

Leg. Finance-House & Senate Finance Comte Files (1991-1992) 844

ALASKA DEPARTMENT OF REVENUE
PERMANENT FUND DIVIDEND DIVISION
ANALYSIS

ANALYSIS OF THE EFFECT OF CS SB 98 (FIN) ON THE SIZE OF THE 1991 PFD
As of March 6, 1991

If Operations Desert Shield and Storm had not occurred, there would likely have been some members of the military who would not have complied with the two-year return rule, either by choice or otherwise. Consequently, those individuals would not have qualified for a 1991 dividend. Depending upon the actual number of those individuals, each Alaskan's dividend might have increased by a relatively small amount.

However, Operations Desert Shield and Storm did occur, impairing the ability of Alaskan military personnel to return home. Consequently, it is virtually impossible to distinguish between:

- a. Those individuals who would not have met the two-year return requirement if Operations Desert Shield and Storm had not occurred; and
- b. Those that were prevented from returning home because of Operations Desert Shield and Storm.

Consequently, we cannot determine how much each Alaskan's dividend would have increased if Operations Desert Shield and Storm had not occurred.

More importantly, because Section 2(a) only allows the 1991 waiver of the two-year return rule to those individuals who were also eligible for a 1990 dividend, this legislation will not in itself result in an increase in the number of eligible military members, spouses or dependents.

SB100

SENATE FINANCE COMMITTEE REPORT

DATE: 3/18/92

FURTHER:

DATE TURNED INTO OFFICE: [REDACTED]

The Finance Committee considered SENATE BILL NO. 102

"An Act enacting and entering into the Pacific Ocean Resources Compact."

and recommends:

[x] replace with [REDACTED] (FINANCE)
or [] adopt previous CS [REDACTED]
[] attaches amendment(s)

[x] same title
[] new title
[] technical title change (HB only)

[] adopts Letter of Intent

[] further referral to the

[] do pass

[] do not pass

[] no recommendation

Individual Recommendations

NEW FISCAL NOTES: Dept/Date
[] zero fiscal notes

PREVIOUS FISCAL NOTES: Dept/Date
[] zero fiscal notes

[] fiscal notes [REDACTED]

[] fiscal notes

[] appropriation--no fiscal note

DO PASS:
Jim Duncan
Al Adams

OTHER RECOMMENDATIONS:
Dick Smith (No Rec)
Keith Kelly (No Rec)

[Signature]

2. [Signature] No Rec
Co-Chair: Signature/Recommendation

Co-Chair: Signature/Recommendation

Co-Chair: Signature/Recommendation

F I S A L N O T E

REQUEST:

Revision Date: _____ Affected Agency: DEC
 Title: Pacific Ocean BRU: Environ.
 Resources Compact _____ Quality
 Sponsor: Cotten et al Components: E.Q.proj.
 Requestor: Senate Finance 1016

EXPENDITURES/REVENUES: (THOUSANDS OF DOLLARS)

OPERATING	FY 93	FY 94	FY 95	FY 96	FY 97	FY 98
Personal Services						
Travel	5.0	5.0	5.0	5.0	5.0	5.0
Contractual	0.0	0.0	0.0	150.0	150.0	150.0
Supplies						
Equipment						
Land & Structures						
Grants, Claims						
Miscellaneous						
TOTAL OPERATING	5.0	5.0	5.0	155.0	155.0	155.0

CAPITAL	0.0	0.0	0.0	0.0	0.0	0.0
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REVENUE	0.0	0.0	0.0	0.0	0.0	0.0
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FUNDING: (THOUSANDS OF DOLLARS)

General Fund	5.0	5.0	5.0	155.0	155.0	155.0
Federal Fund						
Other						
TOTAL	5.0	5.0	5.0	155.0	155.0	155.0

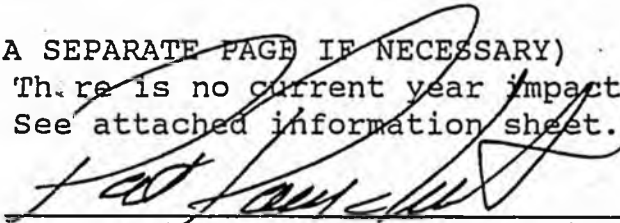
POSITIONS:

Full-Time	0	0	0	0	0	0
Part-Time						
Temporary						

ANALYSIS: (ATTACH A SEPARATE PAGE IF NECESSARY)

There is no current year impact.
See attached information sheet.

Prepared By:


 Senator Pat Pourchot, Co-chairman
 Senate Finance Committee

Date: 4/8/92

Phone: 465-3879

DISTRIBUTION (BY PREPARER)
 LEGISLATIVE FINANCE
 LEGISLATIVE SPONSOR

REQUESTOR
 OFFICE OF MANAGEMENT AND BUDGET
 AGENCY(IES)

CSSB 102 Pacific Ocean Resources Compact
Fiscal Note

The bill, as amended, provides for the ratification of the Pacific Ocean Resources Compact. The intent of the compact is to coordinate protection of marine and coastal resources by the states of Alaska, California, Hawaii, Oregon, and Washington. The compact is not effective until it is adopted by at least three states and approved by Congress.

Each ratifying state is to appoint two persons to act as representatives to the compact. In Alaska, these would be appointed by the governor and approved by the legislature. The fiscal impact depends on several unknowns such as the date of ratification by other states and Congress, and the number and location of meetings. The initial funding level for fiscal years 93 through 95 provide for the costs of maintaining involvement while the ratification process occurs in other states and Congress.

Expenditures could increase in subsequent years depending on the number of states to ratify the compact and the scope of the compact's activities. If the compact activities were primarily related to oversight of U.S. Coast Guard rulemaking, the costs would be relatively minimal. Alternatively, the compact's activities could include (if agree to by all party states) the development of contingency planning regulations that would replace the states' and federal contingency planning within the compact zone. However, if the compact developed a contingency planning process, the compact is authorized to charge reasonable fees to cover the costs of review. For FY 96 - 98, the fiscal note assumes 1) at least three states join the compact, 2) the compact develops contingency planning regulations, 3) a portion of the compact agency's costs are offset by fees, and 4) any additional staff required in the Alaska Department of Environmental Conservation (DEC) to oversee the compact are more than offset by the reduction in DEC contingency planning review staff that would no longer be need.

STATE OF ALASKA
1991 LEGISLATIVE SESSION

FISCAL NOTE

No. 1
Bill Version: SB 102
Bill (S) Publish Date: 3-18-92

Revision Date: March 19 Department Affected: Environmental Conservation
Title: Pacific Ocean Resources Compact BRJ: Environmental Quality
Sponsor: Zharoff, Sturgulewaki, Ellason Component: Environmental Quality Projects
Requestor: _____ COMPONENT SERIAL
NUMBER 1016

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES	56.7	56.7	56.7	56.7	56.7	56.7
TRAVEL	40	40	40	40	40	40
CONTRACTUAL	441.5	441.5	441.5	441.5	441.5	441.5
SUPPLIES	9	9	9	9	9	9
EQUIPMENT	9	9	9	9	9	9
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	556.2	556.2	556.2	556.2	556.2	556.2
CAPITAL	0	0	0	0	0	0
REVENUE	0	0	0	0	0	0

FUNDING: (THOUSANDS OF DOLLARS)

GENERAL FUND	556.2	556.2	556.2	556.2	556.2	556.2
FEDERAL FUND						
OTHER						
TOTAL	556.2	556.2	556.2	556.2	556.2	556.2

POSITIONS:

FULL-TIME	1	1	1	1	1	1
PART-TIME						
TEMPORARY						

Estimate of current year impact: No current fiscal year impact.

ANALYSIS: (Attach a separate page if necessary.)

See attached

Prepared By: Lynn Kent Phone: 465-2630
Division: Environmental Quality Date: 3/19/91

Approved by Commissioner: [Signature]
Agency: Department of Environmental Conservation Date: 3/27/91

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

-ATTACHMENT-

Estimation of this fiscal note has required several fundamental assumptions regarding the future direction of the proposed compact. If the parties to the compact choose to be expansive in exercising their mandate then the operational costs will be greater than if the compact remained in a more advisory capacity. For this analysis we choose assumptions that would result in a fiscal note towards the high end of the multiplicity of possible fiscal impacts to the State.

We did not factor in the compact's proposed funding formula, and instead choose to reflect Alaska's costs as a contribution equal to that of the four other states. If less than five states joined the compact, then the costs to each would be increased somewhat due to lessening of economies of scale.

However, the compact does propose a funding formula. Under this formula, Alaska's annual contribution to the support of the compact would be determined according to the relative proportion of each party's gross state product in relation to the compact's total annual budget, subject to a minimum 10 percent contribution and maximum contribution of 50 percent of the total annual budget of the compact. Using the proposed funding formula might tend to reduce Alaska's costs from those presented here. For instance, if Alaska was joined by Washington and Oregon, then Alaska would provide 14 percent of the compact's operational cost, Washington 50 percent, and Oregon 34 percent. If California also joined the compact then Alaska's cost would be 10 percent, Washington 26 percent, Oregon 14 percent, and California 50 percent.

It is assumed that under any scenario, one new full-time staff position (Environmental Specialist III) would be needed to carry out Alaska's responsibilities under the compact. Additional funding is provided to cover the travel costs for Alaska's three appointed representatives and contractual funding pay Alaska's equal share of the total annual budget for the compact. This contractual amount would pay for five staff and for operational costs at the compact's headquarters. During start-up of the compact the entire amount required for these positions and operational costs might be reduced, because organizational details and the compact's mandate would not be established. Instead, travel costs might be greater during the start-up of the compact than in future years because of the need for organizational meetings and negotiations. However, in this analysis we have depicted both travel and contractual costs equally for early years and later years.

Funding to carry-out these new responsibilities is not available in existing budgets. The compact is envisioned as a permanent body and thus the need for funding would continue in future years unless the state withdrew from participation. The costs for participation should remain stable although the state's contribution for support of the compact would likely fluctuate

depending on the funding formula and the extent of the compact's mandate.

General funds are shown as the funding source. The Oil and Hazardous Substance Release Response Fund could be considered as a back-up source if a determination was made that this use is consistent with the purposes of the fund.

Personal Services

1 Environmental Specialist III 56.7

Travel

Estimated for staff and three appointed representatives to attend meetings of the compact 40.0

Contractual

Includes Alaska's estimated contribution to support the compact and five staff positions 441.5

Supplies

9.0

Equipment

9.0

Total 556.2

*Adopted
3/24-25-92 AM*

7-LS0470J ✓
Dierdorff
4/24/92

**CS FOR SENATE BILL NO. 102 (FINANCE)
IN THE LEGISLATURE OF THE STATE OF ALASKA
SEVENTEENTH LEGISLATURE - SECOND SESSION**

BY THE SENATE FINANCE COMMITTEE

Offered:
Referred:

Sponsor(s): **SENATORS COTTEN, Zharoff, Sturgulewski, Eliason, Menard**

A BILL

FOR AN ACT ENTITLED

1 **"An Act enacting and entering into the Pacific Ocean Resources Compact."**

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

3 *** Section 1.** AS 46 is amended by adding a new chapter to read:

4 **CHAPTER 47. PACIFIC OCEAN RESOURCES COMPACT.**

5 **Sec. 46.47.010. COMPACT ENACTED AND ENTERED INTO.** (a) The Pacific Ocean
6 Resources Compact as set out in AS 46.47.020 is enacted into law and entered into on behalf of
7 the state. This compact shall take effect after two or more of the states of California, Hawaii,
8 Oregon, or Washington ratify the compact in substantially the same form as set out in
9 AS 46.47.020 and consent is granted by the Congress as required by section 10, Article I, of the
10 Constitution of the United States.

11 (b) In addition to the states named in (a) of this section, the Province of British Columbia
12 may become an associate party to the compact, without voting power. Upon request of the
13 Province of British Columbia and approval of the Congress, the Province of British Columbia
14 may become a full party to the compact with the same rights and powers as the party states.

- 1 (A) prevention of oil and hazardous substance spills;
2 (B) transportation of oil and other hazardous substances;
3 (C) oil and hazardous substance spill response planning; and
4 (D) environmental monitoring and research;

5 (4) each party has jurisdiction over the submerged and submersible land within
6 its territorial sea and responsibility for management of many marine resources and ocean uses;
7 each party has unique natural resource, social, economic, and political conditions for which local
8 management by the individual party is the most appropriate; this is particularly true with respect
9 to subsistence resource use in Alaska;

10 (5) the parties now do not have an effective means to address mutual concerns
11 related to transport of oil and hazardous substances in waters within and beyond the party's
12 jurisdiction that may jeopardize ocean resources and uses important to one or more coastal
13 parties;

14 (6) the 1983 Presidential Proclamation of the 200-mile United States Exclusive
15 Economic Zone has created the opportunity for all coastal states to more fully exercise and assert
16 their responsibilities pertaining to the protection, conservation, and development of ocean
17 resources under United States jurisdiction;

18 (7) citizens of the Pacific states and the Province of British Columbia are
19 increasingly concerned with the environmental integrity of the ocean and protection of all ocean
20 resources;

21 (8) recent studies conducted in the wake of major accidental releases of oil or
22 hazardous substances have concluded that the existing system of response to spills could be
23 improved in the following ways to provide better protection of ocean resources:

- 24 (A) enhanced personnel training and qualifications;
25 (B) improved vessel design and integrity;
26 (C) better mechanisms for cost recovery by the states or the province;
27 (D) improved coordination in regulatory oversight;
28 (E) enhanced traffic management; and
29 (F) an improved information base dealing with marine and coastal

30 environments;

31 (9) a spill or discharge of oil or a hazardous substance from an ocean-going vessel

1 has the potential of causing major regional effects.

2 (b) Therefore, the purpose of this compact is to

3 (1) assist in the promotion of interstate commerce by encouraging uniform
4 regulation of the transportation of oil or hazardous substances within the compact zone;

5 (2) provide a legal mechanism to regulate certain ocean activities within the
6 United States Exclusive Economic Zone;

7 (3) enhance regional coordination of issues of critical importance;

8 (4) work with federal agencies to advance the best interest of the region;

9 (5) foster regional cooperation and pooling of resources to reduce costs and
10 increase effective use of scarce resources;

11 (6) monitor activities of concern to the parties;

12 (7) address issues of mutual concern to the Pacific states and the Province of
13 British Columbia and enhance the parties' influence over activities of concern that are not now
14 addressed through existing compacts, including

15 (A) spill prevention;

16 (B) transportation of oil and other hazardous substances;

17 (C) spill response planning; and

18 (D) environmental monitoring and research;

19 (8) foster cooperation and coordination among the parties in order to increase the
20 effectiveness of the individual party's ocean laws and programs;

21 (9) provide technical assistance to parties for ocean activities covered by this
22 compact;

23 (10) provide for formal participation by the Province of British Columbia with
24 the compact to more fully address issues of regional concern;

25 (11) ensure that the citizens of the region have opportunities to participate in
26 discussions and deliberations of regional ocean resources issues;

27 (12) establish an innovative system under which the parties can represent their
28 shared interests within the compact zone, including

29 (A) the maintenance and protection of common ocean resources; and

30 (B) vessel transportation of oil and other hazardous substances;

31 (13) recommend uniform safety standards for routes, crews, and equipment for

1 vessels transporting oil and hazardous substances within the compact zone and monitor the
2 implementation of these standards and regulations by federal agencies, states or provinces, and
3 private industry;

4 (14) promote more coordinated management of ocean resources that are of mutual
5 concern;

6 (15) provide a forum for the regional coordination of the individual parties' plans
7 for the management and protection of those areas of the Pacific Ocean and adjacent waters over
8 which the compacting parties jointly or separately now have or may acquire jurisdiction.

9 ARTICLE II

10 DEFINITIONS

11 In this compact,

12 (1) "compact" means the representative body created by Article IV of this
13 compact;

14 (2) "compact zone" means the portion of the oceans bordering the parties within
15 the 200-mile exclusive economic zone;

16 (3) "hazardous substance" means an element or compound that, when it enters in
17 or on the water, presents an imminent and substantial danger to the public health or welfare or
18 the environment, including fish, animals, vegetation, or a part of the natural habitat in which they
19 are found; "hazardous substance" includes a substance designated under 33 U.S.C. 1321(b)(2)(A),
20 an element, compound, mixture, solution, or substance designated under 42 U.S.C. 9602, a
21 hazardous waste having characteristics identified under or listed under 42 U.S.C. 6921, a toxic
22 pollutant listed under 33 U.S.C. 1317(a), and an imminently hazardous chemical substance or
23 mixture with respect to which the administrator of the United States Environmental Protection
24 Agency has taken action under 15 U.S.C. 2606;

25 (4) "navigable waters" means the waters of the United States, including the
26 territorial sea;

27 (5) "oil" means crude petroleum oil or any other hydrocarbon, regardless of
28 gravity, that is produced at the well in liquid form by ordinary production methods, and any
29 petroleum products or petrochemicals of any kind and in any form whether crude, refined, or a
30 petroleum byproduct, including petroleum, fuel oil, gasoline, lubricating oils, oily sludge, oily
31 refuse, or mixed with other wastes, liquefied natural gas, or propane;

1 (6) "party" means a state or province that ratifies this compact as provided in
2 Article III of this compact;

3 (7) "representative" means an individual appointed as provided in Article IV of
4 this compact to represent a party;

5 (8) "vessel" means a watercraft, whether self-propelled or propelled by another
6 vessel, that is constructed or adapted to carry, or that carries oil or hazardous substances in bulk
7 as cargo or cargo residue and that is greater than 5,000 gross weight tonnage, and that

8 (A) operates on the navigable waters of the compact zone; or

9 (B) transfers oil or hazardous substances in a place subject to the
10 jurisdiction of the United States.

11 ARTICLE III

12 OPERATIVE DATES

13 (a) Except as provided in (b) of this article, this compact shall become effective when
14 this state and two or more of the states of California, Hawaii, Oregon, or Washington ratify the
15 compact and the consent of the Congress is or has been granted as required by section 10,
16 Article I, of the Constitution of the United States.

17 (b) This agreement shall become operative as to the Province of British Columbia as a
18 full party upon request of the Province of British Columbia and approval of the Congress.

19 ARTICLE IV

20 PACIFIC OCEAN RESOURCES COMPACT

21 (a) The Pacific Ocean Resources Compact is created and shall have its offices within the
22 territorial limits of one of the parties, shall carry out its duties and functions in accordance with
23 this compact, shall continue in force and effect in accordance with this compact, and, except as
24 specifically provided in this compact, may not be considered an agency or instrumentality of the
25 United States for the purpose of any federal law. Each party participating in this compact shall
26 appoint two persons, subject to the applicable laws of the appointing party, to undertake the
27 functions and duties of representatives of the compact. This compact shall be invested with the
28 powers and duties set out in this compact.

29 (b) The term of each representative shall be four years. A representative shall hold office
30 until a successor is appointed and qualified but the successor's term shall expire four years from
31 the legal date of expiration of the term of the predecessor. Vacancies occurring in the office of

1 a representative for any reason or cause shall be filled for the unexpired term by the party
2 represented by the vacancy. A party may remove the representative for that party in accordance
3 with the statutes of the party concerned. Each representative may delegate to a deputy the power
4 to be present and participate, including voting as the representative or substitute, at any meeting
5 of or hearing by or other proceeding of the compact.

6 (c) The compact shall invite the Secretary of the United States Department of
7 Transportation, the Administrator of the United States Environmental Protection Agency, and the
8 Administrator of the National Oceanic and Atmospheric Administration or their designees to
9 participate as nonvoting members of the compact.

10 ARTICLE V

11 PACIFIC OCEAN RESOURCES COMPACT AUTHORITY

12 (a) The Pacific Ocean Resources Compact is authorized to

13 (1) facilitate the prevention of or response to oil and hazardous substance spills
14 by

15 (A) serving as a West Coast Spill Prevention Advisory Committee to the
16 United States Coast Guard; as such, the compact shall advise the United States Coast
17 Guard on matters pertaining to spill prevention and response within the compact zone and
18 also shall advise the United States Coast Guard on other matters within the compact's
19 authority as set forth in this compact;

20 (B) participating as an interested person in any rulemaking proceeding by
21 the United States Coast Guard related to the establishment of safety standards for routes,
22 crews, and equipment for vessels transporting oil and hazardous substances; the United
23 States Coast Guard shall adopt the recommendations of the compact, unless the United
24 States Coast Guard makes a finding, as part of the rulemaking process, that the adoption
25 of a recommendation would not prevent or facilitate response to oil and hazardous
26 substance spills;

27 (C) as an interested person, requesting the United States Coast Guard to
28 initiate rulemaking for the establishment or amendment of safety standards for routes,
29 crews, and equipment for vessels transporting oil and hazardous substances; the United
30 States Coast Guard shall initiate rulemaking as requested by the compact, unless the
31 United States Coast Guard makes a finding that the initiation of the rulemaking would not

1 further the prevention of or response to oil and hazardous substance spills;

2 (D) making recommendations to other appropriate state, federal, and
3 regional entities regarding uniform safety standards for routes, crews, and equipment for
4 vessels transporting oil and hazardous substances in the compact zone;

5 (2) ensure a coordinated network of oil and hazardous substance spill response
6 plans and programs of the parties, federal agencies, and private organizations;

7 (3) by regulation, establish the requirements for submission of and approval by
8 the compact of a contingency plan by any vessel transporting oil or hazardous substance in the
9 compact zone; the requirements must be compatible with the requirements for response plans
10 under sec. 4202 of the Oil Pollution Act of 1990 (P.L. 101-380); a plan developed in accordance
11 with the regulations adopted by the compact and approved by the compact shall satisfy the
12 requirements of sec. 4202 of the Oil Pollution Act and shall satisfy and supersede any
13 requirements of an individual party for submitting a vessel contingency or spill response plan;
14 however, all plans approved by parties to this compact before the operative date of the compact
15 shall remain in full force and effect until a contingency plan is approved by the compact under
16 this paragraph; if a contingency plan approved by one of the parties to this compact expires after
17 the compact contingency plan regulations are adopted, a new contingency plan must be adopted
18 under the compact regulations; in establishing regulations under this paragraph, the compact shall
19 work closely with officials of the parties to assure that the vessel contingency plans required
20 under this compact include all subject areas included by the member parties in the standards for
21 vessel contingency plans of the parties, in the aggregate, before the adoption of the compact;

22 (4) establish and maintain an informational clearinghouse related to spill response,
23 including a directory of personnel, equipment, technical expertise, organizations, and other
24 resources available to assist as part of a regional oil or hazardous substance spill response;

25 (5) provide a forum for discussion and recommendation to resolve conflicts
26 among member parties or the federal government regarding various ocean resources programs
27 that have been or may be established by each party;

28 (6) provide opportunities for public participation in compact activities by holding
29 meetings of the compact in various locations within the territorial limits of the parties, providing
30 opportunities for public comment at meetings and developing a public outreach program;

31 (7) designate state or provincial agency officials to act on behalf of the compact

1 as liaisons with federal agencies;

2 (8) identify the regional data needs related to ocean resources and recommend a
3 method for compiling the data in a format that can be shared by all parties;

4 (9) consult with and advise any pertinent party or federal agency with regard to
5 problems connected with ocean resources management and recommend the adoption of any rules
6 or regulations the compact considers advisable that are within the jurisdiction of the agency;

7 (10) establish sanctions and a schedule of civil penalties for violations of the rules
8 or regulations of the compact and impose those sanctions or civil penalties in accordance with
9 5 U.S.C. 551 - 559 and 701 - 706;

10 (11) request the United States Coast Guard to enforce or assist in the enforcement
11 of any regulations adopted by the compact including, but not limited to, regulations related to the
12 submission of a contingency plan or financial assurance requirements in the compact zone;

13 (12) establish a schedule of reasonable fees to be assessed for the review of a
14 contingency plan submitted under (3) of this subsection; the fees must be sufficient to recover
15 the costs of reviewing the plans and conducting any related inspections; the fees may be assessed
16 in increments up to the maximum amount.

17 (b) In addition to the authority granted under (a) of this article, the compact may

18 (1) accept grants and gifts;

19 (2) enter into contracts for whose performance the compact shall be solely
20 responsible in order to support its operations;

21 (3) conduct and prepare, independently or in cooperation with others, studies,
22 investigations, research, and programs relating to the purposes of this compact;

23 (4) conduct public hearings on matters pertaining to the purposes of this compact;

24 (5) establish, for the purpose of reducing litigation costs, a standardized cost
25 recovery formula, based on the amount of oil or hazardous substance spilled, to be used to
26 estimate damages to other resources from small oil or hazardous substance spills in areas with
27 well established coastal resource inventories; however, a standardized formula may not be used
28 for the economic evaluation of damage to subsistence use of resources;

29 (6) enter into an agreement with the United States Coast Guard under which the
30 compact will administer compliance with the requirements for demonstrating financial
31 responsibility under section 1016 of the Oil Pollution Act of 1990 in an amount established by

1 the compact; proof of financial responsibility, if established by the compact under this paragraph,
2 shall satisfy and supersede the requirement of any individual party for demonstrating financial
3 responsibility; however, all financial responsibility requirements established by the parties to this
4 compact before the compact establishes an amount under the paragraph shall remain in full force
5 and effect until the compact establishes a requirement and enters into an agreement with the
6 United States Coast Guard under this paragraph; in establishing the amount of financial
7 responsibility under this paragraph, the compact shall work with officials of each party to assure
8 that such requirements are sufficient to satisfy the requirements of the parties, in aggregate;

9 (7) in accordance with the provisions of 5 U.S.C. 551 - 559 and 701 - 706,
10 enforce the rules and regulations adopted by the compact to carry out the authority of the
11 compact as set out in this article;

12 (8) appoint technical and advisory committees for the purpose of advising the
13 compact on regional ocean resources issues, data needs and format, and other purposes related
14 to the compact's activities; a technical or advisory committee appointed by the compact is not
15 subject to the provisions of the Federal Advisory Committee Act (P.L. 92-463, as amended);

16 (9) allow a variance from the provisions of this compact or rules or regulations
17 adopted by the compact under this article; a variance must be based on a showing by the person
18 or entity seeking the variance that the activity allowed under the variance will have no regional
19 effect and that the variance is economically necessary; under no circumstances may a variance
20 result in the regulation of the transportation of oil or hazardous substance according to standards
21 less stringent than standards imposed under federal law.

22 (c) The compact shall adopt all regulations necessary to carry out its duties and exercise
23 its authority under this article. The compact shall adopt the regulations in accordance with the
24 provisions of 5 U.S.C. 500 - 559.

25 ARTICLE VI

26 PACIFIC OCEAN RESOURCES COMPACT ORGANIZATION

27 The compact shall select a chair and a vice-chair. After the initial chair and vice-chair
28 are selected, the compact shall establish a rotation for the selection of the chair and vice-chair
29 so the office rotates through the parties to the compact. The compact shall appoint and at its
30 pleasure remove or discharge such officers and employees as may be required to carry the
31 provisions of this compact into effect and shall fix and determine their duties, qualifications, and

1 compensation. The compact shall adopt rules and regulations for the conduct of its business.
2 It may establish and maintain one or more offices for the transaction of its business and may
3 meet at any time or place within the territorial limits of the signatory parties but must meet at
4 least once a year.

5 ARTICLE VII

6 VOTING AND QUORUM

7 (a) A majority of the representatives shall constitute a quorum.

8 (b) Each representative shall be entitled to one vote. An action or decision of the
9 compact may not be approved unless the action or decision receives a majority of the votes of
10 the representatives, including at least one affirmative vote from each party.

11 ARTICLE VIII

12 SUPPORT AGENCIES

13 The compact may contract for the staff support necessary to carry out the purposes of this
14 compact or request appropriate agencies of the signatory parties to act as the research agencies
15 of the compact.

16 ARTICLE IX

17 PARTIES' POWERS UNDER COMPACT

18 Except as specifically provided in Article V of this compact, nothing in this compact may
19 be construed to limit the powers of a party or to repeal or prevent the enactment of legislation
20 or the enforcement of a requirement imposing additional conditions and restrictions to conserve
21 ocean resources.

22 ARTICLE X

23 ABSENCE

24 Continued absence of representation or of a compact representative from a party shall be
25 brought to the attention of the appointing authority of the party not represented.

26 ARTICLE XI

27 FUNDING

28 (a) Each party shall contribute to the support of the compact.

29 (b) The annual contribution of each party shall be figured to the nearest \$100.

30 (c) The compact shall prepare an annual budget which shall be approved by vote of the
31 compact. After approval, the proposed budget shall be presented to the chief executive and the

1 legislative body of each party.

2 (d) Each party shall be responsible for the expenses of its own representatives.

3 ARTICLE XII

4 WITHDRAWAL FROM COMPACT

5 This compact shall continue in force and remain binding upon each party until renounced
6 by it. Renunciation of this compact must be preceded by sending six months' notice in writing
7 of intention to withdraw from the compact to the other parties to the compact.

8 Sec. 46.47.030. REPRESENTATIVES. The two representatives of the state to the Pacific
9 Ocean Resources Compact shall be appointed by the governor, subject to confirmation by the
10 legislature.

11 Sec. 46.47.040. PUBLIC REVIEW OF REGULATIONS. A representative of this state
12 may not vote for the adoption of a regulation of the Pacific Ocean Resources Compact that
13 affects this state unless the regulation has been subjected to public review under the procedures
14 of AS 44.62 (Administrative Procedure Act) relating to public comment and hearings.

STATE OF ALASKA THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

March 2, 1990

SUBJECT: Interstate compacts
(Work Order No. 6-2304)

TO: Representative Cliff Davidson

FROM: John B. Gaguine ^{JK}
Legislative Counsel

You have asked a number of questions regarding interstate compacts. A couple of these questions are answered in the materials you sent over. Legal Research Report No. 9.2 for the Oil Spill Commission, "Potential Utility of an Interstate Compact as a Vehicle for Oil Spill Prevention and Response," explains well what an interstate compact is, and under what authority the states may initiate them. I will try to address some of the questions that are not covered by those materials.

There is no statute governing the negotiation of interstate compacts. Since, as discussed in Legal Research Report No. 9.2, a compact requires the passage of identical legislation by the legislatures of several states, negotiations among the states are a prerequisite to a compact. One would expect those negotiations to be carried out by executive branch officials most conversant with the subject matter, which in the area of oil transport would seem to be DEC officials. However, I do not see any constitutional separation-of-powers problems with the legislature initiating compact negotiations, participating in them or even carrying them out without executive branch participation, since the compact is essentially a legislative function.

As discussed in Legal Research Report No. 9.2, a successful compact would have to be approved by the legislatures of the states involved and then, if involving a matter that would ordinarily be preempted by the federal government (as would be the case in regulation of oil transport, where the U.S.

Representative Cliff Davidson
Page 2
March 2, 1990

Supreme Court in 1977 invalidated Washington laws as pre-empted by federal legislation), would have to be approved by Congress. Legal Research Report No. 9.2 notes that in some cases negotiation of the compact and approval by the state legislatures and Congress has taken up to eight years.

Compacts involving foreign countries are far rarer than interstate compacts; none of the compacts to which Alaska is a party (listed below) involve any foreign nations. However, the provision of the U.S. constitution that allows interstate compacts also authorizes compacts "with a foreign power", if Congress consents. I do not know whether Canadian law would allow British Columbia to enter into a compact, or whether Canada would have to be a party, although section 16 of the Constitution Act of British Columbia suggests that the province could not enter into a compact with an American state. It seems likely, though, that the U.S. State Department would not look favorably on an agreement between Alaska and Canada on oil transportation rather than a treaty between the United States and Canada on the subject, and that the State Department might well oppose Congressional approval of an Alaska-Canada agreement.

You have also asked what the procedure is for initiating an interstate compact in Oregon, Washington and California. I assume that it is the same as in Alaska, since none of those states has any statutes on the adoption of interstate compacts (not even California, which has statutes on every subject imaginable). Washington does have a statute appointing a commission to negotiate a compact on the apportionment of the waters of the Columbia River basin, but nothing on compacts in general.

Alaska is a participant in a large number of interstate compacts (according to Legal Research Report No. 9.2, seventeen). These cover such diverse areas as fisheries (the Pacific Marine Fisheries Compact, AS 16.45.020), corrections (the Interstate Correction Compact, AS 33.36.020), higher education (the Western Regional Higher Education Compact, AS 14.44.015), and nuclear energy (the Western Interstate Nuclear Compact, AS 41.98.110, and the Northwest Interstate Compact on Low-Level Radioactive Waste Management, AS 46.-45.010). In the environmental area, AS 46.04.100 authorizes the governor to execute compacts with other states or countries on oil pollution control, and AS 46.09.050 authorizes the governor to execute compacts on hazardous substance release control. However, no formal compacts on either of these subjects appear in the Alaska statutes.

Representative Cliff Davidson
Page 3
March 2, 1990

Finally, you have asked about language in Section 309(b) of the Coastal Zone Management Act of 1972 that gives the consent of Congress to two or more coastal states to enter into compacts on coastal zone planning, policies and programs. I do not think that this language would be applicable to a compact between Alaska and the other Pacific coast states on oil transportation. The legislative history behind this section suggests strongly that it was meant to allow compacts between neighboring states sharing a similar coastline, such as (to use an example given in the history) Delaware, Maryland, and Virginia. See 1976 U.S. Code Cong. and Admin. News 1794-95. Since Alaska's coastline is many hundreds of miles away from the coastline of the nearest state, I do not think that Section 309(b) could apply to Alaska.

If I may be of further assistance, please advise.

JBG:pl
WKP2/119

Alaska State Legislature

Senator Sam Cotten Chairman
Senator Drue Pearce, Vice-Chairman
Senator Shirley Craft
Senator Lyman F. Hoffman
Senator Dick Shultz



State Capitol
Juneau, AK 99801-1182
(907) 465-3711

Senate Committee on Oil and Gas

April 25, 1992

Janice Adair, Assistant Commissioner
Alaska Department of Environmental Conservation
410 Willoughby Avenue, Suite 105
Juneau, Alaska 99801-1795

Dear Ms. Adair:

This letter is to address the Department's "concerns and questions" relating to SB 102, "An Act enacting and entering into the Pacific Ocean Resources Compact." While a number of the concerns raised are fairly broad and speculative, we will try to address them as well as clarify some of the Department's apparent misunderstandings of the legislation.

In your April 22 letter to Representative Davidson, you state that: "Some individuals supporting the Compact Legislation do not expect the Compact to develop regulations. If it is not the intent of the Legislature to have the Compact develop regulations, then we question the need for this legislation." While the basis for this statement is unclear, it is fair to say that the primary purpose of the legislation is not the development of regulations. Instead, its primary purpose is to extend states' sovereignty and jurisdiction over the marine waters of the Exclusive Economic Zone (EEZ). The EEZ extends from the states' three-mile limit to the current federal 200-mile limit.

The mechanism for implementing this primary objective is 1) the definition of the Compact zone, Article II (2) and 2) the Compact's establishment of the West Coast Spill Prevention Advisory Committee that has standing as an interested party to initiate or participate in U.S. Coast Guard rule-making to facilitate the prevention of and response to oil and hazardous substance spills, Article V (a) (1) (A-D).

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As you noted, the Compact legislation does have provisions for the development of contingency plan regulations. These provisions were developed and included after lengthy negotiations among the party states over a number of years. Despite the Department's concerns that the "Compact bill provides no guidance and no boundaries for the development of regulations," Article V (a) (3) very succinctly directs the Compact agency to work closely with officials from all of the party states to ensure that contingency plan regulations developed by the Compact satisfy the requirements on each party's contingency planning standards that existed prior to the development of the Compact.

Rather than providing little guidance, the Compact will be required to work within the confines of all party states' statutes and regulations, as well as the federal Oil Pollution Act of 1990 (OPA 90). In addition, all states would have to agree to any proposed regulations, Article VII Voting and Quorum. Given the considerable guidance provided by the Compact language to protect the interest of each party state, the development of regulations will be a considerable accomplishment and, thus, a secondary objective of the Compact. The sponsors of the legislation in the party states do support the development of regulations, however, because a consistent set of comprehensive standards to prevent spills would be in the states' interest and provide uniform standards for the oil and hazardous materials shipping industry.

You mentioned that the federal government and West Coast states have all recently passed laws to strength spill prevention and response and are in the process of implementing regulations. As a result, there has been insufficient time to evaluate the effectiveness of these programs. Evaluation of the implementation of these programs is undoubtedly an on-going and continual process. Based on the significant passage of laws by the states and federal government, the *Exxon Valdez* oil spill appears to have prompted the citizens and elected officials in this country to judge that our prevention, response, and financial responsibility requirements were inadequate. The laws were passed to establish new standards to protect the public and natural resources from future spills. The standards themselves are less difficult to evaluate than their implementation. In addition, the process of state ratification and Congressional approval of the Compact probably provides at least another five years for the evaluation process to continue in the states.

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The next sections address your specific questions that have not already been answered above:

*The definition of "hazardous substances" is contained in Article II (3). This definition was developed after a thorough legal review of federal and all potential Compact party states' definitions of hazardous materials. Most of the states rely almost exclusively on federal definitions of hazardous materials. As a result, the definition in the Compact legislation encompasses the states' definitions by referring to numerous federal legal citations. This office contacted your department staff regarding this definition in February 1991. We were advised that the department primarily relies on the U.S. Coast Guard CHRIS manual for the definition of hazardous substances subject to marine transportation and is, thus, consistent with the Compact definition.

* The Compact may NOT regulate transportation on Alaska rivers or inland waters. This is clearly established by the definition of "compact zone," Article II (2) which "means the portion of the oceans bordering the parties within the 200-mile exclusive economic zone (emphasis added)." In addition, Article I (4) states that "each party has jurisdiction over the submerged and submersible land within its territorial sea...." The compact is clearly marine oriented. It should also be noted that the Compact would have no effect on Coastal Zone Management for the same reasons.

* Within the compact zone, the U.S. Coast Guard would be responsible for enforcing regulations, and conducting inspections and drills.

* The states would continue to be responsible for shore-based facilities and smaller vessels (primarily non-crude product suppliers). The Compact is intended to address the regional **transportation** of oil and hazardous materials. As a result, it does not seem appropriate for the Compact to address shore-based facilities. The exemption of smaller vessels was amended in the Alaska legislation to protect the interests of rural Alaska that rely heavily on the **intrastate** transportation of fuel products, and is, thus, not a West Coast regional concern.

* While the Compacts headquarters may be located outside of Alaska, the legislation clearly directs that the Compact "ensure that the

April 25, 1992

Page 4

citizens of the region have opportunities to participate in discussions and deliberations," Article I (b) (11). Undoubtedly to meet these concerns, the location of Compact meetings would be rotated. In addition, while it was assumed that the approval of any regulations by Alaska representatives would require public review in Alaska, this Alaska Administrative Procedures Act requirement was specifically added to the legislation.

* There would obviously be no duplication or double counting of sanctions and civil penalties relating to natural resources damages which is prohibited by federal law. Within the Compact zone, the Compact can develop sanctions or civil penalties if the states agree that the regulations developed by the National Oceanic and Atmospheric Association (NOAA) are inadequate. In either case, the sanctions and civil penalties would be enforced by the U.S. Coast Guard under the federal Administrative Procedures Act to ensure due process, Article V (a) (10).

* In your letter of April 22, there are numerous references to Compact "regions." We are uncertain of the origin or meaning of this. Specifically, the legislation develops the compact zone to address the regional transportation of oil and hazardous substances. We are aware of no proposed subregions.

Thank you for your kind attention. I hope this addresses your questions and clarifies your understanding of the legislation.

Sincerely,

A handwritten signature in cursive script, appearing to read "Sam Cotten".

Senator Sam Cotten

4-9-92
SFC-92

STATEMENT OF
EXXON SHIPPING COMPANY
TO THE
SENATE FINANCE COMMITTEE

ON SB 102
APRIL 9, 1992

Exxon Shipping Company appreciates the opportunity to provide comments on House Bill 135.

The proposed legislation seeks to have Alaska ratify the creation of a multi-state Pacific Ocean Resources Compact. The Compact has various stated purposes. They range from very specific regulatory provisions to broad, undefined regulatory provisions to coordination of mutual interest activities of Compact parties. A key aspect of the Compact would provide for the extension of states' jurisdictional authorities out to 200 miles offshore. The compact would vest comprehensive authority to its appointed administrative body regarding activities, regulatory powers, staffing and funding.

There is some merit associated with an interstate advisory group to work with state and federal governments to improve coordination in oil spill response planning, environmental monitoring, and research activities. However, Exxon Shipping Company opposes the proposed legislation due to the specific marine regulatory provisions and the broadly worded regulatory provisions for undefined ocean activities. The Company also opposes the broad authority which the Compact would have to adopt other regulations. In addition, we have concerns regarding what we believe will be the likely jurisdictional constitutional and regulatory conflicts arising from the proposed Compact territorial expansion.

This statement will address the reasons for our position and concerns.

The Compact specifically provides for uniform regulation of oil and hazardous substance transportation, including the establishment of standards for routes, crews, and equipment for vessels and for vessel contingency plans. Comprehensive oil spill prevention and response legislation was passed in 1990 at the federal level (Oil Pollution Act of 1990) and in Alaska through a package of laws in 1989, 1990, and 1991. Implementation of these legislative efforts is well underway at both the federal and state levels through the development of extensive regulations. Compact provisions for development of an additional layer of regulations for these purposes is both unnecessary and inappropriate. At best, such an effort would be duplicative of Alaska and federal work; at worst, it could result in totally confusing layers of regulations under various authorities. It seems logical to allow the industry and states to operate under the statutes being developed before deciding whether additional or modified regulations are needed.

The Compact also provides for regulation of certain ocean activities within the Exclusive Economic Zone, and for adoption of all regulations necessary to exercise its authority. This broadly worded authority to regulate, without definition or limitation of the activities/areas to be regulated, is inappropriate, especially for an appointed body. Such regulatory authority would likely duplicate or conflict with existing federal and state agencies roles, responsibilities and regulatory powers.

SFC-92 #34

4-9-92

Attachment C

The U.S. Coast Guard has primary authority for marine transportation in U.S. waters and is responsible for establishing vessel safety and design standards, training and manning requirements, routing, and traffic control. Exxon Shipping Company firmly supports the concept of uniformity of maritime law and regulations throughout the United States. Adding other regulatory authority for marine transportation through the proposed Compact could lead to confusion among domestic and international shippers as to which agency has primary jurisdiction over safety standards for vessels transporting oil or hazardous materials.

We understand that over 200 compacts have been adopted by states and approved by Congress. These compacts generally tend to facilitate uniformity of law and regulation associated with interstate commerce and cooperation. The proposed Compact seeks to extend the geographic scope of states' jurisdiction into federal jurisdictional domain. We are concerned that this Compact would not have the intended effect of greater uniformity, but would rather result in significant constitutional disputes over admiralty and maritime jurisdiction with disruptive impacts on national and international shipping.

The proposed Compact would be authorized to conduct hearings, promulgate regulations, negotiate with the federal government, provide technical assistance, conduct environmental monitoring and research, and apply sanctions and penalties for violations. Its liberal wording grants, to an appointed board, extensive authorities equal to or exceeding those generally delegated to elected state and federal legislative bodies. With all this apparent authority, there is no clear indication or direction as to how these powers are to be exercised or implemented, or how the funding to enforce the authority would be developed.

The premise that there are no effective means for adjoining states to address mutual concerns related to the transport of oil and hazardous substances is not accurate. Such concerns can be addressed by state governments and through the federal government agencies (U.S. Departments of Transportation and State) which, in turn can represent appropriate concerns to international bodies such as the International Maritime Organization.

In conclusion, Exxon Shipping Company supports the concept of uniformity of maritime law and regulations throughout the United States. Our industry is multi-state and international in scope, and therefore we believe uniformity of approach to such issues is absolutely critical.

The Compact would move away from this concept by creating a regulatory body with the authority to impose an unnecessary layer of regulations. Exxon Shipping Company cannot support the regulatory provisions encompassed by the legislative language. These regulatory provisions are inappropriate - especially in view of the recent state and federal legislation now being implemented.

Accordingly, Exxon Shipping Company urges this Committee to oppose the passage of SB 102.

4-9-92
SFC-92
#34

Written Statement
of
Kurt R. Oxley
ARCO Transportation Company

Senate Finance Committee
Hearing on S.B. 102
The Pacific Ocean Resources Compact

April 9, 1992

SFC-92 #34

4-9-92

Attachment B

Mr. Chairman, Members of the Committee; my name is Kurt Oxley. I am a Government Relations Consultant with ARCO Transportation Company, the transportation subsidiary of Atlantic Richfield Company - more commonly known as ARCO. ARCO is a major U.S. based producer and marketer of petroleum and petroleum products, natural gas, coal, and petrochemicals. We are also a major transporter of petroleum by water and pipeline in the Mid-Continent region of the U.S. By far, our greatest transportation activity occurs along the West Coast, both through our 21 percent ownership interest in the Trans Alaska Pipeline, as well as on ARCO Marine's ten vessel U.S.-flag tanker fleet.

ARCO Transportation is keenly interested in S.B. 102, the Pacific Ocean Resources Compact. We have participated in discussions of this topic before the Oceans Committee of the Western Legislative Conference, and have registered our concerns with the Compact proposal when it was considered in the states of Washington, Oregon, and California. I appreciate the opportunity to present my written statement to you today.

The Compact, a concept which seeks to regulate oil and hazardous substance transportation, spill prevention and response, and other maritime and coastal concerns, including the extension of the State's coastal economic zones from three miles to two hundred miles is fraught with implementation as well as operational problems. While the Compact proposal before you today would enter into force upon its ratification by two or more of the five Western States, it will also require the approval of the U.S. Congress.

Arco Transportation remains committed to the belief that the coordination of oil spill prevention and response plans, both among the Western States, as well as with the Federal Government is important in achieving optimal environmental protection. This goal is achievable by increased coordination of Western State policies, with an eye towards building upon, instead of supplanting, the Federal framework.

While changes have been made in comparison to the original Compact proposal, moving it in the direction of increased coordination among the participating states with more active participation in the Federal legislative and regulatory process, the concept of a formal, Congressionally approved, Compact is still troublesome. There are three primary concerns with the compact approach in this instance. My first concern arises from the fact that the Western States, and Alaska in particular, were quick in developing

legislation to better ensure safe oil transportation and to protect their waters, resources, and citizenry from oil spills. ARCO Transportation welcomed an opportunity to participate in the oil spill legislative process and continues to provide input to state agencies as regulations are formulated which implement the legislation. To sweep this all aside in an effort to legislate uniformity between the Western States is a misplaced, duplicative, and expensive effort.

Secondly, I am also concerned that the Compact would supersede newly established Federal laws and regulations which provide a uniform framework for ocean policy in Federal waters. The wide-ranging improvements in spill prevention and response which will arise out of the Federal Oil Pollution Act of 1990 are, just as with the Alaska law, still in the implementation process.

Last of all, the addition of another layer of government, one which would come between state entities and the federal government is counterproductive. The current Federal/State review and regulatory process can be burdensome - an intermediary Compact layer would only further complicate the process.

If the primary thrust of the Compact is one of increased input into the Federal regulatory process while achieving uniformity among Western State regulations, ARCO Transportation believes that such goals are achievable without a Compact. Many states are active participants in Federal regulation development. Similarly, state coordination can be achieved through interstate working groups without the negatives associated the Compact process. The proposed compact and its accompanying new organization will be duplicative of Alaska State agency personnel. These additional costs must be shared between the Compact members in a formula which has yet to be determined.

At a time when the legislature is having to make difficult choices in reducing the budget, the addition of increased and open-ended Compact expenses, with questionable benefits to state citizens must be carefully scrutinized. This fact, coupled with the loss of individual state autonomy and prerogative, argues against the adoption of the Pacific Ocean Resources Compact.

DEC

SFC-92

MEMORANDUM

State of Alaska

Department of Law

TO: Deborah Behr
Legislative Attorney
Department of Law -- Juneau

DATE: April 8, 1992

FILE NO.:

TEL. NO.: 269-5274

SUBJECT: SB 102 - Pacific Ocean
Resources Compact

FROM: Breck C. Tostevin ^{BCT}
Assistant Attorney General
Environmental Section

This memorandum reviews the legal impact of SB 102 on the State of Alaska's ability to regulate the transportation of oil and hazardous substances on its navigable waters.

SB 102 would approve a Pacific Ocean Resources Compact between California, Hawaii, Oregon, Washington and potentially the Province of British Columbia. The Compact would take effect after one or more of the above states ratify the compact in substantially the same form and the Compact receives the consent of the United States Congress.

The consent of Congress is required by the federal Constitution for such compacts between the States that might alter the political power of the states affected, and thus expand into an area of federal concern, or compacts that involve foreign governments. U.S. Const. Art. I, Sec. 10; Texas v. New Mexico, 462 U.S. 554, 568 (1983); Seattle Master Builders Ass'n v. Pacific Northwest Elec. Power and Conservation Planning Council, 786 F.2d 1359 (9th Cir. 1986). Once approved by Congress, a compact becomes federal law, can be enforced in federal court and supersedes state law. See Cuyler v. Adams, 449 U.S. 433, 439-40 (1981); Vacation &

SFC-92 #32

4-9-92

Attachment A

Deborah Behr
Legislative Attorney
Department of Law -- Juneau

April 8, 1992
Page 3

the rules and regulations of the Compact and impose those sanctions pursuant to standards of review established in the federal Administrative Procedures Act.

The Compact provides that the Compact will "work closely with officials of the [member States] to assure that the vessel contingency plans required under this compact include all subject areas included by the member parties." However, there is no assurance that the requirements of Alaska's Oil Spill Contingency Law² will be fully included in the Compact's contingency plan regulations. It is worth noting that the Oil Pollution Act of 1990 does not preempt state law in the area of vessel contingency planning. See 33 U.S.C. § 2718. However, once adopted, these Compact plans would preempt state individual requirements. See Art. V(3), p. 8 lines 8-9.

Second, Article V(b)(6) would empower the Compact to enter into an agreement with the United States Coast Guard to administer compliance with the federal government's proof of financial responsibility under the Oil Pollution Act of 1990. However, once delegated to the Compact these federal requirements would supersede individual state financial requirements. Again, it should be noted that Congress in the Oil Pollution Act of 1990 specifically granted the States authority to impose their own unique financial responsibility requirements. See 33 U.S.C. §

2 AS 46.04.030 and the implementing regulations at 18 AAC 75.

CORRECTION

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

MEMORANDUM

State of Alaska

Department of Law

TO: Deborah Behr
Legislative Attorney
Department of Law -- Juneau

DATE: April 8, 1992

FILE NO:

TEL. NO.: 269-5274

SUBJECT: SB 102 - Pacific Ocean
Resources Compact

FROM: Breck C. Tostevin *BCT*
Assistant Attorney General
Environmental Section

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Deborah Behr
Legislative Attorney
Department of Law -- Juneau

April 8, 1992
Page 2

Holiday Fund v. New York Waterfront Comm'n, 732 F.2d 292 (2d Cir. 1984); State ex rel Intake Water Co. v. Board of Nat. Res. & Conserv. of the State of Montana, 645 P.2d 383, 387 (Mont. 1982), cert. denied, 459 U.S. 969 (1982).

In general, the Compact established in SB 102 would simply establish a forum for cooperative efforts of the party states and would not limit the internal regulatory powers of the member states. However, three provisions in Article V of the Compact have the potential to significantly alter the State of Alaska's regulation of oil and hazardous substance transportation in state waters. In particular, Article V(a)(2) would create an unified "Compact region" in which the Compact would establish and enforce oil and hazardous substance contingency plans for vessels. Pursuant to this article, the Compact would adopted uniform regulations for the region that are "consistent" with response plan requirements established under the federal Oil Pollution Act of 1990.¹ Once in place, the "compact contingency plans" would supersede individual state plans. Individual state contingency plans approved prior to the adoption of compact plan regulations would remain in effect until their expiration, at which point they would be subject to the compact plan regulations. Article V(a)(10) would allow the compact to establish sanctions for violations of

¹ These federal response plans will not be in place until the U.S. Coast Guard adopts regulations establishing the planning standards applicable to these vessels and barges.

Deborah Behr
Legislative Attorney
Department of Law -- Juneau

April 8, 1992
Page 3

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² AS 46.04.030 and the implementing regulations at 18 AAC 75.

Deborah Behr
Legislative Attorney
Department of Law -- Juneau

April 8, 1992
Page 4

2718. The State would be giving up its right to impose requirements different from the federal provisions and would not necessarily gain a more uniform tougher standard along the Pacific Coast.

Finally, article V(b)(9) would allow the Compact to grant variances from compact rules or regulations. A variance would be based upon a showing that the activity allowed will have no regional affect and that the variance is economically necessary. The variance would not be allowed if the result would be less stringent requirements than those imposed under federal law. However, under the above standard a variance could be granted or denied when the affected state disagrees and when the activity only affected that one member state. Thus, a variance could be granted to a requirement of Alaska law that is more strict than federal law but that would not affect Washington or California. Such a result would clearly present a major departure from existing law under which each coastal state controls its own destiny in the absence of explicit federal preemption. The federal Oil Pollution Act of 1990 confirms that the State of Alaska can maintain its own individual oil pollution liability, contingency planning and financial responsibility requirements. 33 U.S.C. §§ 1321(o), 2718.

BCT:hkn

cc: Craig Tillery

PACIFIC OCEAN RESOURCES COMPACT

Multi-State Compacts

A compact is a multi-state agreement consented to by Congress, through which states form a governing body pertaining to issues of regional concern.¹ Multi-state compacts have been used to address problems such as air pollution, land use planning, and water allocation. The one consistent theme of all multi-state compacts is the presence of a regulatory problem which transcends state boundaries. In the case of the proposed Pacific Ocean Resources Compact, the states of Alaska, California, Hawaii, Oregon, and Washington (and potentially British Columbia as a non-voting member) would join in a multi-state compact for the purpose of the regulation of shipments of oil and hazardous substances which impact the region. The Compact does not address resource management or allocation, or the regulation of fisheries.

In structure, compacts are formal agreements enacted by statute in the legislatures of the separate states--the wording of each state's statute is essentially the same. Once ratified by each state and approved by Congress, the compact cannot be altered, repealed, revoked or ignored by a member state. Because it is approved by Congress, the compact is a federal rather than state law as it relates to legal, Constitutional objectives. As a result of Congressional approval which bestows federal authority, a multi-state compact, by definition, does not interfere with interstate commerce. Therefore, the multi-state compact agency can address resource problems with regulations that compact members could not do as individual states.²

The Pacific Ocean Resources Compact as currently proposed will have three members from each of the states of Alaska, California,

¹Much of the information contained in this overview summarizes, Harry Bader, "Potential Utility of and Interstate Compact as a Vehicle for Oil Spill Prevention and Response," and Alison Rieser, "Federal Pre-Emption Considerations for State Oil Spill Prevention and Response Arrangements," in Alaska Oil Spill Commission, SPILL, The Wreck of the Exxon Valdez, Appendix M, State of Alaska, February 1990.

²For example, many of the regulations Alaska enacted in 1976 concerning oil tanker safety standards, the coastal protection fund, and tanker searches that were prohibited in Chevron v. Hammond in 1979, or removed from statute after Ray v. Atlantic, could theoretically have been permitted had they been enacted by a compact to which Alaska was a member.

Hawaii, Oregon, and Washington. Fiscal support of the compact agency is in proportion to each state's portion of the total gross states' product with no state paying more than 50 percent or less than ten percent of the agency's annual budget. Selection and compensation of each state's members is the discretion of the states.

Benefits to Alaska of Joining the Pacific Ocean Resources Compact

Alaska can benefit in numerous ways from joining the Pacific compact. The primary benefit is enhanced state sovereignty over issues of critical importance to the state such as the prevention of oil and hazardous waste spills, transportation of oil and hazardous wastes, oil spill contingency planning, and environmental monitoring and research. By forming a multi-state compact approved by Congress, regulatory authority that was previously the exclusive domain of the federal government is transferred to the compact agency. Of particular relevance to the Pacific compact is the jurisdiction over the ocean waters from the state's three-mile limit to the 200-mile limit. Regional spill response and prevention contingency planning would be extended into this 200-mile zone. The compact agency will have the authority to regulate activities related to oil and hazardous substances within this zone.³

Of particular concern to Alaska is the compact's ability to influence or regulate aspects of oil tanker transportation such as tanker design, tug escorts, safety equipment, and crew size and training. Undoubtedly, the multi-state compact will have greater authority than the individual states currently have. To the extent that the compact regulates regional North Slope tanker traffic, the compact would not conflict with the federal Ports and Waterways Safety Act which sets tanker safety standards to avoid international conflicts. However, this regulatory authority would be contingent upon North Slope tanker traffic continuing to be confined to the compact region as a result of the export ban. Certain aspects of tanker standards such as double hulls, is likely to receive legal challenge as a result of questions remaining from Ray v. Atlantic Richfield Company and Chevron v. Hammond.

In addition to establishing uniform vessel safety standards, the compact will have the authority to coordinate the oil and hazardous substance spill response plans and programs of the states, federal agencies and private organizations. The compact also establishes requirements for the submission and approval of contingency plans

³In the early 1980s, the Alaska Department of Fish and Game completed a study on the potential effectiveness of multi-state compacts and concluded that they offer little benefit. Since that time, however, the lawsuit Seattle Master Builders v. Pacific Northwest Power and Conservation Council 786 F.2d. 1359 (1986), explicitly established the authority of multi-state compacts.

for vessels transporting oil and hazardous substances in the compact zone. These requirements must be at least as stringent as those required under the federal Oil Spill Pollution Act of 1990.

Alaska's sphere of influence would also be significantly increased because Alaska would comprise one-fifth of the voting power within the compact agency with each party having one vote. In contrast, Alaska holds less than one half percent of voting power in Congress.

In general, industry has expressed support for the uniform set of standards that would result from the Compact. For example, only one vessel contingency plan would be required to operate in the region. Similar legislation has been introduced in the states of California, Hawaii, Oregon and Washington.

G. Fay
2/1/91

32910 -14.19 4-9-92

DEC

SFC-92

MAR 25 1991

Ms. Christine Gregoire, Director
Washington Department of Ecology
Mail Stop PV-11
Olympia, Washington
U.S.A., 98504-8711

B.C. ENVIRONMENT

MAR 26 1991

ENVIRONMENTAL EMERGENCY
SERVICES BRANCH
VICTORIA, B.C.

Dear Ms. Gregoire:

Re: Proposed Interstate Compact

I have now had a chance to review the proposed Compact and have the following comments.

It appears that British Columbia cannot become a Party to the proposed Interstate Compact. The Compact makes assumptions and statements with respect to the jurisdiction of the Parties that are not correct as a matter of law when applied to British Columbia.

One of the main purposes of the Compact, "providing uniform regulation of the transportation of oil or hazardous substances within the compact zone" is beyond the Province's constitutional and territorial authority. The differences between our constitutional division of powers and that of the United States makes it difficult if not impossible to join with the states in an effort to jointly (co-operatively) exercise this regulatory authority.

Further, the proposed Compact creates a legal entity which has actual law making authority as well as enforcement authority. While such Compacts are recognized and authorized by the U.S. Constitution, they do not have such recognition in the Canadian Constitution. The Government of Canada has authority over External Affairs and would be the only order of government which could enter into an agreement creating an entity such as this.

Paragraph (2) of Section 1 of the draft Act refers to B.C. becoming an "associate party to the compact", and to the possibility of B.C. requesting full party status. For the reasons given above, B.C. could not request such membership. Therefore it may be appropriate to remove the references to British Columbia from the draft Act.

- 2 -

We are, however, still interested in continuing cooperative work with the other states on matters of mutual concern such as protection of marine and coastal resources. This includes attending as observers any meetings of the Western Legislative Conference to which we are invited.

By copy of this letter I am informing other Task Force members of our position on the Compact.

Yours truly,

ORIGINAL
SIGNED BY

2
Richard L. Dalon
Deputy Minister

cc: Mr. John Sandor, Alaska
Mr. Fred Hanson, Oregon
Mr. Michael Kahoe, California

See me trials
holson WOLFERSTAN/dj

bcc: Dr. Sheila Wynn, ADM
Director, Environmental Emergency Services
Mr. Vick Farley, Intergovernmental Relations

- 2 -

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WOLFERSTAN/dj

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Director, Environmental Emergency Services
Mr. Vick Farley, Intergovernmental Relations



Province of
British Columbia

Office of the
Premier

MEMORANDUM

JB

Mr. Richard Dalon
Deputy Minister
Ministry of Environment

March 7, 1991

B.C. ENVIRONMENT

MAR 08 1991

ENVIRONMENTAL EMERGENCY
SERVICES BRANCH
VICTORIA, B.C.

Re: Proposed Interstate Compact

004955

Bill Wolferstan of your Ministry has asked our Branch to review the Interstate Compact proposed by Washington for consideration by the States/B.C. Oil Spill Task Force. John Bones has forwarded a copy of the proposed Compact and related correspondence from the Washington Department of Ecology.

It is my understanding that officials in your Ministry, the Ministry of Energy, Mines and Petroleum Resources and the Ministry of Regional and Economic Development do not support full membership for B.C. in the Interstate Compact. They support observer status for B.C. as the appropriate alternative.

Our Branch agrees that B.C. should participate only as an observer. Indeed, it is my opinion that B.C. could not become a Party to the Compact even if we wished to do so. Without entering into an exhaustive analysis here, the Compact makes assumptions and statements with respect to the jurisdiction of the Parties that are not correct as a matter of law when applied to B.C. (eg. Article I. A. (4)). Further, one of its main purposes, "providing uniform regulation of the transportation of oil or hazardous substances within the compact zone" is beyond the provinces constitutional and territorial authority. That is, B.C. does not have constitutional authority to regulate navigation and shipping, and it does not have authority (beyond the boundary of the Province) over Canada's territorial sea or Exclusive Economic Zone. The differences between our constitutional division of powers and that of the United States makes it difficult if not impossible to join with the States in an effort to jointly (co-operatively) exercise this regulatory authority. The Province does not have the necessary jurisdiction.

.../2

Mr. R. Dalon

- 2 -

March 7, 1991

Further, the proposed Compact creates a legal entity which has actual law making authority as well as enforcement authority. Article V confers on the Pacific Ocean Resources Compact the ability to create regulations and to establish sanctions and civil penalties. While such Compacts are recognized and authorized by the U.S. Constitution, they do not have such recognition in the Canadian Constitution. The Government of Canada has authority over External Affairs and in my view would be the only order of government which could enter into an agreement creating an entity such as this.

Paragraph (2) of Section 1 of the draft Act refers to B.C. becoming an "associate party to the compact, without voting power", and to the possibility of B.C. requesting full party status. For the reasons given above, B.C. could not request such membership. Therefore, it may be appropriate to remove the second sentence of that paragraph from the draft Act. If it remains in the Act, it probably should be amended to include a reference to the approval of the Government or Parliament of Canada if not actual federal membership. In any event, the draft Act and Compact should be sent to External Affairs Canada for review, together with an indication of what the Province's position is on the matter.

I realize that you are well aware of these jurisdictional differences and difficulties as is indicated in your memorandum of December 17, 1990, to Chris Watts. I forward the above comments in response to the request for our review of the proposed Compact and to record our Branch's view of the matter.

I am advised that Cabinet approved your Ministry's Cabinet Submission on the B.C. Action Plan for Implementation of the Recommendations of the Report of the States/B.C. Oil Spill Task Force. Two points in that Submission apparently addressed this issue. It recommended on page 6 (#6) that Cabinet endorse pursuing Report Recommendation 42 on the Interstate Compact. Recommendation 42 was for cooperative work with the Western Legislative Conference to evaluate the advantages and disadvantages of such a Compact. I assume that the cooperative work can continue without B.C. becoming a full Party to the Compact.

Point 2 of your Submission recommended that B.C. not join the Western Legislative Conference as a member, but attend, when invited, as an observer. The descriptive paragraph regarding the WLC and the "proposed compact agreement" seems to combine the proposed Compact under consideration here with the invitation to B.C. to join the Western Legislative Conference. As I understand it, the two issues are separate.

.../3

Mr. R. Dalon

- 2 -

March 7, 1991

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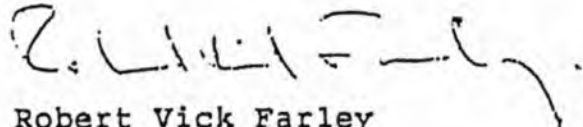
Mr. R. Dalon

- 3 -

March 7, 1991

In conclusion, it is my view that B.C. cannot become a full Party to the proposed Interstate Compact. Further, in my opinion, the draft Act should be amended to remove the reference to B.C. possibly being a full Party to the Compact. Further the Act should be forwarded to External Affairs for their review, even if B.C. only intends to participate as an observer. Finally, B.C. should obtain clarification of what is intended by Washington officials by the term "associate member", including what obligations that would place on the Province.

I hope that this will be of assistance. Should you have any questions, please do not hesitate to contact me.



Robert Vick Farley
Senior Advisor
Constitutional Affairs,
Intergovernmental Relations

cc: Mr. Jack MacDonald
Mr. Bill Wolferstan
✓ Mr. John Bones

ATTACHMENT 1

OIL SPILL
MEMORANDUM
OF
CO-OPERATION

Between the
Province of British Columbia
the
State of Washington
the
State of Oregon
the
State of Alaska
and the
State of California



June 1989

OIL SPILL

MEMORANDUM OF CO-OPERATION

Whereas the Province of British Columbia (the "Province") and the States of Washington, Alaska, Oregon and California (the "States") have a mandate to enhance the environment and protect it from oil spills; and

Whereas the Province and the States share and manage common transboundary fish and wildlife particularly in and near the waters of the Pacific Ocean; and

Whereas the Province and the States concur that such fish and wildlife and the supporting environment must be given the fullest protection from damage caused by spills and other discharges of oil; and

Whereas it is paramount to maintain and improve a co-ordinated response to prevent, reduce, or overcome the effects of an oil spill in our respective waters, within the framework of the Canada-U.S.A. Joint Marine Pollution Contingency Plan; and

Whereas the future requires continued need for co-operation in preventing or abating oil spills in the aforementioned waters, including the participation of the Federal Governments of Canada and the United States;

Now therefore, in recognition of the spirit of co-operation which has characterized their efforts thus far, the Province of British Columbia, through its Premier, the Honourable W. N. Vander Zalm, and the State of Washington, through its Governor, the Honourable Booth Gardner, the State of Oregon, through its Governor, the Honourable Neil Goldschmidt, the State of Alaska, through its Governor, the Honourable Steve Cowper, and the State of California, through its Governor, the Honourable George Deukmejian, join together in this memorandum of co-operation pertaining to the resolution of mutual problems of oil spill pollution in the aforementioned waters. In this regard the Province and the States have formed an Oil Spill Task Force to develop co-ordinated programs for oil pollution prevention, abatement and response.

The Task Force is chaired jointly by the British Columbia Deputy Minister of Environment, the Washington Director of Department of Ecology, the Oregon Director of Department of Environmental Quality, the California Environmental Affairs Agency, and the Alaska Commissioner of Department of Environmental Conservation. To ensure future effective co-ordination of intergovernmental efforts, representatives of each government will be appointed to maintain this memorandum. This responsibility will be included in the job descriptions of these representatives and written notification of their appointment will be provided to all other parties to this memorandum. These representatives will meet annually to review progress and plan future co-operation. Four subcommittees have been established to address:

- (1) Prevention Alternatives
- (2) Technology Sharing
- (3) Emergency Response
- (4) Financial Recovery.

Issues addressed by the subcommittees will include:

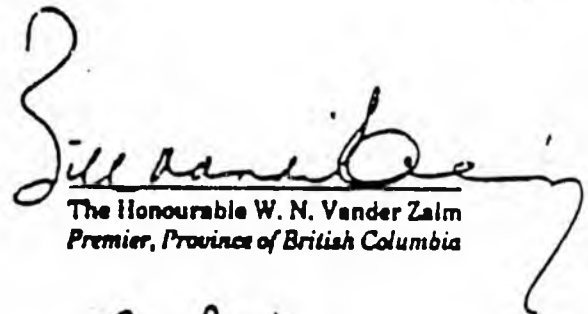
- (1) the creation of a joint emergency response plan;
- (2) an evaluation of capabilities and technologies for spill prevention, response and containment;
- (3) a review of tanker safety, routes and operating requirements;
- (4) an inventory of equipment, material, and personnel available to either the Province or the States for use in oil spill control and clean-up operations;
- (5) joint spill response drills and training.

The duration of this memorandum is intended to be perpetual, but each party may terminate at will its agreement by giving written notice to the other parties.

The parties do not intend by this memorandum to create any separate legal or administrative entity.


Each party shall bear its own expenses of co-operating pursuant to this memorandum.

Signed this 16th day of June 1989.



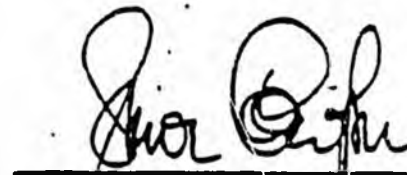
The Honourable W. N. Vander Zalm
Premier, Province of British Columbia

Signed this 16th day of June 1989.



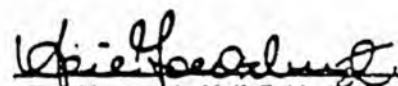
The Honourable Booth Gardner
Governor, State of Washington

Signed this 31st day of August 1989.



The Honourable Steve Cowper
Governor, State of Alaska

Signed this 5th day of July 1989.



The Honourable Neil Goldschmidt
Governor, State of Oregon

Signed this 9th day of November 1989.

George Dukmejian
The Honorable George Dukmejian
Governor, State of California

STATES/B.C. TASK FORCE

Membership includes Alaska, British Columbia, Washington, Oregon and California. Commissioner Sandor serves as Task Force member representing State of Alaska. Staff needed to complete Task Force functions provided voluntarily from all jurisdictions if available.

Task force organized in aftermath of Nestucca barge spill and Exxon Valdez disaster. Organization formalized by a Memorandum of Cooperation completed in November, 1989. During formation of the Task Force, meetings at the Commissioner level were held quarterly. The Task Force now holds an Annual Meeting, scheduled this year for Portland, Oregon on May 28. Staff meetings occur quarterly.

Immediate goal of Task Force was realized with completion of Final Report in October, 1990. Report includes 46 joint recommendations requiring implementation at the State, Provincial and federal levels. To date many of these recommendations have been implemented in Alaska.

Current focus of Task Force centers on implementing Annual Action Plan through four subcommittees: Prevention, Rules Coordination, Technology, and Emergency Response. Subcommittees serve as important clearinghouses for information sharing and rulemaking consistency.

Prevention remains the primary goal of Task Force, requiring continuous re-evaluation of preventative lessons learned from recent spills (such as the Tenyo Maru and the Kenai Pipeline spills) and identification of specific technology and research needs.

Rules coordination also receives significant emphasis from the Task Force. Recent efforts have focused on providing consolidated input into federal rulemaking pursuant to OPA 90. The Task Force's goal is to provide a level regulatory playing field and the best possible regulatory standardization, not only for benefit of industry, but for public and the environment. The present Task Force structure dictates that this is to be achieved voluntarily through existing legal mechanisms within individual jurisdictions.

Technology efforts have focused on developing standards for geographic information systems and to serve as a clearinghouse for coordinating the multitude of research and development efforts of Task Force members among each other and the federal governments. In this way, individual member efforts can be "leveraged" for greater common benefits.

Emergency response efforts are concentrating on upgrading mutual aid agreements, terms and conditions among individual members. Alaska has much to gain from aid agreements to provide emergency response resources, and from sharing information of mutual concern, such as providing departing tank vessel inspection reports in return for ballast water shipment information.



Four Pacific coast states and the Province of British Columbia have combined resources to form the States/B.C. Oil Spill Task Force. The map shows important transboundary marine transportation routes for crude and refined oil that may potentially impact Task Force members.

States / British Columbia Oil Spill Task Force

John Sandor
Alaska

Dept. of Environmental
Conservation

Gerry Armstrong
British Columbia

B.C. Environment

Michael Kahoe
California

Office of Environmental
Protection

Fred Hansen
Oregon

Department of
Environmental Quality

Christine Gregoire
Washington

Department of Ecology

August 15, 1991

Honorable Walter J. Hickel, Governor, State of Alaska
Honourable Rita Johnston, Premier, Province of British Columbia
Honorable Pete Wilson, Governor, State of California
Honorable Barbara Roberts, Governor, State of Oregon
Honorable Booth Gardner, Governor, State of Washington

Dear Sirs and Mesdames:

We are pleased to announce the inauguration of the 1991-1992 Action Plan for the States / British Columbia Oil Spill Task Force. This plan is intended to maintain and expand the Task Force's leadership in marine oil spill prevention and response. It will also guide us in working together with industry, our federal governments, and others to avert the serious environmental and economic consequences of major marine oil spills. A copy of the Action Plan is enclosed for your information.

The Task Force was established in the spring of 1989 and was formalized by the *Oil Spill Memorandum of Cooperation*, signed by the Premier of British Columbia and Governors of Washington, Alaska, Oregon and California. It is charged with the resolution of mutual concerns related to pollution caused by marine oil spills, and the coordination of our individual efforts in order to achieve a consistently high level of protection and response capability for the Pacific Coast of North America.

The Task Force has been very successful in addressing its first phase agenda. During 1990, we accomplished a major milestone with the publication of the *Final Report of the States / British Columbia Oil Spill Task Force*, and we have received national attention for our leadership in the arenas of spill prevention and response. Moreover, the "final report" and its many supporting technical studies have been used successfully, in every one of the Task Force members' jurisdictions, as a resource and point of departure for significant new legislative, policy and technical initiatives.

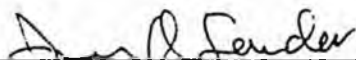
We are now embarking on another major step forward as we begin a second phase of Task Force activities. This challenging phase will focus on cooperation between the member governments to ensure consistency in our individual marine oil spill prevention and response policies and regulations, in order to minimize the burdens placed on industry without compromising the scope and effectiveness of the standards. Despite the progress we have made in the past two years, much more work also remains to be done to fully address the recommendations presented in our "final report". Pursuant to the goals expressed in the recommendations, we have incorporated a list of priority activities into our Action Plan.

The United States Congress passed the *Oil Pollution Act of 1990* (OPA) last summer; and in Canada, the report of the Brander-Smith inquiry on oil spills was released. These initiatives are changing the federal regulatory climates for oil spill prevention and response, in part by acknowledging the vested interests and inherent prerogatives of the state/provincial governments. These developments are particularly important to us since the implementation of a Pacific Ocean Resources Compact, which requires passage of enabling legislation by at least two of the member states' legislatures, will not occur this year. The Task Force will advance many of the objectives of the Compact and will collaborate in representing our interests to federal agencies.

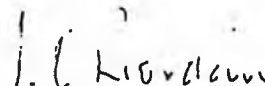
In view of the Exxon Valdez disaster and other major oil spills in recent years, we and our mutual federal governments must never again become complacent about the potential for environmental catastrophe. Prevention measures provide by far the most effective means of protecting our valuable waters, shorelines, and natural resources, and the contributions they make to our economies. Our Action Plan therefore emphasizes coordination with our federal governments to ensure that their efforts in the prevention of oil spills are pro-active and provide an adequate level of protection.

With your continued leadership and support, the States / British Columbia Oil Spill Task Force will execute our 1991-1992 Action Plan and further our fundamental objective of preventing oil spills through inter-governmental cooperation and concerted advocacy. We will report to you next year on our progress in this second phase of our effort. Please let us know of any other issues you would like us to address.

Yours sincerely,



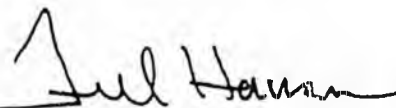
John A. Sandor, Commissioner,
Alaska Department of
Environmental Conservation



Gerry Armstrong, Deputy
Minister, British Columbia
Ministry of Environment



Christine Gregoire, Director,
Washington Department of
Ecology



Fred Hansen, Director,
Oregon Department of
Environmental Quality



Michael Kahoe, Assistant
Secretary, California Office of
Environmental Protection

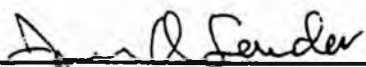
enclosure: Task Force Action Plan

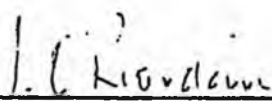
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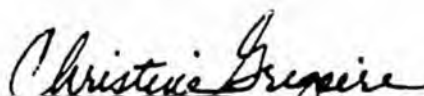
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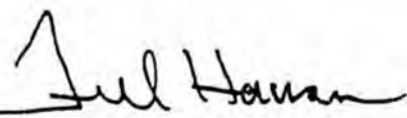
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Yours sincerely,


John A. Sandor, Commissioner,
Alaska Department of
Environmental Conservation


Gerry Armstrong, Deputy
Minister, British Columbia
Ministry of Environment


Christine Gregoire, Director,
Washington Department of
Ecology


Fred Hansen, Director,
Oregon Department of
Environmental Quality


Michael Kahoe, Assistant
Secretary, California Office of
Environmental Protection

enclosure: Task Force Action Plan

States/British Columbia Oil Spill Task Force 1991 - 1992 Action Plan

The States/British Columbia Oil Spill Task Force was created in response to the December 1988 Nestucca oil spill off the Washington coast and the Exxon Valdez disaster in Prince William Sound. As fate would have it, the first meeting of the Task Force was on March 23, 1989, the day before the Exxon Valdez spill. The group's membership now incorporates the four Pacific West Coast States of the United States and the Province of British Columbia, Canada.

The Final Report of the State/British Columbia Oil Spill Task Force was published in October 1990. This report adopted a comprehensive set of recommendations which, if implemented, would minimize the probability of major and catastrophic spills and help assure an effective response to such incidents.

With the recent change in 4 out of 5 of the west coast State/Provincial Administrations, the passage of major spill related legislative packages, and the completion of the final report, the Task Force is taking this opportunity to review its mission and renew its commitment to be an advocate for effective oil spill prevention and response under the Oil Spill Memorandum of Cooperation (1989).

The theme for activities in 1991 will be cooperation and information sharing among the members in an effort to improve regulatory consistency and efficiency. This theme is particularly important at this juncture given the large number of state/provincial and federal rules which are currently being developed. This rule development process provides an unusual opportunity for the Task Force members to share expertise and coordinate individual actions to achieve consistency, and to provide unified input into federal rule making. Input into federal rules will assure that they address West Coast needs and that these rules are effectively integrated with state/provincial initiatives. The Task Force has also reaffirmed its commitment to focusing on spill **prevention**, recognizing that response efforts can not effectively eliminate the impact of large oil spills. Although the Task Force has decided not to address hazardous substances as part of its mission, many of the findings may prove applicable to the prevention and response to this type of spill event.

The Action Plan will be implemented primarily through the efforts of the four Task Force subcommittees. The subcommittees have completed their original tasks, and have therefore been restructured. During 1991 - 1992, the Task Force subcommittees will also place particular emphasis on institutionalizing coordination among the Task Force members.

The membership and objectives of subcommittees are slightly modified and the Chairs have been rotated. The Task Force will establish one set of key Task Force "advisors" who will be available to consult with the subcommittees and review draft reports prepared by the Task Force. The advisors will be: the Canadian and United States Coast Guards, the United States Environmental Protection Agency, and Environment Canada. In the event that subcommittees need additional input, the chairs may ask a philosophically balanced group of representatives from industry, environmental organizations, local

government, native peoples, or other appropriate entities to provide the benefit of their expertise and valuable experience. Mexico and the state of Hawaii will be invited to participate as observers.

The Task Force public involvement process will continue to be addressed through existing mechanisms in each state/province, in conjunction with normal public review and rule adoption processes. Wherever possible, subcommittees will meet concurrently to minimize travel and other costs.

A new Rules Coordination and Review subcommittee is being established to coordinate the development of regulations and provide consistency. This subcommittee will replace the Financial Recovery subcommittee which completed its final report last fall. Coordination between subcommittees will be facilitated by the fact that the same staff are generally working on each subcommittee. The subcommittees will report on their accomplishments at the Task Force meeting next spring. The new structure of Task Force subcommittees is outlined below.

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Prevention Subcommittee (California Chair)

MEMBERSHIP:

Roger Dunstan, CA - Chair
Bruce Sutherland, OR
Bill Wolferstan, BC
Chris Pace, AK
Jon Neel, WA

OBJECTIVE AND SCOPE OF ACTIVITIES:

- The Prevention Subcommittee will serve as the mechanism to evaluate new technologies/systems which may be effective in preventing oil spills. The Subcommittee will focus on policy issues and utilize the following sources of information to evaluate the need for preparing new draft recommendations:

- A. Evaluations of the causes of major oil spills;
- B. The findings of the Technology and Research Subcommittee;
- C. Special studies by the Task Force; and
- D. Other sources of information.

TASKS AND MAJOR MILESTONES:

- Develop a list of potential key Task Force advisors for review and approval by the Task Force. (Schedule for completion - August 1991).
- Provide a mechanism for States and British Columbia to coordinate on prevention policy issues. (Schedule for completion - Ongoing).
- Evaluate the need for prevention related studies in specific geographic areas.
- Serve as a focal point for evaluating and drafting additional Task Force spill prevention recommendations. This task will be accomplished in part through participation in the debriefing process after major spills have occurred. (Schedule for completion - January 1992).
- Review and provide coordinated input into the International Maritime Organization's (IMO) deliberations by providing comments to the respective Coast Guards and State Departments. (Schedule for completion - dependent upon IMO addressing key issues).

Emergency Response Subcommittee (B.C. Chair)

MEMBERSHIP:

Dean Monterey, BC - Chair
Bruce Sutherland, OR
Chris Pace, AK
Jon Neel, WA
Roger Dunstan, CA

OBJECTIVE AND SCOPE OF ACTIVITIES:

- The Emergency Response Subcommittee will continue to assure the rapid notification of Task Force members during major interjurisdictional spills and facilitate mutual aid. In order to accomplish this objective, the Subcommittee will revise and update the Task Force Emergency Response Guide. The Subcommittee will also develop a mutual aid plan to facilitate rapid interjurisdictional deployment of equipment and response personnel during catastrophic spills. The Emergency Response Guide and equipment lists will be updated as new response techniques are identified by the Technology and Research Subcommittee and response capabilities change.

TASKS AND MAJOR MILESTONES:

- Review the capability of the Marine Spill Response Organization (MSRC- the replacement for PIRO), Burrard Clean and other industry spill response cooperatives and their ability to provide adequate spill response coverage. (Schedule for completion of final report - Spring 1992 Task Force Meeting).

Milestone 1: Develop a standardized process and criteria for the review of the capability and effectiveness of industry sponsored cleanup cooperatives. (Schedule for completion - September 1991).

Milestone 2: Review the capability of MSRC (US), Burrard Clean (BC), Clean Sound (WA), Clean Seas (CA), Clean Rivers (OR/WA), Clean Coastal Waters (CA), Clean Bay (CA), Humboldt Bay Coop (CA), SE AK Petroleum Resource Organization (AK), Cook Inlet Spill Prevention and Response Inc (AK), Alaska Clean Seas (AK), and the Alyeska Response Organization (AK). (Tentative schedule for completion - December 1991).

- Update and revise the Task Force Spill Response Plan's equipment list and response guide, and upgrade it to a formal mutual aid plan. (Schedule for completion - January 1992).

Milestone 1: Update response equipment lists. (Schedule for completion - August 1991).

Emergency Response Subcommittee (B.C. Chair)

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Dean Monterey, BC - Chair
Bruce Sutherland, OR
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- Update and revise the Task Force Spill Response Plan's equipment list and response guide, and upgrade it to a formal mutual aid plan. (Schedule for completion - January 1992).

Milestone 1: Update response equipment lists. (Schedule for completion - August 1991).

Milestone 2: Prepare and distribute a draft mutual aid plan.
(Schedule for completion - December 1991).

- Serve as a focal point to report on joint spill drills and the results of major spill responses. (Ongoing activity).

Rules Coordination and Review Subcommittee (Washington Chair)

MEMBERSHIP:

Lin Bernhardt, WA - Chair
Bruce Sutherland, OR
John Bones, BC
Lynn Kent, AK
Roger Dunstan, CA

OBJECTIVE AND SCOPE OF ACTIVITIES:

- This Subcommittee will serve as a forum to assure consistency in the development of oil spill related regulations on the West Coast. The focus will be to coordinate contingency planning, prevention and natural resource damage assessment rules, policies and studies. The subcommittee will ensure that the rules and policies developed by the states and province are as consistent as possible.

TASKS AND MAJOR MILESTONES:

- Develop a list of state/provincial rules proposed for development and a companion list of EPA, USCG, and Canadian federal (e.g. implementation of the Brander-Smith Inquiry) regulations with their respective schedules. (Schedule for completion - August 1991).
- Exchange all draft and final state/provincial oil spill related rules among members that directly relate to the committee mission statement. (Schedule for completion - Ongoing).
- Evaluate Task Force member's respective rules for consistency and work to minimize differences while emphasizing federal consistency. (Schedule for completion - ongoing activity).

Milestone 1: Alaska's and Washington's rule will be reviewed for consistency. (Schedule for completion - August 1991).

Milestone 2: Other milestones to be established by subcommittee.

- Develop a streamlined protocol for developing consensus comments on draft federal documents among the members on technical and policy issues (including consideration of input from advisors), and forwarding them to the key decision makers. This protocol should have application to other subcommittees especially Technology and Research. (Schedule for completion - August 1991).

Rules Coordination and Review Subcommittee (Washington Chair)

MEMBERSHIP:

Lin Bernhardt, WA - Chair
Bruce Sutherland, OR
John Bones, BC
Lynn Kent, AK
Roger Dunstan, CA

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- Develop a streamlined protocol for developing consensus comments on draft federal documents among the members on technical and policy issues (including consideration of input from advisors), and forwarding them to the key decision makers. This protocol should have application to other subcommittees especially Technology and Research. (Schedule for completion - August 1991).

- Evaluate and provide unified input on draft USCG, EPA, and OSHA regulations required under OPA/OSHA, and on draft Canadian federal regulations. (Schedule for completion - dependent on federal outputs; consolidate and forward comments within 60 days of receipt of regulations).
- Prepare an annual report which describes the Task Force's progress and evaluates how well it has met its objectives. (Schedule for completion - February 1992).
- Review the existing Task Force Memorandum Of Agreement and recommend changes where appropriate. (Schedule for completion - February 1992).
- Identify and evaluate alternatives for providing additional funding for Task Force spill prevention and response activities including the possibility of Federal grants and specific state legislative / provincial parliament appropriations.

Technology and Research Subcommittee (Alaska Chair)

MEMBERSHIP:

Chris Pace, AK - Chair
Jon Neel, WA
Bill Wolferstan, BC
Roger Dunstan, CA
Bruce Sutherland, OR

OBJECTIVE AND SCOPE OF ACTIVITIES:

- The Technology and Research Subcommittee will evaluate oil spill prevention and response reports and studies, and provide coordinated input into the development of these documents. The Subcommittee will forward information on effective technologies to the Task Force members for individual action; and forward recommendations as appropriate to the Prevention and Emergency Response Subcommittees. The Subcommittee will also address emerging technologies of benefit to Task Force members such as geographic information systems and will use this opportunity to encourage the Federal Governments to expedite the review and approval of new technologies.

TASKS AND MAJOR MILESTONES:

- Develop a list of state/provincial technical reports proposed for development and a companion list of EPA, USCG, and Canadian federal technical reports with their respective schedules. (Schedule for completion - August 1991).
- Ensure information developed as a result of these studies is immediately forwarded to all Task Force members. (Schedule for completion - dependent on schedule developed in above task).
- To the extent possible, provide unified and coordinated input into the Federal studies regarding spill prevention and response (several reports and studies are required by the USCG, EPA and Science Advisory Board as a result of OPA 1990). (Schedule for completion - dependent on schedule developed in task 1 above).
- Share information on the development of oil spill environmental sensitivity computer information systems. (Schedule for completion - British Columbia, March 1992; Oregon, August 1991; and Washington, September 1991).

Technology and Research Subcommittee (Alaska Chair)

MEMBERSHIP:

Chris Pace, AK - Chair
Jon Neel, WA
Bill Wolferstan, BC
Roger Dunstan, CA
Bruce Sutherland, OR

OBJECTIVE AND SCOPE OF ACTIVITIES:

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- Ensure information developed as a result of these studies is immediately forwarded to all Task Force members. (Schedule for completion - dependent on schedule developed in above task).
- To the extent possible, provide unified and coordinated input into the Federal studies regarding spill prevention and response (several reports and studies are required by the USCG, EPA and Science Advisory Board as a result of OPA 1990). (Schedule for completion - dependent on schedule developed in task 1 above).
- Share information on the development of oil spill environmental sensitivity computer information systems. (Schedule for completion - British Columbia, March 1992; Oregon, August 1991; and Washington, September 1991).

1991
OREGON
Fiscal Note

1991 Regular Legislative Session
FISCAL ANALYSIS OF PROPOSED LEGISLATION
Prepared by the Legislative Fiscal Office

MEASURE NUMBER: SB 500
STATUS: C-Engrossed
SUBJECT: Ratifies Pacific Ocean Resources Compact.
GOVERNMENT UNIT AFFECTED: Department of Land Conservation and
Development, Legislative Assembly
PREPARED BY: Ken Rocco
REVIEWED BY: Ann Glaze, John Lattimer
DATE: 6/26/91

	<u>1991-93</u>	<u>1993-95</u>
EFFECT ON EXPENDITURES:		
Emergency Board	General Fund	\$ 25,000
Legislative Assembly		Indeterminate

GOVERNOR'S BUDGET: Measure is not included in Governor's budget.

COMMENTS:

The measure, as amended, provides ratification of the Pacific Ocean Resources Compact by the Legislative Assembly. The compact is designed to coordinate protection of marine and coastal resources by the States of Alaska, California, Hawaii, Oregon, and Washington. The amended measure provides for a General Fund appropriation to the Emergency Board of \$25,000 to carry out the provisions of the Pacific Ocean Resources Compact. The appropriation reflects the amount anticipated for the initial costs of maintaining involvement with the compact while the ratification process occurs in other states.

Each ratifying state is to appoint two persons to act as representatives to the compact. As amended, one member of the Senate and one member of the House are to be appointed to represent Oregon. The fiscal impact on the Legislative Assembly depends on several unknowns such as the date of ratification and the number and location of meetings. Funds are allocated to the Legislative Assembly for committees and membership on organizations. The ability of this activity to be funded from the resources depends on the total amount budgeted and on the priorities set by the leadership in allocating the available funds.

Expenditures could increase in subsequent biennia depending on the number of states that ratify the compact and the scope of the compact's activity. Preliminary estimates of the Department of Land Conservation and Development's Ocean Resources Program indicate that a staff of at least three professional level positions would be required for full implementation. Total

compact expenditures for personal services, travel and office expenses, administrative costs, and capital outlay expenditures could range between \$500,000 and \$750,000 per biennium. Assuming all five states ratify the compact and share expenses on some pro rata basis, Oregon's share could range between \$100,000 and \$150,000 per biennium.

State agencies with responsibilities for marine and coastal resources could encounter additional work due to the compact, but the increase is expected to be minimal.

LEGISLATIVE REVENUE OFFICE

REVENUE IMPACT ANALYSIS

BILL # SB500C

DATE 6-26-91

THE LEGISLATIVE REVENUE OFFICE HAS DETERMINED
THIS LEGISLATION HAS NO IMPACT ON STATE OR LOCAL
REVENUES ANALYZED BY THIS OFFICE

1050

Samson Tug & Barge Company, Inc.

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

Senator Sam Cotten
Alaska State Legislature
P.O. Box V
State Capitol
Juneau, AK. 99811

March 14, 1991

Dear Senator Cotten:

We were aware of a compact being worked on by the Pacific Coast states and the Province of British Columbia, however information was somewhat scarce. We are very appreciative of having been brought up to speed on the status of the compact and of Senate Bill No. 102. We have reviewed SB 102 and find both agreements and disagreements with the bill.

This bill, as with HB 567 of 1990, fails to recognize the largest potential for a major oil spill in Alaska or members of the compact. Certainly the Exxon Valdez made an impression, but historically how many tankships have had major spills in the last 12 years? How many large freight vessels and foreign flag passenger vessels have had major spills? A review of U.S. Coast Guard records will show a very real list. In Southeast Alaska and the nearby Canadian waters in recent years - the Lee Wang Zin, the Sundancer, the North Star, just to name a few who have grounded and spilled oil into the water. No, they are not carrying crude oil, but they all carry and use heavy bunker oil (persistent). Some of the old and the majority of the new foreign flag passenger vessels carry in the neighborhood of 1,000,000 gallons of this heavy oil. During the summer they transit throughout Southeast Alaska, Prince William Sound, Seward, and into Anchorage. They do not have onboard any major oil response equipment.

Scenario: At 0200 on a summer morning the foreign flag passenger vessel Rotterdam grounds on a charted pinnacle in the vicinity of the entrance to Glacier Bay, Alaska. Two fuel tank compartments have been holed and heavy bunker oil is leaking. Weather is Southeasterly winds 30 kts with gust to 40; tide is flooding. There are 1200 passengers onboard and the vessel has a 15 degree list.

With this scenario, we have search and rescue - 1800 persons (passengers and crew) in jeopardy, a grounded vessel that may or may not be salvageable, oil in the water and the potential for a lot more oil. They have no C-Plans, no response equipment, no trained personnel to respond, and minimum liability insurance for clean-up. This oil will be around for a long time and the impact will be tremendous and so will the public outrage. Why aren't these vessels required to comply will be the question?

Other oceangoing freight vessels, including fish processors, visit ports year round from Ketchikan to Dutch Harbor and the Pribilofs. These vessels meet the minimum federal pollution prevention regulations but carry very little oil response equipment onboard. If one of these vessels grounded, there would be little to no containment of heavy oil by the spiller.

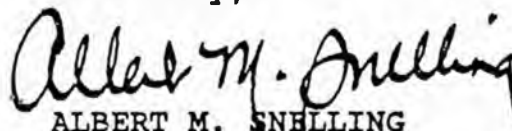
The above noted vessels need to be added to the definitions under Article II and they need to be regulated, as they are the biggest threat to the waters of Alaska and the members of the compact. ADEC appears unwilling to acknowledge these vessels as potential threats, but the compact should, because they are threats.

As noted in your cover letter, we agree an exemption should be made for tank barges transporting non-crude petroleum products to communities. We recommend that instead of deadweight tonnage that vessel exemption be based on the barge capacity. We would recommend tank barges transporting non-persistent oils (gasoline, kerosene, diesel) of not more than 50,000 barrels be exempted. Tank barges are presently under inspection and monitored by the U.S. Coast Guard for safety, manning, and pollution prevention. They carry onboard pollution containment equipment, personnel are licensed/documented, and personnel are trained in oil spill response.

We agree with the uniformity of standards, as we transport not only petroleum products but deck cargo as well to and from Southcentral, Western, and Southeast Alaska. Requiring only one spill C-Plan for petroleum products for the Pacific region would be ideal. There are some standards that would be disadvantageous to industry and we have a disagreement with. Establishing routes that may exclude transit at night or dictate where a class of vessel must navigate; inspection standards for uninspected vessels; manning of vessels. The intent of establishing some of these standards is well meaning however industry must be included in any finalization of compact regulations. Research and studies should be done utilizing all data available and support agencies (Article VIII) should not be agencies of signatory parties. Parties outside the compact should be employed to do the research, as state agencies tend to be partial to the state government and its needs, rather than the needs of the overall people, including industry.

These are the immediate concerns of SB 102 that we have. If we can be of further assistance in this matter, please do not hesitate to call upon us.

Sincerely,



ALBERT M. SNELLING
Safety Officer

cc: Senator Eliason

NORTH SLOPE BOROUGH

OFFICE OF THE MAYOR

P.O. Box 69
Barrow, Alaska 99723

Phone: 907-852-2611

Jeslie Kaleak, Sr., Mayor



April 13, 1992

Senator Al Adams
P.O. Box V
Juneau, AK 99811

Re: Pacific Oceans Resources Compact - CS For Senate Bill 102

Dear Senator Adams:

The Borough has had the opportunity to quickly review Senate Bill 102 and its accompanying materials. We strongly support in concept the idea of a Pacific Ocean Resources Compact, and the State of Alaska's active participation in such an organization. We have reservations, however, about the means by which Alaska's two or three representatives will be selected (the Bill specifies 2 in Article IV, while the supporting materials indicate that there will be 3 members from each state).

The Borough has long been concerned about the possibility of both American and Canadian oil tanker traffic through the Beaufort and Chukchi Seas, and the devastating impacts which a tanker spill might have on our area's resources and our subsistence activities. We have encouraged and continue to support stronger oil spill contingency planning and more realistic spill response exercises. We would be very pleased to see the influence and jurisdiction of the State of Alaska in these matters extended to the 200-mile limit of federal waters through implementation of the Pacific Compact.

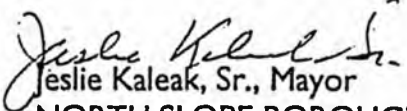
A greater voice is a benefit, however, only if the positions which the Alaskan members will express through the compact are those endorsed by the at-risk coastal regions of the state. We do not believe that representatives

Senator Al Adams
April 13, 1992
Page 2

directly appointed by Governor Hickel will be likely to find favor with the coastal regions. The Governor's history of appointments to positions with influence over resource development and spill contingency planning has been less than positive in our view. We urge you, therefore, to seek amendment of proposed Section 46.47.030 of the statute to require that the representatives of the state to the compact must be appointed by the Governor from nominees submitted by the Citizens' Oversight Council on Oil and Other Hazardous Substances, subject to confirmation by the Legislature. As you are aware, the Council was created by the Legislature in 1990 to promote safe production, transport, and storage of oil and other substances. The attached materials on the Council clearly indicate that it would be a natural extension of its duties to select suitable nominees for appointment to the Pacific Compact.

Thank you for bringing this important legislation to the Borough's attention. I hope our comments have been helpful in your review of the proposal.

Sincerely,


Leslie Kaleak, Sr., Mayor
NORTH SLOPE BOROUGH

cc: Rep. Eileen MacLean
Department of Wildlife Management



ALASKA STATE LEGISLATURE LEGISLATIVE COUNCIL

P.O. Box V
Juneau, Alaska 99811
(907) 465-4930

CITIZEN'S OVERSIGHT COUNCIL

ON

OIL AND OTHER HAZARDOUS SUBSTANCES

REC'D NSR LAW

MAR 1 1991

HOUSE Mike Davis Chairman

Sam Carter
Cliff Davidson
Ben Grussendorf
Mike Navarre
Virginia Collins
Jim Zawacki

SENATE Betty Farrerkamo Vice-Chairman

Steve Frank
Tim Kelly
Drua Pearce
Mike Szymanski
Rick Uerling
Fred Zharoff

In 1990 the Legislature created the Citizen's Oversight Council on Oil and Other Hazardous Substances. Creation of the Council was one of the key recommendations of the Alaska Oil Spill Commission. Below are some questions and answers about the Council.

Q. WHAT IS THE CITIZEN'S OVERSIGHT COUNCIL ON OIL AND OTHER HAZARDOUS SUBSTANCES?

>The Citizen's Oversight Council on Oil and Other Hazardous Substances is a legislatively appointed, permanent, five member panel whose sole responsibility is to promote the safe production, transport and storage of oil and other substances.

Q. WHY CREATE A CITIZEN'S OVERSIGHT COUNCIL?

>Currently, no agency of state or federal government has, as its sole responsibility, the safe production, transport and handling of hazardous substances.

>The Alaska Oil Spill Commission felt that only an independent citizen's group can provide the continuing vigilance necessary for proper oversight of state and federal regulatory agencies.

Q. WHO MAY SERVE ON THE CITIZEN'S OVERSIGHT COUNCIL?

>Citizen's who have no direct financial stake in the oil industry but who do have an interest in and a commitment to preventing oil and hazardous substance releases. Council terms are for four years except that the first appointments