O. Box 100360 Anchorage, AK 99510	Prudhoe Bay Topping Plant Prudhoe Bay Oilfield Kuparuk River Oilfield Lisburne Participating Area Swanson River Oilfield Beluga River Oilfield King Salmon Platform Stinsen Exploratory Program	North Slope North Slope North Slope North Slope Kenai Kenai Cook Inlet Beaufort Sea
Amoco Production Co. P.O. Box 800 Denver, CO 80201	Platforms: Anna, Bruce, Baker and Dillon East Foreland Delivery System	Cook Inlet Kenai
Marathon Oil Co. P.O. Box 190168 Anchorage, AK 99519	Platforms: Dolly Varden and Spark Trading Bay Onshore Production- Facility Granite Point Production Facility Resolution Island Steelhead Platform Spurr Platform	Cook Inlet Cook Inlet Cook Inlet Beaufort Sea Cook Inlet Cook Inlet
Phillips Petroleum P.O. Drawer 66 Kenai, AK 99611	NCIU Platform "A"	Cook Inlet

(2)

Owner/Operator Name	Facility Name	Location
Shell Oil Company P.O. Box 2463 Houston, TX 77252	Onshore Gathering System at Middle Ground Shoal Field Platforms: Shell "A" and Shell "C" Goose Island Tern Island	Cook Inlet Cook Inlet Beaufort Sea Beaufort Sea
B.P. America, Inc. 200 Public Square Cleveland, OH 44114	Niakuk Island (Manmade) Well #4 Endicott Development, Main Production Island, Satellite Drilling Island Endeavor Island, SAG Delta #9 Niakuk Island (Natural), Wells 1, 1A, 2, and 2A	North Slope North Slope North Slope North Slope
Union Oil Co. of Calif. 909 West Ninth Anchorage, AK 99501	Grayling Platform Monopod Platform Granite Point Platform	Cook Inlet Cook Inlet Cook Inlet
Union Pacific Resources Company c/o Nortec 750 W. Second Avenue, Suite 100 Anchorage, AK 99501	"Diamond M. Falcon" Jackup Rig at No. 1 WECO-UPRC Cannery Creek 42-36 Exploratory Well	Cook Inlet

**THE ROLE OF INSURANCE FOR
THE PREPAREDNESS AND RESPONSE TO OIL SPILLS:
LIABILITY AND COMPENSATION ISSUES**

**PREPARED FOR
THE ALASKA OIL SPILL COMMISSION
UNDER CONTRACT #026**

BY

THE MITIGATION ASSISTANCE CORPORATION

DECEMBER 1989

**THE ROLE OF INSURANCE FOR
THE PREPAREDNESS AND RESPONSE TO OIL SPILLS:
LIABILITY AND COMPENSATION ISSUES**

INTRODUCTION

The insurance industry can potentially be an important partner in a comprehensive program to reduce oil spill losses by providing insurance incentives for the safe transportation of oil and other hazardous cargo. This research paper seeks to examine the current state of the maritime insurance industry -- in general and in Alaska -- and offer suggestions on how insurance can play a role in reducing losses and improving preparedness and response. Information on pollution insurance was gathered from reports in insurance journals, congressional testimony, and articles and analyses by insurers, academics, newspapers, and government publications. In addition, telephone interviews were conducted with insurance representatives from Exxon, the Lloyd McClennan Insurance group, and the National Flood Insurance Program.

Exxon has accepted responsibility, but not liability, for oil damages resulting from the accidental grounding of the Exxon Valdez in March of 1989. To date, Exxon has spent \$1.25 billion in cleanup and in the payment of damages to individuals and businesses that suffered from the direct impacts of the oil spill, including economic injury due to lost business (Wall St. Journal November 30, 1989). In addition to further cleanup and unresolved private claims, Exxon faces potentially huge fines and penalties under numerous state and federal statutes governing water pollution. The Alyeska Pipeline Service Company may be as liable as Exxon since it is obligated under the Prince William Sound Contingency Plan to respond to, contain, and clean up spills in the Sound. "Alyeska handed off the spill response to Exxon without approval by the state, and Exxon's subsequent response was not according to the state-approved plan" (Oil Spill Chronicle November 14, 1989). In any case, judgments regarding liability and compensation are sure to be discussed in the courts for years.

acting as a direct reinsurer for prime oil spill insurance carriers, or (3) providing research, technical assistance, and financial support in the establishment of state insurance programs (Petak and Atkisson 1982).

Currently, there is pending federal oil spill legislation that exceeds these possibilities. The legislation is titled the "Oil Pollution Prevention, Response, Liability, and Compensation Act of 1989." It has been passed by the House of Representatives as HR 1465 and is currently before the Senate for modification, amendment, and passage. This legislation will combine, supercede, and improve a host of earlier laws.

A stronger regulator role (than Petak and Atkisson's or the pending legislation) might require the purchase of a particular type of insurance as a condition for receiving federally insured loans, federally subsidized loans, and/or loans provided by federally regulated financial institutions. The insurance industry strictly opposes such "mandation," unless it is accompanied by means to protect insurers from huge payouts in catastrophic incidents. There exists, however, many examples of mandatory insurance: states require purchase of no-fault automobile insurance, lenders require purchase of fire insurance, states require purchase of workmen's compensation insurance, etc. A variation of required insurance is contingent insurance, where coverage (either private or federal) is provided only when certain conditions, such as licensing, manning, training, and equipment standards are met.

HAZARD INSURANCE

Insurance as Hazard Policy

The development of the National Flood Insurance Program (NFIP) and the investigation into a national earthquake insurance program has grown out of a recognition that these hazards are national problems with far-reaching economic impacts. These federal programs also attempt to fill the void created by the private insurance industry's inability to market this type of service profitably. These programs also recognize the limited means that potential victims otherwise have to protect themselves and reduce their vulnerability to hazard risks. These programs are designed to meet needs similar to those posed by a potential oil spill.

eliminate or reduce the probability of occurrence of a hazard event, or reduce the impacts of hazards that do occur. Successful mitigation usually involves a combination of approaches in a coordinated, cost-effective strategy. Providers of fire insurance, for example, offer mitigation incentives by basing a community's fire coverage premiums partly on factors such as proximity to fire stations and hydrants, available water pressure, hose diameters, and number and type of fire trucks. Local governing boards maintain favorable fire insurance rate classes for their communities by ensuring that fire alarms, water supplies, facilities, staffing, equipment, and training exceed industry standards. While the cost to a community for these improvements could easily be \$1 million, each structure owner's premium might be reduced by \$25.00. In a community of 50,000 insured structures, this would represent an *annual* savings of \$1.25 million.

Some general insurers are encouraging comprehensive prefire plans for large facilities, businesses storing hazardous and flammable substances, and structures containing costly assets, such as computers. The two objectives of prefire planning are to identify potential fire hazards in specific facilities and to familiarize firefighters with these hazards in advance. Prefire plans consider building characteristics, fire suppression systems, available public fire protection, warning systems, evacuation plans, hazards in proximity, assignment of emergency duties, coordination with law enforcement, emergency medical services and local media, and types, quantities, and locations of hazardous and flammable materials (Brotzman 1989). Both approaches to fire insurance provide incentives to reduce fire losses by maximizing the firefighting capabilities of the response system. Provisions in the national flood and earthquake programs offer additional examples of how risks may be balanced with proactive efforts to prevent or reduce losses.

National Flood Insurance Program (NFIP)

The 1968 National Flood Insurance Act (Public Law 90-448) made nationally-subsidized flood insurance available to individuals in communities that enforced federally approved floodplain management regulations. Following passage of a 1969 amendment, floodprone communities could become eligible for limited amounts of flood insurance under an "emergency phase." As detailed flood maps and local regulations were developed,

Earthquake Insurance

In response to the limited availability and high cost of earthquake insurance in high risk areas of the U.S., a federally-supported system has been developed to cover catastrophic losses and protect insurers and reinsurers from "institution-destroying loss levels," where reserves are insufficient or the magnitude of an accident exceeds worst-case scenarios (Petak and Atkisson 1982).

Underwriters of earthquake insurance need to establish the Probable Maximum Loss for each hazard zone and for individual locations in order to determine total earthquake exposure and reinsurance needs. The most important and most elusive factors affecting earthquake underwriting decisions are probability that an earthquake will occur and estimated maximum intensity. However, utilizing probability studies, seismic building codes, and hazard mitigation recommendations, geologists today are much more capable of making these projections. Other factors that influence the underwriting include: proximity to known faults, height of structure, soil conditions, age of structure, type of construction, type of materials, and the value of contents (Holtom 1989).

Although earthquakes are beyond anyone's control, the selection of risks, underwriting standards, retentions, deductibles, and rates are not. Careful consideration of these factors can take some of the unknowns out of earthquake underwriting (Holtom 1989).

Currently the federal government is investigating the possibility of establishing a national earthquake insurance program, similar to the flood program, where insurance would be made available at a subsidized rate, but only after a community adopts regulations that require new construction to meet seismic safety standards and perhaps the retrofitting of certain classes and types of older, more vulnerable structures.

Development of an "actuarially sound national catastrophe fund" to compensate oil spill victims from federal and state and oil industry contributions might accomplish essentially the same ends "as a more conventional insurance system" (Petak and Atkisson 1982).

By the mid-1980s, however, few insurance companies were offering pollution insurance due to the uncertainties regarding potentially enormous claim payments, "unfavorable" legal trends involving liability standards and insurance coverage, and the broad liability established by federal and state environmental laws. The insurance industry has maintained that the basic concerns of underwriting a risk -- the process of identifying and evaluating risks and setting the premium to be charged for risks accepted by the insurer -- cannot be satisfied when assessing pollution risks, thereby making them uninsurable (GAO 1987).

Commercial pollution insurance is generally unavailable and when it is, coverage is limited and expensive and selectively provided to clients that carry coverage by the insurer for other risks. One option to traditional insurance coverage is participant-owned and operated risk pools that cover catastrophic liability losses. It is unclear from the literature examined in this research how effective risk pools have been in meeting the insurance needs of the oil transportation industry. Another option for pollution liability coverage, when available, is reinsurance. Reinsurers are companies (or governments) that assume a portion of the potential liability risks that the insurance companies underwrite in exchange for a share of the premium (GAO 1987).

In the absence of available and affordable liability coverage, many oil shippers operate without it once they have demonstrated financial capability to the limits of liability set forth in applicable federal laws. These financial requirements ensure that operators have assets on hand to cover the pollution liabilities faced. In essence, these shippers are self-insured.

Ocean maritime insurance differs from property and casualty insurance in that there are no regulations regarding the filing of rates and policy forms with state insurance authorities (partly due to great variations in commodities, vessels, distances, etc.) (Picone 1989). Liability insurance premiums are calculated according to the type of vessel and the degree of risk of different classes of vessels. Oil carriers are rated at the high risk end of the scale. In spite of these differential ratings, owners with poor loss records have generally paid only slightly higher premiums (Schenker 1981).

OIL SPILL LIABILITY AND COMPENSATION

International Conventions

The myriad international, national and state laws, statutes, and funds that address pollution from oil spills has been widely characterized as a "patchwork quilt" of overlaying standards and liability limits. The following is a discussion of the various acts, treaties, and funds potentially applicable to U.S. oil transportation interests or to accidents in U.S. waters.

The Convention on Civil Liability for Oil Pollution Damage (1969) and Convention on the Establishment of an International Fund for Compensation of Oil Pollution Damage (1971) provide a means of sharing oil pollution costs among countries that are parties to the Conventions. The two international oil spill treaties establish maximum liability amounts of oil shippers (Smets 1983). The 1984 Civil Liability Convention (CLC) establishes a financial responsibility regime where each party is required to ensure that ships in its ownership have insurance or other financial security to cover the owners' liability under the Convention up to the prescribed limits.

The 1984 CLC and FUND Protocols implement the provisions of the above conventions. They allow member nations a way to enforce judgments that affect foreign vessels and help ensure that the assets of the owner or insurer liable for oil pollution will be available to meet damage claims. The U.S. has failed to ratify the 1984 Protocols. Opponents maintain that the Protocols would provide coverage beyond current federal and state laws under only a limited set of circumstances and, in some cases, they would preempt state liability laws. Supporters argue that the Protocols offer a way to share the costs of U.S. oil spills worldwide by allowing the U.S. access to the international oil spill compensation fund and would also allow the U.S. to influence international maritime negotiations. Amendments to the Protocols, they claim, could be added in the future to increase liability limits (U.S. Senate 1989).

The Bush Administration favors adoption of the 1984 Protocols but opposes the preemption of state liability laws beyond the extent necessary to implement the Protocols. Secretary of Transportation Skinner has testified that any claims for damages in excess of the owner's

The Offshore Oil Pollution Compensation Fund is a renewable fund of up to \$200 million administered by the Secretary of Transportation to cover oil removal costs and damages to fishing, recreation, ecosystems, and related activities. These funds, as well as those under Section 311 of The Clean Water Act and the following two acts, would all be combined into one large oil spill compensation fund under the pending federal legislation.

Other federal laws that may be applicable in major oil spills are the Outer Continental Shelf Lands Act Amendments (OCS) of 1978 and the Deep Water Ports Act of 1974.

State Liability Systems

The Trans-Alaska Pipeline (TAP) Fund was established in 1973 by the Trans-Alaska Pipeline Authorization Act to pay damage claims, including cleanup costs resulting from oil spills from vessels carrying oil to ports from the pipeline system. The Fund is liable without regard to fault for damages in excess of \$14 million but not more than \$100 million per incident. To date, the Fund has never paid a claim. Exxon has agreed to administer all claims it receives and may submit claims to the Fund before the two-year application deadline in March of 1991. Since the act exempts the Fund from liability arising from a claimant's negligence, Fund officials intend to contest any claims filed by Exxon (GAO 1989).

Alaska Statute 46.03.780 Liability for Restoration provides that a spiller is liable to the state for damages related to the sum of money required to "restock," "replenish," and "restore" the environment to its previous condition. Damages are recovered by the State Attorney General on behalf of the citizens of Alaska (Graham 1989).

Alaska Statute 46.03.822 Strict Liability for the Discharge of Hazardous Substances provides that the "person owning or having control over" a polluting vessel may be relieved of strict liability only if the spill is due to act of war, negligence of a third party, negligence on the part of the state of Alaska or the United States, or an Act of God (Graham 1989).

A spiller may be liable under the Civil Penalty statute, as well as other state statutes, but recovery will generally be sought under one statute or the courts may interpret the action as a double recovery. The state may allege liability under all applicable state and federal statutes and then pursue the course that provides the maximum potential recovery. Once a case is filed, however, it is usually settled out of court for a lump sum amount. Otherwise, if left to the courts, a determination would be made as to which is the controlling statute.

A detailed investigation of Alaska's civil penalty scheme for oil spill liability and compensation was completed in January of 1989 at the University of Washington's Institute for Marine Studies (Graham 1989). The investigation was documented as a Master's Thesis and includes an evaluation of the existing system. The report concludes that Alaska's civil penalty approach is viable. However, it also identifies inconsistencies and shortcomings, and offers sound recommendations to make Alaska's liability and compensation system more effective. This report is attached to this paper as an appendix. Review of this study's recommendations by the Alaska Oil Spill Commission (AOSC) and the state legislature is an important recommendation of this report.

PROBLEM STATEMENT

In the aftermath of the Exxon Valdez accident, the Alyeska Pipeline Service Company -- the industry consortium that operates the Trans-Alaska Pipelines on behalf of seven oil companies that own the facilities -- has been soundly criticized for allegedly allowing the oil companies to save money by curtailing preparations for a large-scale oil spill throughout the 1980s. In addition to the problems caused by economic and competitive pressures, automation, safety violations, and a poor preparedness and response evidently also contributed to the disaster (this is also substantiated by research completed for the paper, "The Impact of Fatigue and Other Factors on Human Performance and How They Relate to Maritime Accidents").

1. Economic pressures: the competitive pressures in the oil and oil transportation industry, particularly with respect to competing with foreign carriers, most of which rely on lower standards and have less technology to

violations involving improper manning for the waters, including control of the ship by third mate (not certified as a pilot) and the failure of the Master to be on the bridge. The look-out was out of position, helping the local pilot depart the ship just minutes before the grounding.

4. Inadequate response and preparedness: As mentioned above, there were inadequate resources in Valdez to respond to an accident of this magnitude. Alyeska's contingency plan included a scenario for a catastrophic incident and noted that the response would be inadequate. After the Valdez spill, it took hours for emergency work to begin. Alyeska's only cleanup barge was out of service, an absorbent boom was buried under snow, and only 45 drums of dispersant were on hand -- enough to dissipate 3% of the spill (Anchorage Daily News November 3, 1989).

Our investigation did not find any evidence that insurance adversely affected the response to this incident. This question came to light when the response to a recent (November, 1989) Alaska grounding was delayed until the hull underwriter could determine whether or not there could be any salvage value. Possible responses involved burning, sinking, or blowing up the ship. These actions were not allowed without the approval of the underwriter.

POSSIBLE SOLUTIONS

The advantages and disadvantages of a number of alternatives to maximizing safety and preparedness through insurance and liability mechanisms are discussed below.

Unlimited Liability

The threat of unlimited liability, it is argued, encourages a higher standard of care in the oil industry and prompts prevention-related activities in both the public and private sectors. Supporters of unlimited liability essentially support the rights of states to establish liability, in order to go beyond federal or international minimums as necessary to protect the health and welfare of their people and environments. Opponents of unlimited liability maintain

Advantages:

1. High, but fair liability limits might stimulate U.S. marine insurance market;
2. Parties responsible for spills will at least pay something, both into reserve fund and for damages up to limits;

Disadvantages:

1. Probably won't cover all damages in catastrophic accidents;
2. Unless the limits of liability are very high (and reflective of full range of costs), the "cost of doing business mentality" toward managing oil (spills are inevitable) will prevail (United States Senate 1989).

User's Fees

In addition to setting minimum liability limits, toughening standards, and lifting all liability limits in some cases, possibly the most important feature of proposed federal liability and compensation legislation is the establishment of a national fund for cleanup and recovery costs that exceed liability limits. The fund would be developed through a 5-cent per barrel tax on the oil industry, the rationale being that oil companies should bear a responsibility for cleaning up and restoring the environment when damages exceed the responsible party's limit of liability (United States Senate 1989). According to Atlantic Richfield Company testimony before the Senate Subcommittee, merging the federal funds created by the TAPS Act, OCS Act, and Deep Water Ports Act would immediately establish a reserve fund in excess of \$400 million (United States Senate 1989). This is included in the pending legislation. This legislation also includes user fees for the expansion of the VTS.

Advantages:

1. Prevents need for each state to establish its own fund (more economical and efficient);
2. Allows oil shippers to pay into one centralized oil fund instead of individual funds of each state;
3. Retains state liability laws;

Deepwater Ports

Government and industry could investigate the possible development of new offshore deepwater ports, such as the Louisiana Offshore Oil Port (LOOP), where spills may be less likely to occur and easier to clean up than those closer to shore. The open waters around offshore ports are also more amenable to the use of "non-mechanical cleanup means," such as dispersants. Oil is transported between port and shore via underground pipelines.

Advantages:

1. Eliminates threats of groundings and narrow channels;
2. Spills would affect less sensitive environments;
3. LOOP operates wide "safety zone" around port and 24-hour traffic control and communications.
4. Pending legislation calls for lower liability limits for vessels utilizing deepwater ports.

Disadvantages:

1. LOOP has been losing money and has not proven to be an economical alternative for potential port users or investors (United States Senate 1989).
2. Exposure to harsher environment could potentially limit the number of days facilities could be used.

RECOMMENDATIONS

1. The AOSC and the state legislature should review the analysis of the civil penalty scheme for oil spill liability and compensation in Alaska (Graham 1989) and determine the appropriateness of the studies' recommendations for adoption and implementation.
2. The development of a user's tax and national oil spill compensation fund offers a number of important advantages over the "patchwork" liability and compensation system currently in place, and deserves further examination in the near term. These,

or find insurance too expensive to stay in business. Those ship owners and operators working to reduce the likelihood of accidents should get credit for doing so.

Lower liability limits could be made available only to those companies that can demonstrate financial responsibility, good safety records, and a commitment to state-of-the-art technology. Inadequate training procedures, inadequate charts and guiding systems, and inadequate maintenance and repair policies are examples of reasons to deny lower liability limits (United States Senate 1989).

The Exxon Valdez disaster has revealed the need for more mitigation and preparedness planning throughout the system (ship owners, pipeline operators, local, state, and federal governments). Contingency response plans should consider the extraordinary resource demands placed on the response system in major oil spill accidents, and then improve plans through regular drills and exercises. Following the grounding of the Arco Anchorage off Port Angeles in 1985, Arco, the Coast Guard, and the Washington Department of Ecology co-managed a successful cleanup effort that took four months. Coordinators credited a joint response exercise conducted a year earlier with creating a familiarity that led to a smooth working relationship in the actual event (Anchorage Daily News May 7, 1989).

The best opportunities to implement mitigation measures generally follow the occurrence of a disaster, when the hazard is still fresh in memories and there is usually a mandate to improve or change the system. The state of Alaska, Alyeska Pipeline Service Company, and Exxon have all taken proactive steps to mitigate the impacts of future spills. Alyeska has acquired several new, large oil skimming vessels to escort tankers from the Valdez Terminal out of Prince William Sound. Alyeska now plans to stockpile cleanup equipment and supplies and is increasing tariffs approximately \$3 per barrel in order to finance pipeline corrosion repairs, oil spill prevention and improved spill response, and legal fees from the Valdez spill. The state is raising severance taxes to create a \$50 million emergency relief fund for oil spill cleanups (Anchorage Daily News November 2, 1989) and the AOSC has recommended a number of new safety measures, including giving authority to the State Harbor Authority to close down ports if conditions are unsafe (Anchorage

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