

ALASKA LEGISLATURE

1183

HOUSE and SENATE FINANCE COMMITTEE FILES,

1993-1994

257

What will it cost the State to clean up contaminated sites?

Over the next 21 years at current staffing levels, cleanup standards, and technological abilities, we estimate it will cost the State approximately \$220 million to cleanup all the contaminated sites that have been discovered to date and sites which are expected to be discovered. The table below lists the number of sites, average cost per site, and total cost over the next twenty one years to cleanup each type of contaminated site. One of the reasons we support a strong Research and Development program is because we can continue to help reduce these costs with more effective technology.

Projected Contaminated Sites Cleanup Costs

Type of Site	Number	Average State Cost/Site	21 Year Total Cost
RP	836	\$23,429	\$19,586,923
Federal	450	26,566	11,954,700
Orphan	88	644,450	56,711,600
Rural Bulk Orphan	100	644,450	64,154,998
RPs	398	23,429	9,329,561
State Owned	97	600,000	58,200,000
Total	1,969		\$219,937,781

The actual cost to the State differs by the type of contaminated site. The greatest cost to the State is for cleanup of sites where a responsible party is unable or unwilling to clean up or where the State is the responsible party. Where the Department oversees the cleanup of a site by the responsible party the cost to the State is much less. The Department's oversight of federal sites has the least cost to the State since the Department receives federal funds for this work under a cooperative agreement with DOD.

In addition to the contaminated sites situation described above, the Department also manages an underground storage tank program which is funded by the Storage Tank Assistance fund, not the Response Fund. Revenue for the Fund comes from the Mitigation Account of the General Fund and collection of registration fees. It is used to make grants and loans available to owners and operators of underground storage tanks for tank testing, closure, upgrade, and cleanup activities. Currently there are 826 unfunded requests for \$43 million in financial assistance. The Administration is working with the Legislature to apply a 1 penny per gallon motor fuel tax for appropriation to the Storage Tank Assistance Fund to replace the mitigation account in the future.

or disposal of a hazardous substance that could threaten public health or the environment.

The Department oversees the investigation and cleanup of contaminated sites by the responsible party. By overseeing the responsible party's cleanup, the Department can assure Alaskans that the source of contamination has been removed, and that any remaining contamination is below levels that will harm the public or the environment. A strong oversight program conveys to the responsible parties their obligation under State law to clean up their contaminated site.

In addition to responsible party oversight, the Department directly cleans up sites where the responsible party cannot be found or is unwilling or incapable to do the cleanup directly. At these sites, the State hires and supervises term contractors who do the actual investigation and cleanup.

How long will it take to clean up contaminated sites?

The length of time needed to fully assess and clean up an average contaminated site ranges from three to five years. Very simple sites could take less time, while the most complex sites may take much longer. The number of contaminated sites is constantly changing. New sites are discovered and brought to the Department's attention and active sites are cleaned up. We estimate it would take 21 years to clean up the current inventory of 1051 sites and an additional 920 sites which we estimate will be discovered during that period and will need cleanup. Some sites are virtually impossible to clean up cost effectively or require only monitoring while Mother Nature does the job.

Sites that are expected to be added to the inventory in the future include:

- o The Department of Defense (DOD) has estimated it will spend \$1.1 billion to clean up the contaminated military sites in Alaska. To date, 350 sites have been discovered and we estimate an additional 90 sites will be discovered as a result of the high priority DOD has placed on the site discovery process over the next two years.
- o Discovery of approximately 500 contaminated sites is expected to result from the current initiative to bring rural bulk fuel tank facilities into compliance with federal and State spill prevention requirements.
- o Liability for contaminated properties will continue to cause buyers and sellers of real estate to practice due diligence and assess the property prior to completing a land transaction. These assessments are estimated to result in the discovery of 330 contaminated properties.

one of these is \$500,000. Annual operations and maintenance cost will vary by location but can be estimated at \$150,000 each. We think that there could be as many as a dozen sites around the State - not covered by government or industry, but where spill risk exists -- where this kind of unit could be located. This results in a total purchase price of \$6 million with an annual estimated cost of \$1.8 million.

The other unit we have been working on is a rapid response vessel capable of moving equipment to a spill site in protected waters (like Southeast Alaska). The purchase price of these would be about \$250,000 each with an annual operation and maintenance cost of \$100,000 each. These units could be deployed in about 10 locations in Southeast Alaska and several each in Bristol Bay, Norton Sound and Kotzebue Sound, as well as throughout the Yukon and Kuskokwim Rivers. If the Legislature were to support purchase of 20 of these items, that costs out to \$5 million purchase price and \$2 million annual operations and maintenance.

Through local response agreements, DEC will be entering into partnership with local communities for responding to the routine spills (DEC receives about 2,000 reports of spills annually -- typically, all are non-disaster emergencies.). We will supply local communities with a basic, "first aid" response equipment capability and use the Response Fund ("470 Fund") to pay for the community costs to respond to these kinds of spills. Currently, we have a \$400,000 capital budget request to start the program for FY 95. We estimate that a total of \$1 million would cover this arrangement and we could seek cost recovery from spillers to maintain that capability in the future.

The Kenai Borough has put together an unsolicited request this year for a direct appropriation from the Response Fund to outfit a hazmat team for \$250,000. This amount does not include personnel costs, operations and maintenance, nor training. Their price tag for equipment seems reasonable, although we were not involved in developing the list. Once the statewide hazards analysis is completed, the State will have the specific information needed to identify the appropriate locations for these teams. My best guess at this time is these hazmat teams could be targeted for Fairbanks, Anchorage, Kenai, Juneau and Ketchikan. The total cost to establish these would be \$1.25 million. The annual training, operations and maintenance, and personnel costs are unknown, but these could be considered the local match.

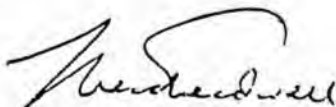
You have also asked, "When are contaminated sites going to be cleaned up and what will it cost?" The following should answer your questions regarding the Department's role in cleaning up a contaminated site, the time it takes to cleanup a site, and the associated cost to the State.

What does the Department do with contaminated sites?

A contaminated site is a location where there has been a past improper discharge

We are sharing this letter with other members of the House Resources Committee.
Thank you for asking.

Sincerely,



Mead Treadwell
Deputy Commissioner

MAC/jsg (G:\SPAR\MAC\REP.JIM)

cc: House Resources Committee Members

Representative Bill Williams, Chair
Representative Bill Hudson
Representative Con Bunde
Representative Joe Green
Representative Eldon Mulder
Representative David Finklestein
Representative Pat Carney
Representative John Davies
John A. Sandor, Commissioner, Department of Environmental Conservation
Major General Hugh L. Cox III, Commissioner, Department of Military and
Veterans Affairs

3-22-94

WALTER J. HICKEL, GOVERNOR

DEPT. OF ENVIRONMENTAL CONSERVATION

Office of the Commissioner
410 Willoughby Ave., Suite 105
Juneau, AK 99801-1755

Telephone: (907) 465-5050
FAX: (907) 465-5070

March 18, 1994

Mr. H. Bilhartz, President
ARCO Alaska, Inc.
P. O. Box 100360
Anchorage, AK 99510-0360

Dear Mr. Bilhartz:

Thank you for your positive response responding to my letter to you of February 28 offering to work together with the Department of Environmental Conservation, BP and Alyeska to assess the current status of spill prevention and response programs. Both John Morgan of BP and David Pritchard from Alyeska concurred that such an analysis was in our collective best interests.

I'd like to suggest that the four of us designate a "working group" made up of individuals from our respective organizations to critique our existing capabilities and suggest improvements. Tom Chapple, the new Administrator for the department's Pipeline Corridor Region will be on-board by April 1. I believe it makes sense for us to "kick off" the first meeting of this working group in Anchorage shortly thereafter. If you agree my secretary, Martha Fischbach will call your office to arrange for a mutually convenient time and location.

As additional background information for that meeting, enclosed you will find a copy of an audit of the Oil and Hazardous Substance Release Response Fund (470 Fund) recently completed by the Division of Legislative Audit. By way of background, the Division of Legislative Audit is created in statute to serve a staff function to the Legislative Budget and Audit (LBA) Committee. LBA is a standing committee of the legislature that is to provide "full-time technical assistance in accomplishing fiscal analysis, budget review, and post-audit functions." (AS 24.20.151) Representative Larson, a member of the Budget and Audit Committee, requested this audit shortly after the end of the session last year in order to answer the many questions surrounding the use of the Fund.

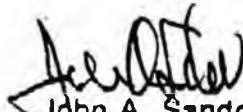
While the Audit contains a wealth of information, of particular importance to the project upon which we have agreed to embark is on page 33. It says:

"DEC is already dangerously close to having to implement statute with limited resources. Any reduction of staff positions in the Spill Prevention and Response (SPAR) division will jeopardize the likelihood of a successful prevention program. AOSC [the Alaska Oil Spill Commission] addressed this same problem in their final report on the events leading up to the Exxon Valdez grounding. 'Rigor flagged, complacency took root. Prevention was neglected with disastrous results.'

"We wonder whether complacency is again taking root. Program consequences must be considered when SPAR funding is reduced. SPAR needs to be funded at least at the current level to maintain its ongoing operations."

Certainly our joint efforts will enable our organization to assess our effectiveness and consider opportunities to strengthen prevention and response capability. I look forward to working with you and others at BP and Alyeska to improve the capability of our respective organizations.

Sincerely,


John A. Sandor
Commissioner

Enclosure: Oil and Hazardous Substance Release Response Fund
Audit Control Number 18-4463-94

cc: The Honorable Walter J. Hickel

WALTER J. HICKEL, GOVERNOR

DEPT. OF ENVIRONMENTAL CONSERVATION

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410 Willoughby Ave., Suite 105
Juneau, AK 99801-1795

Telephone: (907) 465-5050
Fax: (907) 465-5070

March 18, 1994

Mr. John Morgan, President
BP Exploration (Alaska)
P. O. Box 196612
Anchorage, AK 99519-6612

Dear Mr. Morgan:

Thank you for your positive response to my letter to you of February 28, offering to work together with the Department of Environmental Conservation, Alyeska and ARCO to assess the current status of spill prevention and response programs. Both Skip Bilhartz of ARCO and David Pritchard from Alyeska concurred that such an analysis was in our collective best interests.

I'd like to suggest that the four of us designate a "working group" made up of individuals from our respective organizations to critique our existing capabilities and suggest improvements. Tom Chapple, the new Administrator for the department's Pipeline Corridor Region will be on-board by April 1. I believe it makes sense for us to "kick off" the first meeting of this working group in Anchorage shortly thereafter. If you agree, my secretary, Martha Fischbach will call your office to arrange for a mutually convenient time and location.

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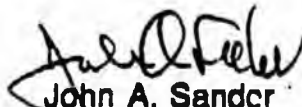
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Certainly our joint efforts will enable our organizations to assess our effectiveness and consider opportunities to strengthen prevention and response capabilities. I look forward to working with you and others at BP, Alyeska and ARCO to improve the capability of our respective organizations to both prevent and respond to pollution events.

Sincerely,


John A. Sandcr
Commissioner

Enclosure

- Oil and Hazardous Substance Release Response Fund Audit
Audit Control Number 18-4463-94

cc: The Honorable Walter J. Hickel

WALTER J. HICKEL, GOVERNOR

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Office of the Commissioner
410 Willoughby Ave., Suite 105
Juneau, AK 99801-1795

Telephone: (907) 465-5050
Fax: (907) 465-5070

March 18, 1994

Mr. David Pritchard, President & CEO
Alyeska Pipeline Service Company
1835 South Bragaw Street
Anchorage, AK 99512

Dear Mr. Pritchard:

Thank you for your positive response to my letter to you of February 28, offering to work together with the Department of Environmental Conservation, BP and ARCO to assess the current status of spill prevention and response programs. Both Skip Bilhartz of ARCO and John Morgan of BP concurred that such an analysis was in our collective best interests.

I'd like to suggest that the four of us designate a "working group" made up of individuals from our respective organizations to critique our existing capabilities and suggest improvements. Tom Chappie, the new Administrator for the department's Pipeline Corridor Region will be on-board by April 1. I believe it makes sense for us to "kick off" the first meeting of this working group in Anchorage shortly thereafter. If you agree, my secretary, Martha Fischbach will call your office to arrange for a mutually convenient time and location.

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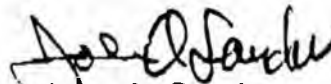
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John A. Sandor
Commissioner

Enclosure

- Oil and Hazardous Substance Release Response Fund Audit
Audit Control Number 18-4463-94

cc: The Honorable Walter J. Hickel

bc: All Regional Administrators
Mike Menge, Director EQ
Mike Conway, Director, SPAR
Bob Poe, Director, IAS
Mead Treadwell

*BC's will go to all three
letters.*

3-22-94

STATE OF ALASKA

WALTER J. HICKEL, GOVERNOR

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March 16, 1994

The Honorable Steve Frank, Co-Chair
The Honorable Drue Pearce, Co-Chair
Senate Finance Committee
Capitol Building
Juneau, AK 99801

Dear Senators Frank and Pearce:

Legislative Audit recently completed its review of the Oil and Hazardous Substance Release Response Fund (470 Fund). The Department appreciated the work of the auditors, and their commitment to understanding the Fund and both its historical and current statutory rules.

Enclosed you will find a copy of that Audit for your review. While it contains a wealth of information, we would like to direct your attention to the Auditor's Comments beginning on page 33:

"DEC is already dangerously close to having to implement statute with limited resources. Any reduction of staff positions in the Spill Prevention and Response (SPAR) division will jeopardize the likelihood of a successful prevention program. AOSC [the Alaska Oil Spill Commission] addressed this same problem in their final report on the events leading up to the Exxon Valdez grounding. Rigor flagged, complacency took root. Prevention was neglected with disastrous results."

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Senate Finance Committee

March 16, 1994

Page 2

The Department of Environmental Conservation looks forward to working with the Senate Finance Committee, and its Finance Subcommittee on how to best address the recommendations of the Audit.

Sincerely,



**John A. Sandor
Commissioner**

JA/ch
Enclosure

*Audit Report, Oil and Hazardous Substance Release Response Fund
Audit Control Number 18-4483-94

cc: All Members, Senate Finance Committee (w/enclosure)
The Honorable Al Adams (w/enclosure)

STATE OF ALASKA

WALTER J. HICKEL, GOVERNOR

DEPT. OF ENVIRONMENTAL CONSERVATION

OFFICE OF THE COMMISSIONER
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March 16, 1994

The Honorable Mike Miller
Chairman, Senate Resources Committee
Capitol Building
Juneau, AK 99801

Dear Senator Miller:

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Senate Resources Committee

March 16, 1994

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John A. Sandor
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JA/ch
Enclosure

***Audit Report, Oil and Hazardous Substance Release Response Fund**
Audit Control Number 18-4463-94

cc: All Members, Senate Resources Committee (w/enclosure)

3-22-94
DEC
Bob Poe

AS 46.08.030

Says:

It is the intent of the legislature and declared to be the public policy of the state that funds for the abatement of a release of oil or a hazardous substance will always be available. (S 1 ch 59 S.L.A 1986)

Funding History - Division of Spill Prevention and Response

Prior to Fiscal Year 91 no permanent staff of DEC were charged directly to the Oil and Hazardous Substance Release Response Fund (Response Fund). In FY90 and 91 DEC experienced large staff growth bringing existing programs to core level and adding additional staff associated with new legislation. Beginning in FY 91 and continuing to present, general funding of the Spill Prevention and Response functions has been gradually eliminated. In addition, regional staff have been shifted from other projects to the Spill Prevention and Response projects commensurate with the work load in the respective regions.

STAFFING - FISCAL YEAR 89

FY 89 (est)	FTEs	Gen Fund	Resp Fund	Other Funds
SPPM	19.5	758.5	0.0	226.2
Csites	24.8	1,213.8	0.0	1,457.1
Total	44.3	1,972.3	0.0	1,683.3

LEGISLATION ENACTED 89 SESSION

SLA89 Chapter 29 SB256

Required Department of Law to seek cost recovery at the request of DEC.
Clarified Municipal reimbursements from Response Fund.

SLA 89 Chapter 39 HB68

Authorized DEC to use liens against property as security for State expenditures.

SLA 89 Chapter 112 SB260

Established nickel a barrel surcharge on regulated industry production.

SLA 89 Chapter 90 SB261

Required DEC to prepare and annually revise State Master Plan and Regional Plans.
Authorized DEC to use Response Fund to pay costs of State Master Plan and Regional Plans.
Expanded the uses of the Response Fund to include restoration of the environment by
addressing the effects of a release or threatened release.

SLA 89 Chapter 113 SB264

Established Response Office in DEC for catastrophic or declared emergency spills.
Established emergency response equipment depots in DEC's response office.
Established emergency response volunteer corps in DEC's response office.
Expanded uses of Response Fund to pay for Response Office and Depot and Corps.

3-22-94
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It is the intent of the legislature and declared to be the public policy of the state that funds for the abatement of a release of oil or a hazardous substance will always be available. (§ 1 ch 59 S.L.A. 1986)

Sec. 46.08.040. Purposes of the fund. (a) The commissioner may use money from the fund to

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

(2) pay all costs incurred to

(A) establish and maintain the oil and hazardous substance response office;

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

(C) conduct training, response exercises, inspections, and tests, in order to verify equipment inventories and ability to prevent and respond to oil and hazardous substance release emergencies, and to undertake other activities intended to verify or establish the preparedness of the state, a municipality, or a party required by AS 46.04.030 to have an approved contingency plan to act in accordance with that plan; and

(D) verify or establish proof of financial responsibility required by AS 46.04.040;

(3) pay the expenses incurred by the Alaska division of emergency services for the oil and hazardous substance response corps and the oil and hazardous substance response depots when presented with appropriate documentation by the division;

(4) provide matching funds for participation in federal oil discharge cleanup activities and under 42 U.S.C. 9601 — 9657 (Comprehensive Environmental Response, Compensation, and Liability Act of 1980);

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

(6) prepare, review; and revise

(A) the state's master oil and hazardous substance discharge prevention and contingency plan required by AS 46.04.200; and

(B) a regional master oil and hazardous substance discharge prevention and contingency plan required by AS 46.04.210; and

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

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

(c) Notwithstanding other provisions of this section, money from the fund may not be used for a purpose specified in (a)(2)-(7) of this section unless funds are available from an appropriation made specifically for that purpose.

(d) Upon a request from the Alaska Legislative Council, the commissioner shall use money from the fund to reimburse the Alaska Legislative Council for expenditures that it makes for the operation of the Citizens' Oversight Council on Oil and Other Hazardous Substances; established under AS 24.20.600. (§ 1 ch 59 SLA 1986; am § 3 ch 90 SLA 1989; am § 2 ch 113 SLA 1989; am §§ 14, 15 ch 190 SLA 1990; am § 28 ch 191 SLA 1990; am § 3 ch 199 SLA 1990)

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Established emergency response equipment depots in DEC's response office.
Established emergency response volunteer corps in DEC's response office.
Expanded uses of Response Fund to pay for Response Office and Depot and Corps.

Clarified civil penalty for the unpermitted discharge of oil and the failure to implement an oil discharge contingency plan.

STAFFING - FISCAL YEAR 90

FY 90 (est)	FTEs	Gen Fund	Resp Fund	Other Funds
SPPM	25.0	1,013.3	0.0	235.6
Csites	36.3	876.4	0.0	1,863.5
Total	61.3	1,889.7	0.0	2,099.1

Analysis of Staffing Change from FY 89 to FY 90

The FY90 operating budget request included a structural change from multiple components for individual programs such as Air, Oil, Water to the large single component Environmental Quality (EQ) Projects. The SPPM and Csites projects were included in the EQ Projects component.

Staff increased in the SPPM project in FY 90 due to DEC implementation of a multi year plan to increase staffing to core level necessary to meet statutory, regulatory and legislative intent requirements. Prior to these increases, DEC was not meeting those requirements. The FY 90 increment established a small capacity for spill response and seasonal positions to inspect tankers and facilities for compliance with contingency plan requirements.

Contaminated Sites staff increased in FY 90 due to inclusion of Kenai cleanup project staff previously funded as non permanent or in the CIP budget in the operating budget request. These staff identify and cleanup existing contaminated sites on the Kenai Peninsula which pose a threat to public health.

LEGISLATION ENACTED 90 SESSION

SLA90 Chapter 141 HB315

Categorized environmental crimes and determined appropriate level of criminal behavior for each.

SLA90 Chapter 142 HB316

Established the level of criminal damages to be assessed in fines against organizations for damages caused by environmental crimes.

SLA90 Chapter 190 HB566

Added incident command system requirement to State and Regional Plans.

Required DEC to use the State plan to designate depot and response corps locations.

Required DEC to submit the State master and Regional plans and revisions to the State Emergency Response Commission for review and approval.

Transferred responsibility to establish depots and corps to Division of Emergency Services.
 Expanded uses of Response Fund to include DES reimbursement for depots and corps.
 Established State Emergency Response Commission (SERC).
 Established Local Emergency Planning Committees (LEPCs).
 Established Hazardous Substance Spill Technology Review Council (HSSTRC).

*** SLA90 Chapter 191 HB567**

Required industry contingency plans to include prevention measures.
 Added certification requirement for approved contingency plans.
 Clarified proof of financial responsibility and limits liability for tank vessel or oil barge operations.
 Clarified DEC inspections of regulated industries.
 Established DEC participation in structural integrity of vessels, barges, pipelines and facilities.
 Expanded uses of Response Fund to include:

- Review of oil discharge prevention and contingency plans
- Conduct training, response exercises, inspections and tests to verify inventories and ability of state, municipality or parties required to have an approved contingency plan
- Verification of financial responsibility

SLA90 Chapter 199 HB578

Established Citizen's Oversight Council
 Expanded uses of Response Fund to include Oversight Council costs.

STAFFING - FISCAL YEAR 91

FY 91 (est)	FTEs	Gen Fund	Resp Fund.	Other Funds
SPPM	72.0	1,860.1	3,203.6	0.0
SRO	14.0	0.0	2,703.5	0.0
Csites	41.0	457.8	715.1	1,804.3
Stg Tank Program	11.0	6,009.2	0.0	0.0
Total	138.0	8,327.1	6,622.2	1,804.3

Analysis of Staffing Change from FY 90 to FY 91

FY 91 was the final year of increments to bring the Spill Prevention and Response projects to core level funding. An increment was requested and approved for both the SPPM and Contaminated Sites projects.

The Spill Response Office and Storage Tank Assistance Program were identified as separate projects.

Funding was requested and approved for the Environmental Investigation and Enforcement unit. This unit is responsible for the specialized investigatory and legal resources associated with determination of responsible parties for a release or a contaminated site.

Fiscal notes were attached to HB 566 and HB 567 increasing staffing an additional 22 FTEs to provide resources to perform the additional work necessary to meet the statutory obligations enacted in HB 566 and HB 567.

Additional staff were approved for the Prince William Sound District Office.

LEGISLATION ENACTED 91 SESSION

SLA91 Chapter 48 SB165

Expanded uses of Response Fund to include refurbishment or construction of marine response vessels.

SLA91 Chapter 83 SB25

Expanded uses of Response Fund to municipal grants.

SLA91 Chapter 31 HB194

Required the Board of Marine Pilots to cooperate with DEC in the review and approval of training programs for pilots of tanker vessels.

SLA91 Chapter 92 HB196

Required the Citizen's Oversight Council to submit a report on whether State laws for response action contractor civil liability and vessel contingency plan requirements should be amended.

SLA91 Chapter 09 SB263

Provided a one-year delay to June 1, 1992 for compliance of non crude oil operations with the financial responsibilities in AS 46.04.040.

Authorized DEC to issue interim approval for contingency plan amendments that substantially comply with the requirements of Chapter 191, SLA90.

STAFFING - FISCAL YEAR 92

FY 92 (est)	FTEs	Gen Fund	Resp Fund	Other Funds
Director	6.0	248.7	182.1	0.0
SPPM	69.0	981.8	4,661.5	77.0
SRO	14.0	0.0	1,107.5	0.0
Csites	40.0	414.8	1,182.4	1,949.4
Stg Tank Program	9.0	0.0	0.0	6,700.0
Total	138.0	1,645.3	7,133.5	8,726.4

Analysis of Staffing Change from FY 91 to FY 92

FY 92 budget structure recognized the creation of the Division of Spill Prevention and Response. The Director's Office and Storage Tank Program were separate components in the FY 92 budget request, but, the projects (SPPM, SRO and Csites) continued as a part of the EQ projects budget request.

Overall staffing levels did not increase, but, were re-aligned commensurate with the needed level of effort in the two components and three projects. The process of shifting funding for Spill Prevention and Response work from General Funds to Response Funds began in FY 92 with central office staff.

LEGISLATION ENACTED 92 SESSION

SLA92 Chapter 83 SB540

Required DEC to develop regulations governing the registration and approval of oil spill primary action contractors.
Required DEC to collect fees in the amount necessary to cover the costs of this program.

STAFFING - FISCAL YEAR 93

FY 93 (actual)	FTEs	Gen Fund	Resp Fund	Other Funds
Director	12.0	115.6	1,459.2	0.0
SPPM	72.5	90.8	9,027.5	0.0
Csites	53.5	351.8	4,717.1	2,582.7
Stg Tank Program	7.0	0.0	0.0	3,822.7
Total	145.0	558.2	15,203.8	6,405.4

Analysis of Staffing Change from FY 92 to FY 93

The FY 93 budget structure established the Division of Spill Prevention and Response as a separate BRU with the projects above as separate components. The Spill Response Office was decentralized with expert spill responders in each region. Administrative Support, Safety and Data Management were transferred from the programs to the Director's Office.

Staff were added for Response Fund Management (1), the Department of Defense cooperative agreement (2), Geographic Information Systems (1 - non perm) and the Leaking Underground Storage Tank program (1 - non perm).

Conversion of the Spill Prevention and Response effort from General Funds to Response Funds continued focusing on regional efforts leaving the Division with 393.0 in General Funds and 165.2 in General Fund Match.

STAFFING - FISCAL YEAR 94

FY 94 (request)	FTEs	Gen Fund	Resp Fund	Other Funds
Director	13.0	0.0	1,296.7	36.4
SPPM	75.2	0.0	8,105.2	225.0
CSites	57.2	165.2	3,727.5	2,225.0
Stg Tank Program	10.0	0.0	0.0	6,621.9
Total	155.4	165.2	13,129.4	9,108.3

Analysis of Staffing Change from FY 93 to FY 94

Non permanent staff previously off budget were included in the FY 94 budget request. Historically the department had not included those positions in budget requests and requested revised programs to move monies from contractual to personal services to pay for non perms.

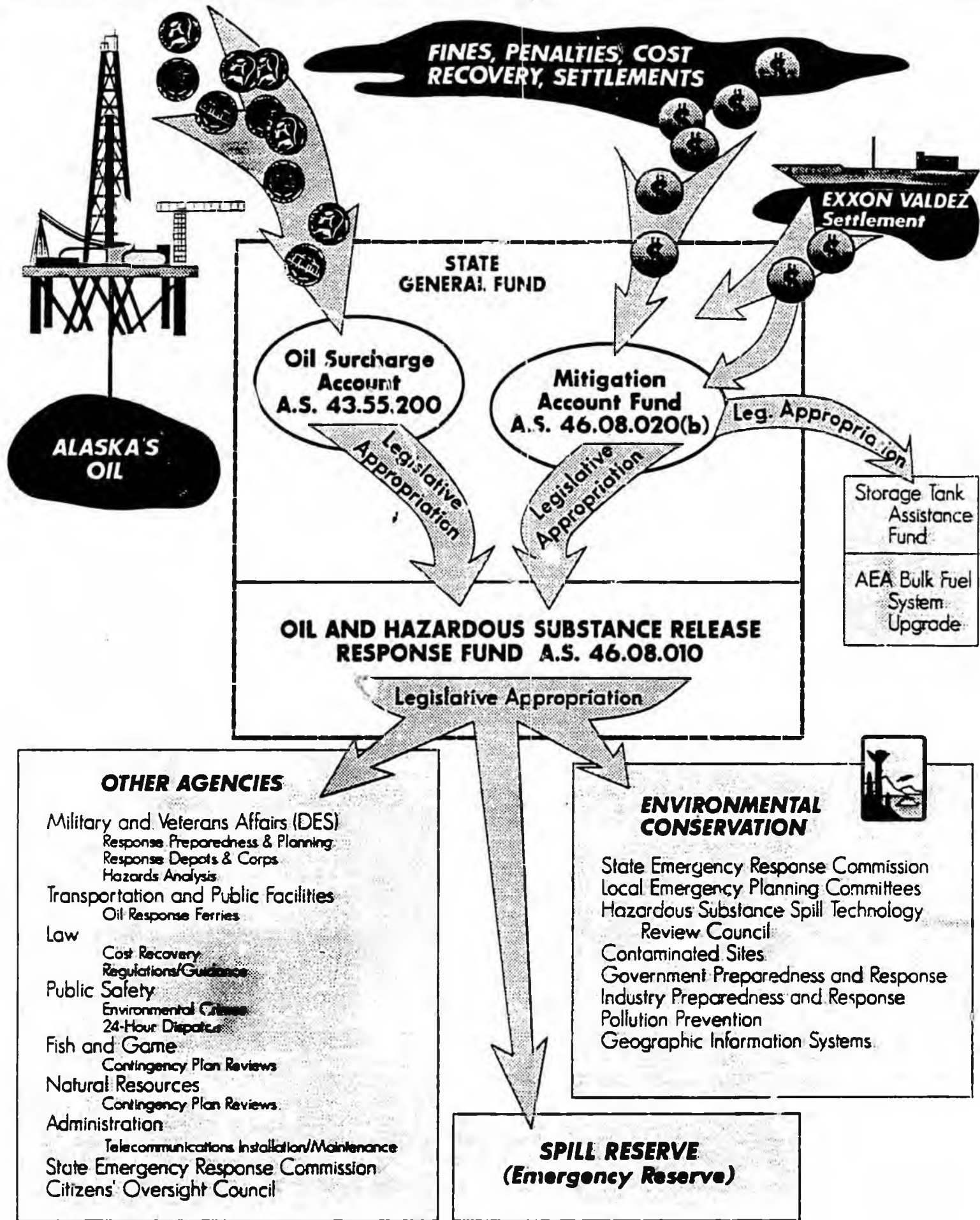
Non permanent staff are included in the FY 94 operating budget request as follows:

Director's Office - 1 Non Perm Student Intern
 Spill Prevention Planning and Management - 1 Non Perm Environmental Specialist
 Contaminated Sites - 3 Non Permanent Environmental Specialists
 Storage Tank Program - 2 Environmental Specialists (seasonal) and 1 Clerk Typist (seasonal)

A permanent position was added in the Contaminated Sites Program (Site Discovery) and a long term non permanent position in the Underground Storage Tank Program was brought on budget as a permanent part time position.

Regional budgets included an additional .4 FTEs not previously assigned to Spill Prevention and Response projects.

All general funds were eliminated leaving 165.2 in general fund match in the budget request.



SPILL RESERVE EXPENDITURES BY FISCAL YEAR

(in thousands)

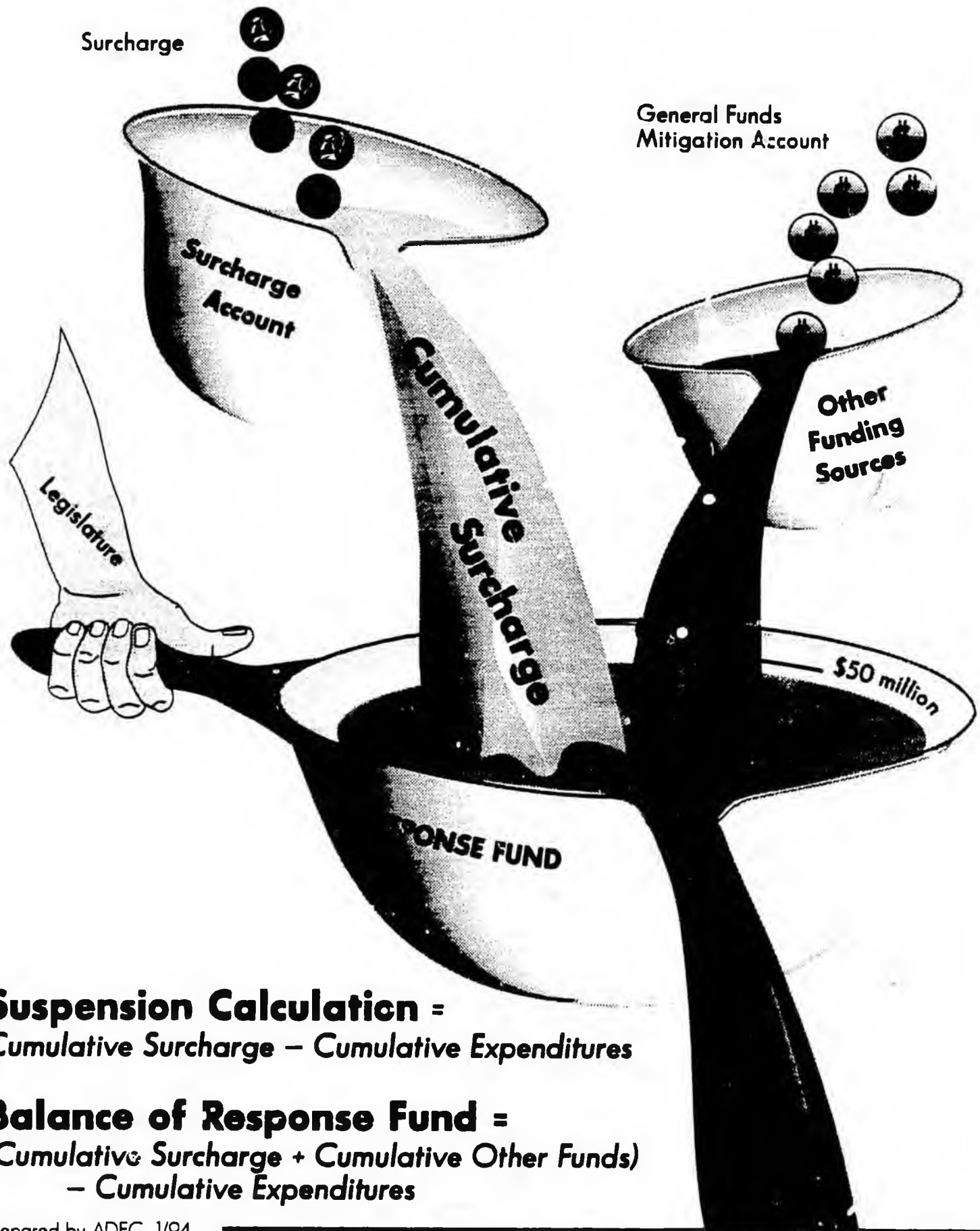
	FY 90	245.5
	FY 91	256.8
	FY 92	71.4
	FY 93	299.3
(to date 11/22)	FY 94	<u>272.5</u>
	TOTAL	1,145.5

*note: Expenditures for FY 94 include 156.7 for Project Chariot which will be reimbursed by a federal grant.

SPILL RESERVE AS A PERCENTAGE OF TOTAL RESPONSE FUND EXPENDITURES

0.9 %

SURCHARGE SUSPENSION vs. RESPONSE FUND BALANCE



Suspension Calculation =
Cumulative Surcharge – Cumulative Expenditures

Balance of Response Fund =
(Cumulative Surcharge + Cumulative Other Funds)
– Cumulative Expenditures

Response Fund Summary as of November 5, 1983

	AS 43.55.230(b)	Response Fund
	Calculation	
Cummulative Surcharge Collected	112,085,145	109,200,000
Cummulative Expenditures	-127,180,873	-127,180,873
Difference	-15,105,728	-17,980,873
Cummulative Other Deposits		
General Fund	0	44,447,000
Program Receipts	0	30,000,000
Mitigation Account	0	5,007,800
Miscellaneous/Accounts Receivable	0	-3,048,952
Reserve For Encumbrances	0	-8,680,882
Reserve For Capital Appropriations	0	-3,181,125
Reserve for FY 84 Operating Appropriations (Excluding Spill Reserve Appropriation)	0	-8,302,318
Balance or Spill Reserve	-15,105,728	37,229,889

OIL AND HAZARDOUS SUBSTANCE RELEASE RESPONSE FUND

Calculation of Current Available Balance of Spill Reserve (in thousands)

June 30, 1993 Balance Forward of the Unreserved/Unobligated Spill Reserve (This number reflects the amount of spill reserve available that is not encumbered or reserved for prior year authorizations. This amount lapsed at the end of FY93 to the Response Fund and was available for appropriation in FY94)	27,084.1
FY94 Appropriation of 5 Cent Surcharge to the Response Fund	+ 26,700.0
FY94 Appropriation of Mitigation Account to the Response Fund	+ <u>661.2</u>
TOTAL AVAILABLE FOR FY94 APPROPRIATION	54,445.3
FY94 Appropriation DEC Budget	+ 11,513.6
FY94 Appropriation DEC - Other Agencies	+ 2,569.4
FY94 Capital Budget Appropriations	+ <u>2,774.0</u>
TOTAL FY94 APPROPRIATIONS	<u>16,857.0</u>
SPILL RESERVE AVAILABLE DURING FY94 (This number reflects the balance of the Response Fund after FY94 Appropriations are made by the Legislature.)	37,588.3
FY94 EXPENDITURES FROM SPILL RESERVE (This represents year-to-date (11/17/93) expenditures for emergency response to sites which pose an imminent and substantial threat to human health or the environment. A detailed listing of these sites is available. Please note that these are the only DEC expenditures made without legislative approval. Authority to expend funds from the spill reserve for emergency responses is found under AS 46.08.040(a)(1).)	- 155.2
SPILL RESERVE BALANCE AS OF 11/17/93	37,433.1

OIL AND HAZARDOUS SUBSTANCE RELEASE RESPONSE FUND

Calculation of Current Available Balance of Spill Reserve (In thousands)

June 30, 1993 Balance Forward of the Unreserved/Unobligated Spill Reserve (This number reflects the amount of spill reserve available that is not encumbered or reserved for prior year authorizations. This amount lapsed at the end of FY93 to the Response Fund and was available for appropriation in FY94.)	27,084.1
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SPILL RESERVE BALANCE AS OF 11/17/93	37,433.1

Response Fund Summary as of November 5, 1993

Surcharge Calculation Per AS 43.55.230(b)	-18,106,728
Excess Collected over Appropriated	-2,887,145
General Fund	44,447,000 1
Program Receipts	30,000,000 2
Mitigation Account	5,007,800
Miscellaneous/Accounts Receivable	-3,049,852
Encumbrances	-8,690,862
Unobligated Capital Appropriations	-3,191,125
FY 94 Unobligated Operating Appropriations (Excluding Spill Reserve Appropriation)	-9,302,318
Spill Reserve	37,229,669

1 General Fund Deposit 1988 \$42,800,000

General Fund Deposit 1989 \$500,000

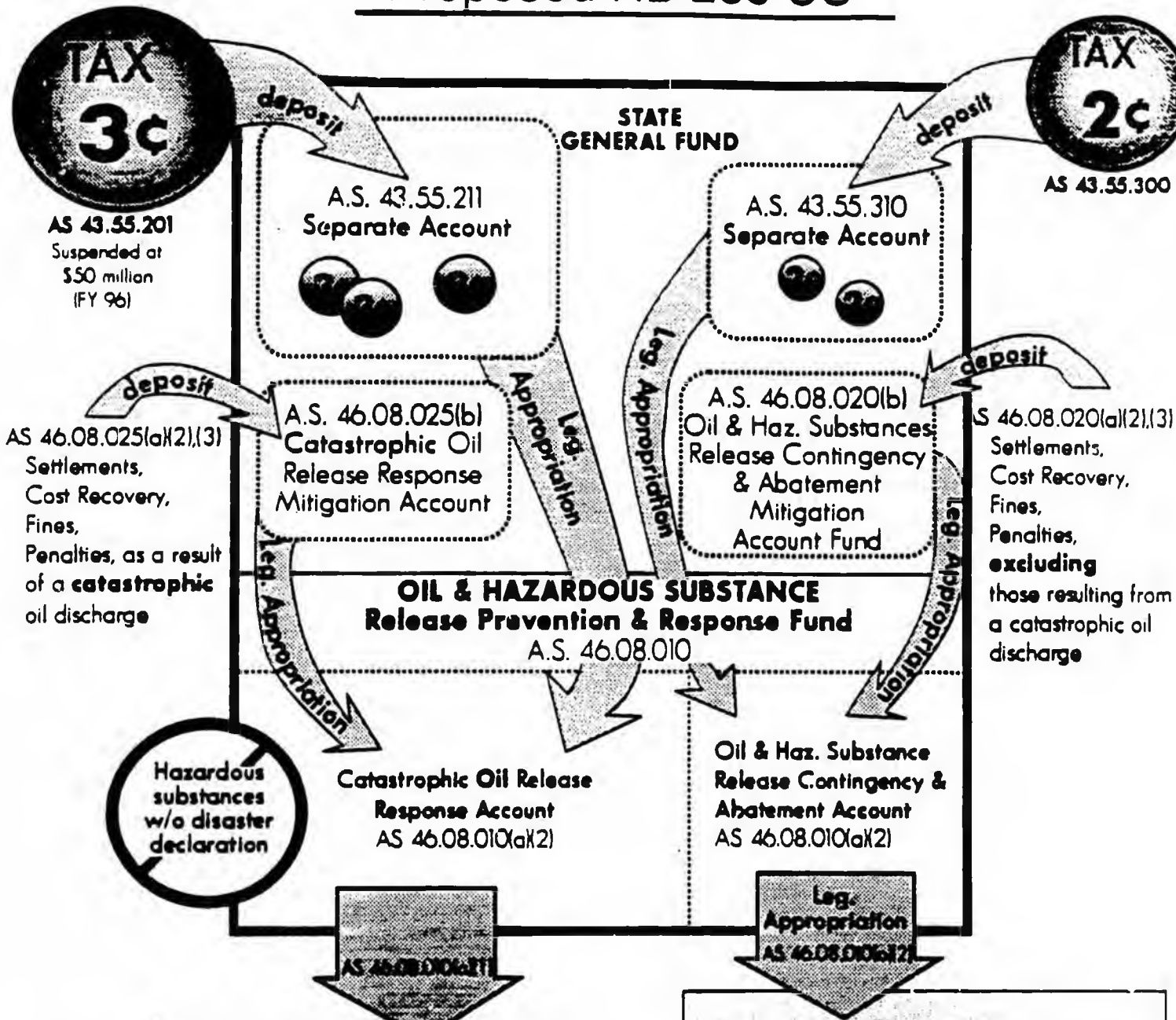
General Fund Deposit 1997 \$825,000

General Fund Deposit 1998 \$300,000

Beginning Fund Balance 1988 \$222,000

2 Excess Reimbursements 1988 and 1989

Proposed HB 238 CS



4,200,000 gallons!

30 day max. w/o concurrent resolution; may require special session

Accessed **ONLY** in the event of a catastrophic oil spill - over 100,000 barrels AS 46.04.900(2)(a)
OR
Declaration of a disaster emergency by the Governor - oil and hazardous substances AS 46.04.900(2)(b)

RESTORATION ???

~~RESEARCH & DEVELOPMENT~~

- Investigate and evaluate release or threatened release of oil or a hazardous substance (non-catastrophic)
 - Cost recovery
 - State master plan
 - Oil and Hazardous Substance Response Office
 - Contingency plan review
 - Response preparedness and training
 - Depots & corps DMVA/DES
- RESTORATION ???**
- ~~RESEARCH & DEVELOPMENT~~

3-22-94
DEC
Bob Poe

Response Fund Restructuring Options Comparison of Proposals For SB215

	No Change From Existing Statute	CSSB 215 .025/.025 Entire Response Fund to Spill Account	.025/.025 Response Fund split equally	.03/.02 Proposal Response Fund Split 60/40	.03/.02 Proposal Entire Response Fund to Spill Account
Fiscal Year 1995					
Beginning Balance of Response Fund	\$63.2				
Beginning Balance of Spill Account		\$50.3	\$31.6	\$25.3	\$47.7
Beginning Balance of Abatement Account		\$12.9	\$31.6	\$37.9	\$15.5
Total .05 Surcharge Collected in FY95	\$26.2				
Total Spill Surcharge Collected in FY95		\$0.0	\$13.1	\$10.5	\$5.2
Total Abatement Surcharge Collected in FY95		\$13.1	\$13.1	\$15.7	\$15.7
Prevention & Response Prgm. All Agencies	\$13.5	\$13.5	\$13.5	\$13.5	\$13.5
Estimated Spill Reserve Use	\$0.8	\$0.8	\$0.8	\$0.8	\$0.8
Estimated Cost Recovery	\$0.3	\$0.3	\$0.3	\$0.3	\$0.3
Amount of Prevention Program Under-Funded		(\$0.6)	\$0.0	\$0.0	\$0.0
Ending Balance of Response Fund	\$48.9				
Ending Balance of Spill Account		\$49.5	\$30.8	\$24.5	\$46.9
Ending Balance of Abatement Account		(\$0.6)	\$18.1	\$24.4	\$2.0
Suspension and Reimposition Calculation	(\$6.1)	\$49.8	\$44.2	\$35.3	\$52.5
Fiscal Year 1996					
Beginning Balance of Response Fund	\$75.1				
Beginning Balance of Spill Account		\$49.8	\$44.2	\$35.3	\$52.5
Beginning Balance of Abatement Account		\$12.5	\$31.2	\$40.1	\$17.7
Total .05 Surcharge Collected in FY96	\$25.3				
Total Spill Surcharge Collected in FY96		\$3.0	\$6.3	\$10.1	\$0.0
Total Abatement Surcharge Collected in FY96		\$12.7	\$12.7	\$15.2	\$15.2
Prevention & Response Prgm. All Agencies	\$13.9	\$13.9	\$13.9	\$13.9	\$13.9
Estimated Spill Reserve Use	\$0.8	\$0.8	\$0.8	\$0.8	\$0.8
Estimated Cost Recovery	\$0.3	\$0.3	\$0.3	\$0.3	\$0.3
Amount of Prevention Program Under-Funded		(\$0.8)	\$0.0	\$0.0	\$0.0
Ending Balance of Response Fund	\$60.7				
Ending Balance of Spill Account		\$49.0	\$43.4	\$34.5	\$51.7
Ending Balance of Abatement Account		(\$1.4)	\$17.3	\$26.2	\$3.8
Suspension and Reimposition Calculation	\$4.5	\$52.3	\$50.0	\$44.9	\$52.0

**Response Fund Restructuring Options
Comparison of Proposals For SB215**

	No Change From Existing Statute	CSSB 215 .025/.025 Entire Response Fund to Spill Account	.025/.025 Response Fund split equally	.03/.02 Proposal Response Fund Split 60/40	.03/.02 Proposal Entire Response Fund to Spill Account
Fiscal Year 1997					
Beginning Balance of Response Fund	\$86.0				
Beginning Balance of Spill Account		\$52.3	\$50.0	\$44.9	\$52.0
Beginning Balance of Abatement Account		\$11.2	\$29.9	\$41.4	\$19.0
Total .05 Surcharge Collected in FY97	\$24.8				
Total Spill Surcharge Collected in FY97		\$0.0	\$0.0	\$7.4	\$0.0
Total Abatement Surcharge Collected in FY97		\$12.4	\$12.4	\$14.9	\$14.9
Prevention & Response Prgm. All Agencies	\$14.3	\$14.3	\$14.3	\$14.3	\$14.3
Estimated Spill Reserve Use	\$0.8	\$0.8	\$0.8	\$0.8	\$0.8
Estimated Cost Recovery	\$0.3	\$0.3	\$0.3	\$0.3	\$0.3
Amount of Prevention Program Under-Funded		(\$1.7)	\$0.0	\$0.0	\$0.0
Ending Balance of Response Fund	\$71.2				
Ending Balance of Spill Account		\$51.5	\$49.2	\$44.1	\$51.2
Ending Balance of Abatement Account		(\$3.1)	\$15.6	\$27.1	\$4.7
Suspension and Reimposition Calculation	\$14.2	\$51.8	\$49.5	\$51.8	\$51.5
Fiscal Year 1998					
Beginning Balance of Response Fund	\$96.0				
Beginning Balance of Spill Account		\$51.8	\$49.5	\$51.8	\$51.5
Beginning Balance of Abatement Account		\$9.3	\$28.0	\$42.0	\$19.5
Total .05 Surcharge Collected in FY98	\$23.8				
Total Spill Surcharge Collected in FY98		\$0.0	\$3.0	\$0.0	\$0.0
Total Abatement Surcharge Collected in FY98		\$11.9	\$11.9	\$14.3	\$14.3
Prevention & Response Prgm. All Agencies	\$14.8	\$14.8	\$14.8	\$14.8	\$14.8
Estimated Spill Reserve Use	\$0.8	\$0.8	\$0.8	\$0.8	\$0.8
Estimated Cost Recovery	\$0.3	\$0.3	\$0.3	\$0.3	\$0.3
Amount of Prevention Program Under-Funded		(\$2.4)	\$0.0	\$0.0	\$0.0
Ending Balance of Response Fund	\$80.7				
Ending Balance of Spill Account		\$51.0	\$48.7	\$51.0	\$50.7
Ending Balance of Abatement Account		(\$5.4)	\$13.3	\$27.2	\$4.8
Suspension and Reimposition Calculation	\$22.4	\$51.3	\$52.0	\$51.3	\$51.0

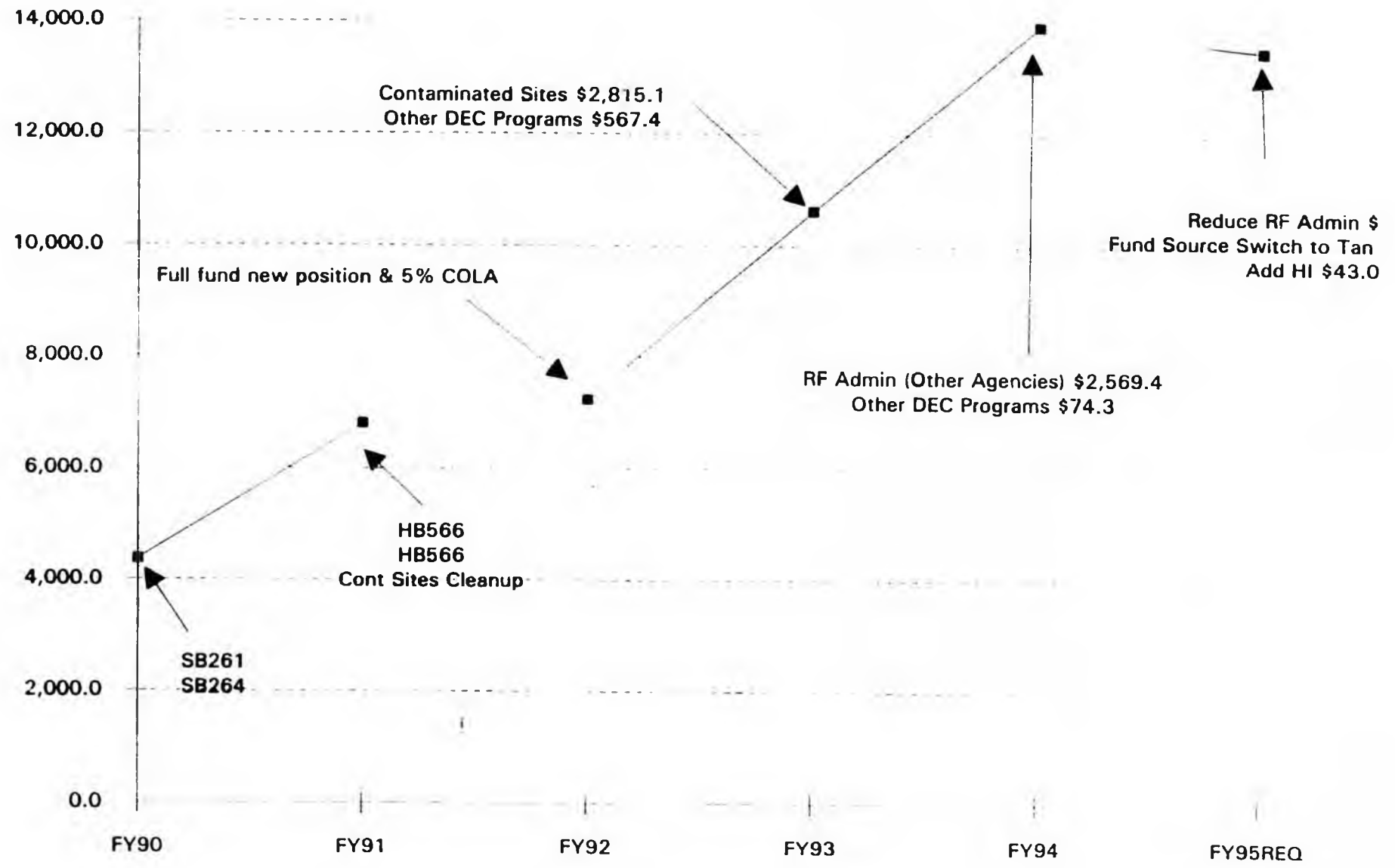
**Response Fund Restructuring Options
Comparison of Proposals For SB215**

	No Change From Existing Statute	CSSB 215 .025/.025 Entire Response Fund to Spill Account	.025/.025 Response Fund split equally	.03/.02 Proposal Response Fund Split 60/40	.03/.02 Proposal Entire Response Fund to Spill Account
Fiscal Year 1999					
Beginning Balance of Response Fund	\$104.5				
Beginning Balance of Spill Account		\$51.3	\$52.0	\$51.3	\$51.0
Beginning Balance of Abatement Account		\$6.5	\$25.2	\$41.5	\$19.1
Total .05 Surcharge Collected in FY99	\$22.4				
Total Spill Surcharge Collected in FY99		\$0.0	\$0.0	\$0.0	\$4.5
Total Abatement Surcharge Collected in FY99		\$11.2	\$11.2	\$13.4	\$13.4
Prevention & Response Prgm. All Agencies	\$15.2	\$15.2	\$15.2	\$15.2	\$15.2
Estimated Spill Reserve Use	\$0.8	\$0.8	\$0.8	\$0.8	\$0.8
Estimated Cost Recovery	\$0.3	\$0.3	\$0.3	\$0.3	\$0.3
Amount of Prevention Program Under-Funded		(\$3.3)	\$0.0	\$0.0	\$0.0
Ending Balance of Response Fund	\$88.8				
Ending Balance of Spill Account		\$50.5	\$51.2	\$50.5	\$50.2
Ending Balance of Abatement Account		(\$8.7)	\$10.0	\$26.3	\$3.9
Suspension and Reimposition Calculation	\$28.8	\$50.8	\$51.5	\$50.8	\$54.9
Total Prevention Program Underfunding		(\$8.7)	\$0.0	\$0.0	\$0.0
Total Spill Account Surcharge Paid	\$122.5	\$3.0	\$22.4	\$28.0	\$9.7
Total Abatement Account Surcharge Paid		\$61.3	\$61.3	\$73.5	\$73.5
Total Surcharges Paid	\$122.5	\$64.2	\$83.7	\$101.5	\$83.2

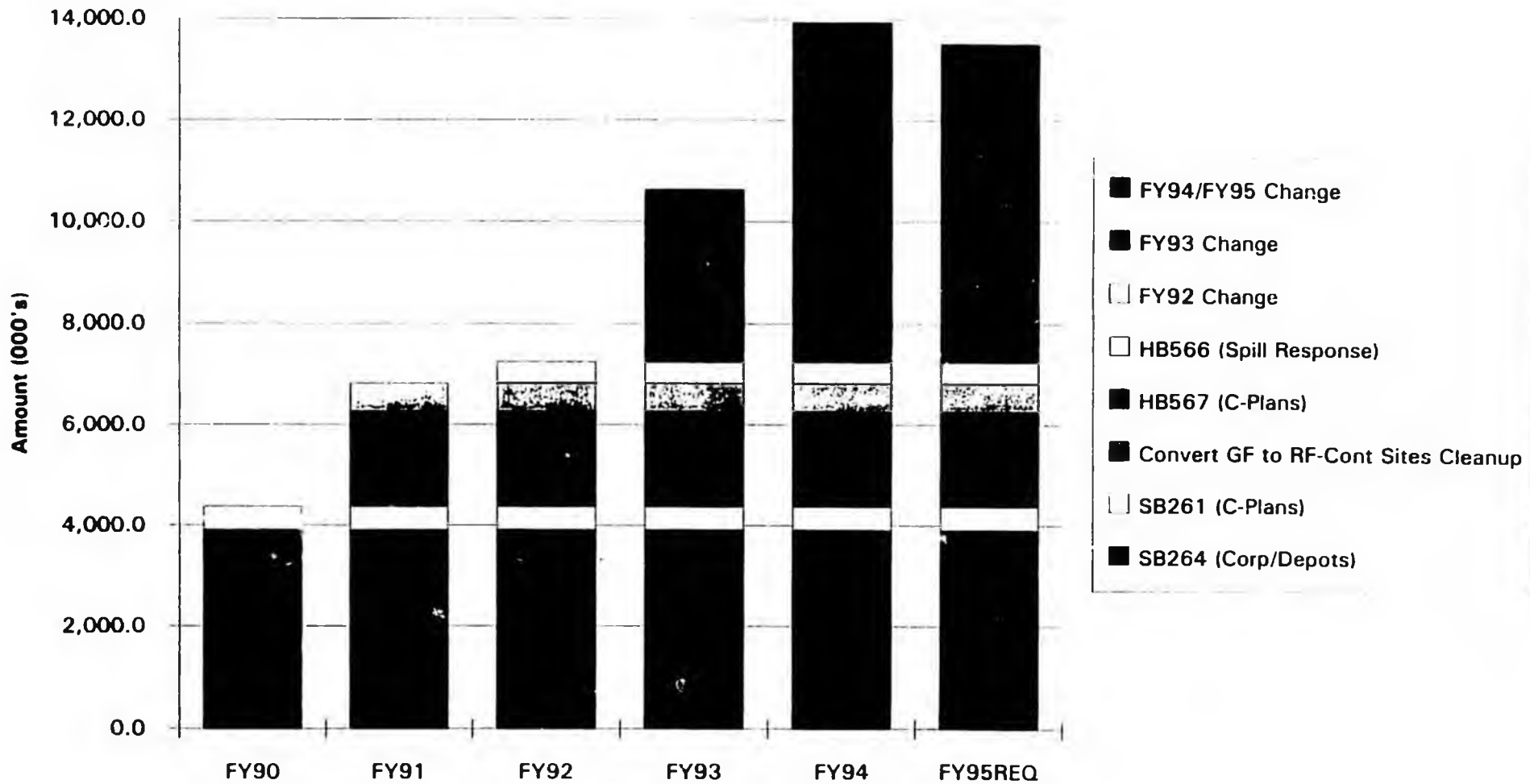
**Oil and Hazardous Substance Release Response Fund
Historical Expenditures and Funding
Actual Data**

	FY87	FY88	FY89	FY90	FY91	FY92	FY93	FY94	TOTAL
Revenue to Response Fund									
General Fund Balance Forward									\$0.0
Mitigation Account Transfers In	\$302.7		\$136.5	\$197.6	\$1,696.1	\$30.1	\$1,823.3	\$661.2	\$4,847.5
General Fund Transfers In	\$380.7	\$976.2	\$10,500.0	\$32,600.0					\$44,456.9
General Fund Program Receipts Transfer In			\$9,469.0	\$15,596.7	\$2,976.9	(\$553.0)			\$27,489.6
Total General Fund Transfers In	\$683.4	\$976.2	\$20,105.5	\$48,394.3	\$4,673.0	(\$522.9)	\$1,823.3	\$661.2	\$76,794.0
.05 Surcharge Receipts Transfer In					\$27,000.0	\$28,500.0	\$27,000.0	\$26,700.0	\$109,200.0
TOTAL REVENUE	\$683.4	\$976.2	\$20,105.5	\$48,394.3	\$31,673.0	\$27,977.1	\$28,823.3	\$27,361.2	\$185,994.0
Expenditures From The Response Fund									
Statewide Programs	\$428.7	\$329.9		\$1,702.0	\$6,034.7	\$8,517.3	\$23,785.2	\$14,083.0	\$54,552.1
Exxon Valdez Oil Spill			\$6,271.6	\$31,775.6	\$24,912.1	\$15,702.8	\$297.0		\$78,959.1
Capital Budget					\$583.7	\$555.9	\$177.9	\$2,774.0	\$4,091.5
TOTAL EXPENDITURES	\$428.7	\$329.9	\$6,271.6	\$33,477.6	\$31,530.5	\$24,876.0	\$24,260.1	\$16,857.0	\$138,031.4
Analysis									
% General Funds For Fiscal Year	100.00%	100.00%	100.00%	100.00%	14.75%	-1.87%	6.33%	2.42%	41.29%
% Surcharge Funds For Fiscal Year	0.00%	0.00%	0.00%	0.00%	85.25%	101.87%	93.67%	97.58%	58.71%
Proportion Expended From General Funds	\$428.7	\$329.9	\$6,271.6	\$33,477.6	\$4,652.0	(\$464.9)	\$1,534.6	\$407.4	\$46,636.8
Proportion Expended From Surcharge Funds	\$0.0	\$0.0	\$0.0	\$0.0	\$26,878.5	\$25,340.9	\$22,725.5	\$16,449.6	\$91,394.6
Total Expenditures	\$428.7	\$329.9	\$6,271.6	\$33,477.6	\$31,530.5	\$24,876.0	\$24,260.1	\$16,857.0	\$138,031.4
Reconciliation									
Total Revenue									\$185,994.0
Less Total Expenditures									\$138,031.4
Subtotal									\$47,962.6
Less Reserve For Encumbrances									\$10,559.2
Spill Reserve Balance									\$37,403.4

Department of Environmental Conservation Response Fund Operating Budget Growth



**Department of Environmental Conservation
Response Fund Operating Budget Growth**



Funding Auth	Operating Budget Items			Comments
	RF	GF	OTHER	
FY90	4,371.8			
	3909.9			SB264(Corps & Depots)
	461.9			SB261(C-Plans)
FY81	2,439.0			
	518.0	(518.0)		Convert GF to RF for Cont Sites cleanup
	1,371.0			HB567(C-Plans)
	550.0			HB566 (Spill Response)
FY92	434.3			
	485.2			Full fund new fiscal note positions & 5% COLA
	182.1	(182.1)		Convert GF to RF for SPAR Director component
	(233.0)			Move Kenai cleanup to front of budget(\$280.0), \$47.0 other miscellaneous
FY93	3,382.5			
	1,582.7			Contaminates Sites conversion from Non-operating to operating budget
	639.1	(639.1)		IAS Component conversion from GF to RF
	181.3	(181.3)		SPAR Director Component conversion from GF to RF
	102.3			SRO(Spill Response Office) component increment for response preparedness, safety & equipment
	(355.3)			SPPM(Spill Prevention/Planning Mgt) component -reduce projects/delete 1PFT to STR Council
	1,232.4			Contaminated Sites
FY94	3,312.4			
	101.5			IAS Component
	123.0			EQ Director Component-Pollution Prevention
	186.5			EQ Monitoring & Lab Component
	108.0			Storage Tanks
	224.0			Increment to SouthCentral Region for Cont Sites & Spill Response
	2,569.4			Response Fund Administration Component-other Agency funding
FY95 Request	(417.4)			
	(358.4)			Reduce RF Admin Component \$358.4
	(102.0)	102.0		Fund Source switch to Tanks \$102.0
	43.0			Increase Health Insurance - all Components
RF Total	13,522.6			Less Projected Spill Reserve \$49,686.8

**FY 93 SPILLS WHERE RESPONSE FUND WAS ACCESSED
(DOES NOT INCLUDE PERSONAL SERVICES)**

SPILL NAME	RF USE (200-500)
Rezanof Drive Drum	882
Noyes Slough Drum	1447
Rifle Range Drum	1799
Seward Soil Site	1441
South Central Comm RB	148
Aniak Lift Station	61336
Anchorage Bluff	288
Neka Bay Fish Kill	36115
Cinnabar LP	9266
Thane Road	6210
Kodiak Landslide	6681
Kake Tribal Log	3259
McDowell Sterling	14955
Trident Dock	832.00
Klawock Ammonia	836.00
Bethel BIA	14607.00
Donna's Sunchaser	457.00
Talkeetna Train Derail	374.00
Village of Wainwright	842.00

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Response Fund Appropriations
Department of Environmental Conservation
 3/1/94

Operating Budget Only

Funding Auth	Operating Budget Items			Comments
	RF	GF	OTHER	
FY90	4,371.8			
	3909.9			SB264(Corps & Depots)
	461.9			SB261(C-Plans)
FY91	2,439.0			
	518.0	(518.0)		Convert GF to RF for Cont Sites cleanup
	1,371.0			HB567(C-Plans)
	550.0			HB566 (Spill Response)
FY92	434.3			
	485.2			Full fund new fiscal note positions & 5% COLA
	182.1	(182.1)		Convert GF to RF for SPAR Director component
	(233.0)			Move Kenai cleanup to front of budget(\$280.0), \$47.0 other miscellaneous
FY93	3,382.5			
	1,582.7			Contaminates Sites conversion from Non-operating to operating budget
	639.1	(639.1)		IAS Component conversion from GF to RF
	181.3	(181.3)		SPAR Director Component conversion from GF to RF
	102.3			SRO(Spill Response Office) component increment for response preparedness, safety & equipment
	(355.3)			SPPM(Spill Prevention/Planning Mgt) component -reduce projects/delete 1PFT to STR Council
	1,232.4			Contaminated Sites
FY94	3,312.4			
	101.5			IAS Component
	123.0			EQ Director Component-Pollution Prevention
	186.5			EQ Monitoring & Lab Component
	108.0			Storage Tanks
	224.0			Increment to SouthCentral Region for Cont Sites & Spill Response
	2,569.4			Response Fund Administration Component-other Agency funding
FY95 Request	(417.4)			
	(358.4)			Reduce RF Admin Component \$358.4
	(102.0)	102.0		Fund Source switch to Tanks \$102.0
	43.0			Increase Health Insurance - all Components
RF Total	13,522.6			Less Projected Spill Reserve \$49,686.8

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3/11/94 SFC MTG

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**FY 93 SPILLS WHERE RESPONSE FUND WAS ACCESSED
(DOES NOT INCLUDE PERSONAL SERVICES)**

SPILL NAME	RF USE (200-500)
Rezanof Drive Drum	882
Noyes Slough Drum	1447
Rifle Range Drum	1799
Seward Soil Site	1441
South Central Comm RB	148
Aniak Lift Station	61336
Anchorage Bluff	288
Neka Bay Fish Kill	36115
Cinnabar LP	9266
Thane Road	6210
Kodiak Landslide	6681
Kake Tribal Log	3259
McDowell Sterling	14955
Trident Dock	832.00
Klawock Ammonia	836.00
Bethel BIA	14607.00
Donna's Sunchaser	457.00
Talkeetna Train Derail	374.00
Village of Wainwright	842.00

**FY 93 USE OF DEC TERM CONTRACTORS FOR
SPILL RESPONSE OVERSIGHT OR CLEANUP**

SPILL NAME	AMOUNT ENCUMBERED FOR TERM CONTRACT
Pillar Creek Drum and Disposal	11117.83
Municipality of Anchorage Barrels 11	2352.50
Umiat	15367.00
Klawock Chlorine Leak	28786.46
Peninsula Circle Drums	500.00
79th and Hartzell Drums	1000.00
Dalton Highway Drums	7600.00
Little Rabbit Creek Drums	2133.00
Neelon Drum Site	9896.00
Bradley River Barge	75661.00
Cabin Lake Road Drums	27916.00

**STORAGE TANK ASSISTANCE FUND
FUNDING SOURCE HISTORY**

FY91	\$6,000,000 initial capitalization of fund from general fund \$525,578 tank registration receipts
FY92	no new appropriations to fund for FY92 \$509,406 tank registration receipts
FY93	\$5,000,000 appropriated to fund from mitigation account \$481,150 tank registration receipts
FY94	\$4,991,500 appropriated to fund from mitigation account \$344,246 tank registration receipts to date
FY95 PROPOSED	\$5,924,500 appropriated to fund from mitigation account \$380,000 anticipated in tank registration receipts

DEPT. OF ENVIRONMENTAL CONSERVATION

OFFICE OF THE COMMISSIONER
410 WILLOUGHBY AVENUE, SUITE 105
JUNEAU, AK 99801-1795

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**MARCH 1, 1994 SENATE FINANCE COMMITTEE HEARING ON CS SB215 ("U")
RELATING TO THE OIL & HAZARDOUS SUBSTANCE RELEASE RESPONSE FUND
STATEMENT - JOHN SANDOR, COMMISSIONER, DEPT. OF ENVIRON. CONS.**

Madam Chair, I appreciate the opportunity to testify on this proposed legislation. The Department appreciates the Legislature's closely examining the Oil and Hazardous Substance Release Response Fund and determining what opportunities there are to amend and improve the process by which this fund is managed and administered. We continue to work with legislators and committee staffs in search for a consensus approach and common goals which will assure a strong prevention program to reduce the risks of oil and hazardous substance spills, and a strong response program which will leave no doubt as to the State of Alaska's strong commitment to protect the environment, people and communities from the adverse impacts of such spills.

I want to reiterate the Administration's very positive record of improved management of the Response Fund. In 1991, I ordered an Internal Audit of this fund, and for the past three years have implemented a number of improvements in its management and administration. As a result we have been able to increase the fund balance of 6 million dollars in 1991 to 12 million in 1992, 24 million in 1993 and a projected balance of 37 million at the end of 1994. We are well on our way to achieving our objective of a 50 million dollar fund balance. A report of the Legislative Budget and Audit review of the response fund will soon be released.

I believe the Senate Resources subcommittee workshop involving representatives of interested parties at the table was especially productive. All parties presented important concerns which I hope the Committee will address. One of the major concerns was the shift of DEC General Funding to Fee Receipts. In FY 91, 61% of DEC's funding came from General Funds; now it is 29%.

Madam Chair, I want to again emphasize the Administration's strong commitment to environmental protection. When Governor Hickel was Secretary of Interior, and the Santa Barbara off-shore spill occurred, he instituted very dramatic changes in governmental oversight to not only clean-up the spill, but to put in place, prevention and response requirements that were tough but reasonable. His liability and financial responsibility requirements prompted some from the oil industry to seek his dismissal. He did not waiver.

We cannot afford to be less vigilant. We cannot afford to forget the lessons of the Exxon-Valdez Oil Spill. We cannot afford to make further reductions in our oversight, prevention and response capabilities. We cannot afford to be satisfied with half-time environmental coverage on the North Slope. We cannot afford to diminish our technical staffs even as we are reviewing the audits of an aging pipeline. At the same time, we do want to continue to improve the management of the Response Fund, and are carefully analyzing various options to achieving that objective.

We continue to support the proposed improvements in the operation and management of the response fund that we presented to the Senate and House Natural Resource Committees. Although several amendments were adopted at the February 16, 1994 Senate Resource Committee Hearing which improved the proposed legislation, the Administration's proposal that the nickel be split on a 3 cent prevention/operations and 2 cent response split was not adopted at that time.

Madam Chair, a 2 1/2 Cent Prevention/Operations split is unwise from several standpoints: First, this level of 470 funding would not support the existing prevention/operations program in the future, and would require authorization of appropriated General Funds or new fee programs of \$550.0 in FY 95 and greater amounts in later years. Second, we have had a series of spills and incidents in the last 60 days which clearly show weaknesses in the State's and industry's spill prevention and response programs. Third, this level of funding would not assure adequate support for the combined Department of Military and Veterans Affairs (DMVA), Division of Emergency Services and DEC's emergency programs stemming from natural disasters.

Accompanying this statement is a Financial Comparison of Response Fund Restructuring Options. Mr. Bob Poe, Response Fund Manager, can provide a detailed briefing of this analysis. DEC's Fiscal Note for CS SB215 is also presented.

Madam Chair, I also am concerned with the present Committee Substitute's requirement that the Governor issue a formal Administrative Order within five days of DEC's reporting such spills to the Governor, before work could continue on oil spills. The Department received over 2,500 reports of spills which resulted in over 800 responses within the last year. Ten of these spills were over 10,000 gallons. In addition to the potential delays in effective response, there are liability questions raised if an effective response is not continued and ground water, fishing or other resources are damaged as a result of delays or decisions not to proceed with effective clean-up action. We suggest adoption of the language we proposed at the Senate Resource Committee's February 11 workshop.

I must also point out that in the present Committee Substitute, the current balance of the Response Fund of 37.4 million is totally allocated to the Catastrophic Spill Account. Since a large percentage of these funds originated from General Funds, and not "nickels", we believe this fund should be split between the prevention/operations and catastrophic spill accounts.

Madam Chair, I made reference to several wake-up calls the last sixty days which should remind us of our vulnerability to accidents and natural disasters which will lead to oil and hazardous substance spills: On December 27-28, 1993 over 15,000 gallons of crude oil were spilled from a storage tank into secondary containment at the Drift River Terminal; the ARCO North Slope spill which was discovered the morning of December 30, 1993; the Overseas Ohio tanker vessel which hit an iceberg in Prince William Sound just 25 miles south of Valdez on January 2nd, 1994; the Overseas Washington tanker's loss of full power during its approach to the berth in Cook Inlet on February 17, 1994; and the recent Los Angeles Earthquake which resulted in a major crude oil pipeline spill as well as hazardous substance releases. We will continue to have oil and hazardous substance spills, and must be prepared to effectively respond to them.

The State of Alaska must have strong and well-coordinated prevention, response, clean-up and restoration programs to deal with such incidents. The DMVA, DEC and other units of State government are working together to achieve that objective.

Madam Chair, the Administration wants to work in partnership with the Alaska Legislature to not only improve the management of the response fund, but to also strengthen the State's prevention and response capability. A split funding formula which would allocate no less than 3 cents for the prevention, contingency planning and operations programs would help achieve that objective.

Thank you for the opportunity to participate in this hearing.

FISCAL NOTE

STATE OF ALASKA
994 LEGISLATIVE SESSION

BILL NO. SB 215

Revision Date: _____
Title: Oil and Hazardous Substance Release
Response Fund
Sponsor: Senator Miller
Requestor: Senate Resources Committee

Department Affected: Environmental
Conservation
BRU: SPAR/Administrative Services
Component: All SPAR Components
Response Fund Administration

COMPONENT SERIAL NO.

Expenditures/Revenues:

(Thousands of Dollars)

	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
OPERATING EXPENDITURES						
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND&STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	\$550.0	\$1,449.0	\$2,860.0	\$4,283.0	\$5,469.0	\$6,918.0

CAPITAL EXPENDITURES						
----------------------	--	--	--	--	--	--

CHANGE IN REVENUES ()						
------------------------	--	--	--	--	--	--

FUND SOURCE

1002 Federal Receipts						
003 GF Match						
004 GF	\$550.0	\$1,449.0	\$2,860.0	\$4,283.0	\$5,469.0	\$6,918.0
1005 GF/Program Receipt						
1006 GF/MHTA						
Other						
TOTAL	\$550.0	\$1,449.0	\$2,860.0	\$4,283.0	\$5,469.0	\$6,918.0

Estimate of any current year (FY94) cost: \$ _____

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary.)

See attached

Prepared by: Bob Poe, Director
Division: Information & Administrative Services

Phone: 465-5010
Date: 2/24/94

Approved by Commissioner: _____
Agency: Department of Environmental Conservation

Date: 2/24/94

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FISCAL NOTE

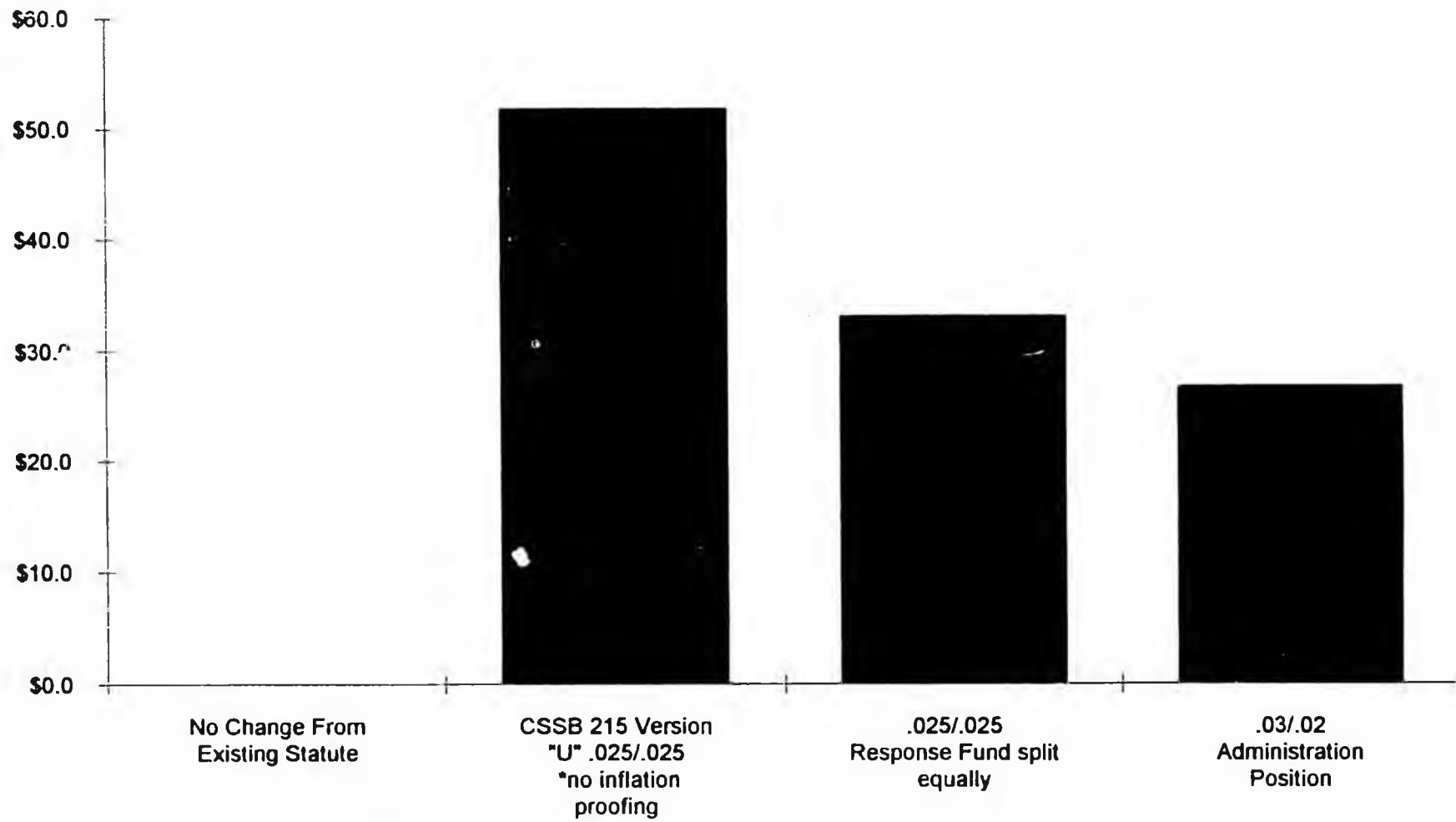
	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00	5-Year Total
Revenue from .025 surcharge	\$12,750.0	\$12,250.0	\$11,250.0	\$10,250.0	\$9,500.0	\$8,500.0	\$64,500.0
State Spill Prevention Program*	\$13,300.0	\$13,699.0	\$14,110.0	\$14,533.0	\$14,969.0	\$15,418.0	\$86,029.0
Difference	(\$550.0)	(\$1,449.0)	(\$2,860.0)	(\$4,283.0)	(\$5,469.0)	(\$6,918.0)	(\$21,529.0)
Total GF Cost	\$550.0	\$1,449.0	\$2,860.0	\$4,283.0	\$5,469.0	\$6,918.0	\$21,529.0

* This number reflects current funding of the state's spill response and prevention program, increased by 3% each year for inflation.

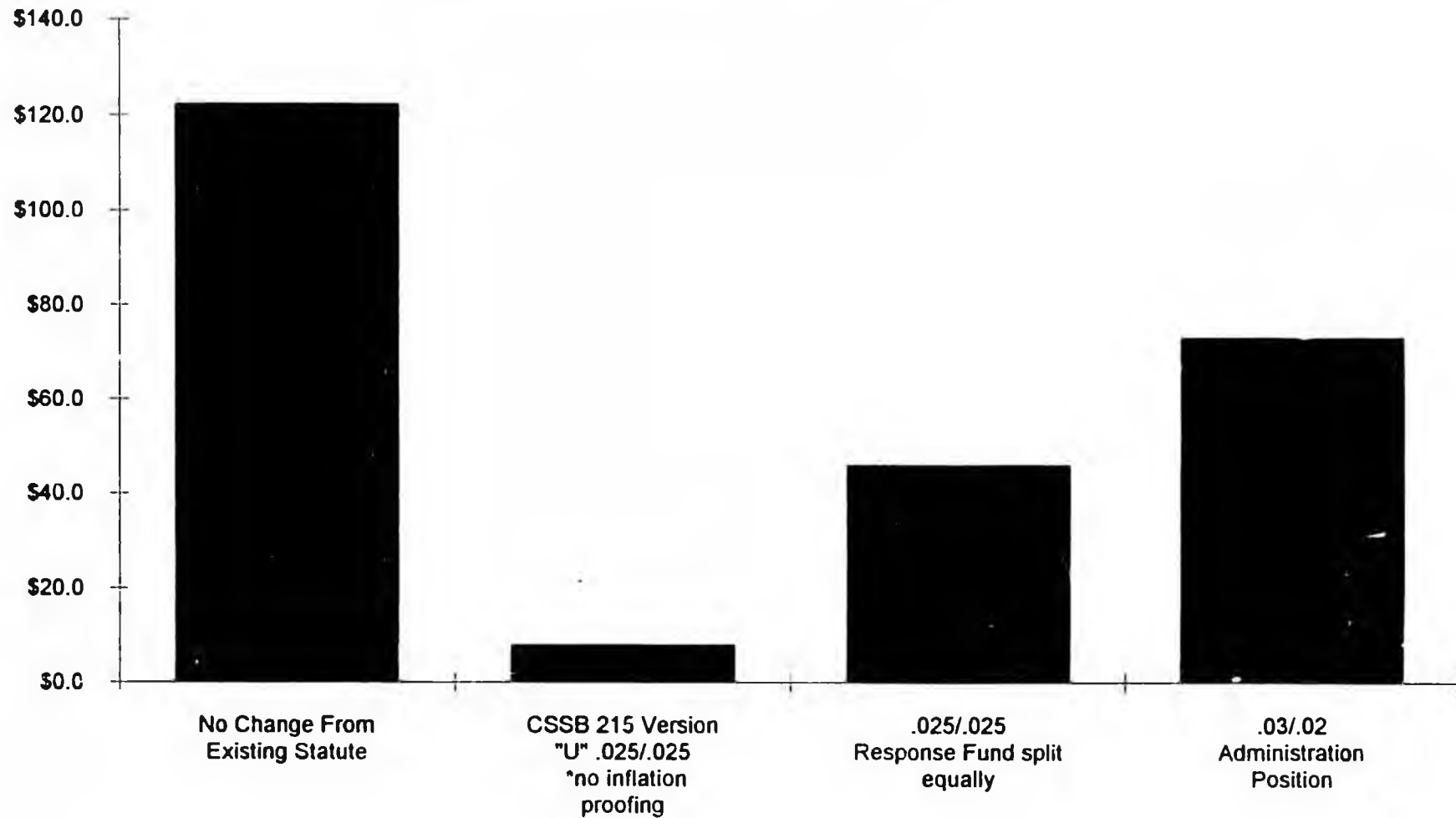
This legislation proposes to fund the state's entire spill prevention and response program from a 2.5 cent per barrel surcharge on crude oil produced in Alaska. Since SB215 Version "U" now allows the catastrophic account, established in SB215, to be used for both hazardous substance and oil spills, and there is no spill-size-threshold in order to access the catastrophic account, no non-catastrophic spill reserve need be established.

The figure for the 2.5 cent surcharge revenue is extrapolated from forecasts contained in the Department of Revenue

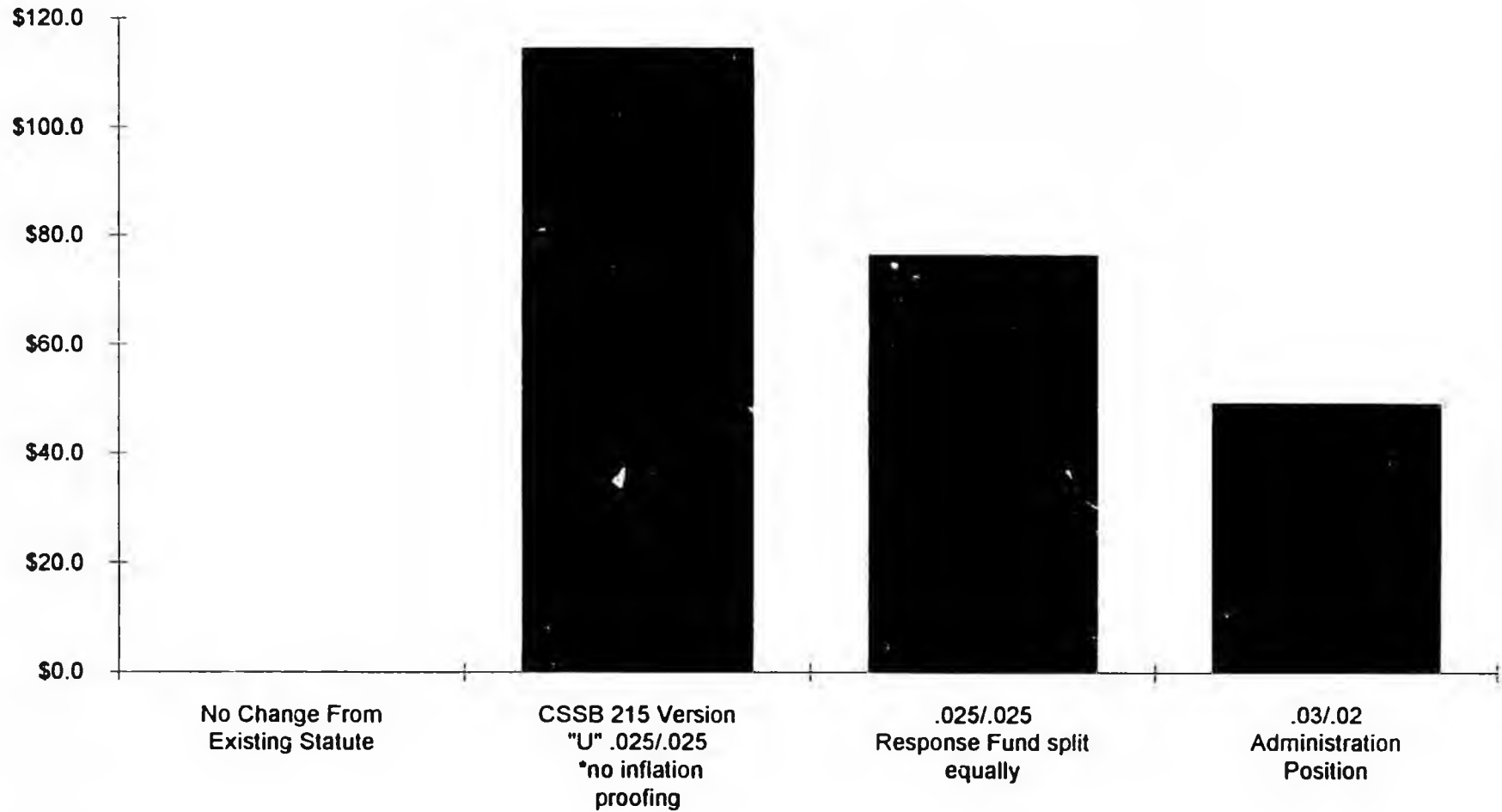
Response Fund Restructuring Options Initial Financial Benefit to Surcharge Payee



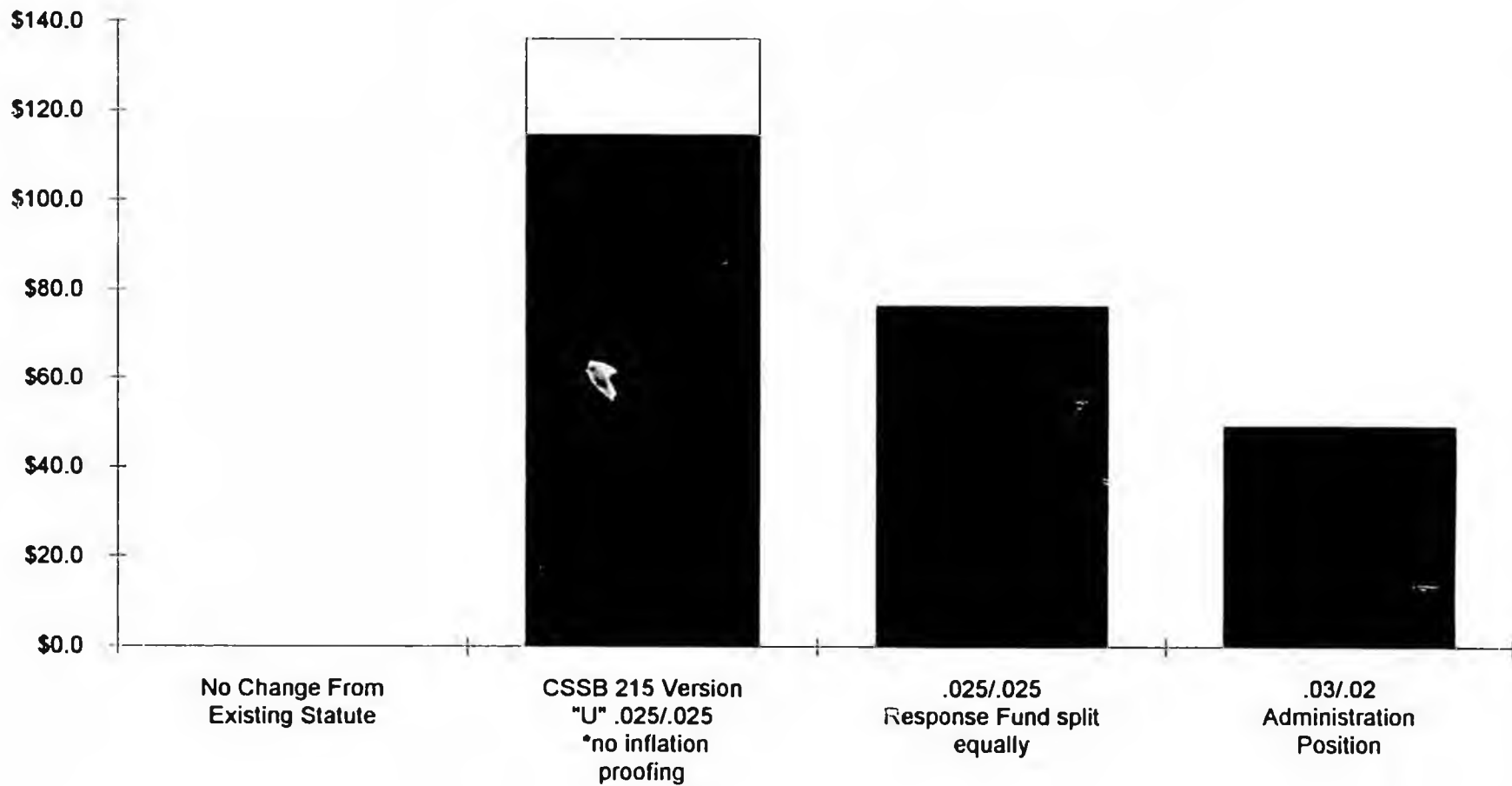
**Response Fund Restructuring Options
Total Net Cost to Surcharge Payee Over 5 Years**



**Response Fund Restructuring Options
Total Tax Savings to Surcharge Payee Over Five Years
When Compared to No Change to Existing Statute**



**Response Fund Restructuring Options
Total Cost to the State of Alaska Over Five Years
Total Tax Savings to Surcharge Payee
Combined With Additional General Funds Required**



	No Change From Existing Statute	SB 215 Version "U" .025/.025 entire Response Fund to Catastrophic Acct. *does not reflect inflation proofing	.025-Abatement Acct./025-Catastrophic Acct. Response Fund split evenly	.03-Abatement Acct./02-Catastrophic Acct. Administration Position
Fiscal Year 1995				
Initial Benefit to Surcharge Payee	\$0.0	\$51.8	\$33.1	\$26.8
Beginning Balance of Response Fund	\$63.2			
Beginning Balance of Spill Account		\$50.3	\$31.6	\$25.3
Beginning Balance of Abatement Account		\$12.9	\$31.6	\$37.9
Total .05 Surcharge Collected in FY95	\$26.2			
Total Spill Surcharge Collected in FY95		\$0.0	\$13.1	\$10.5
Total Abatement Surcharge Collected in FY95		\$13.1	\$13.1	\$15.7
Prevention & Response Prgm. All Agencies	\$13.5	\$13.5	\$13.5	\$13.5
Estimated Spill Reserve Use	\$0.8	\$0.8	\$0.8	\$0.8
Estimated Cost Recovery	\$0.3	\$0.3	\$0.3	\$0.3
Forward Funding for FY96 Program				
Surcharge Tax Credit				
Ending Balance of Response Fund	\$48.9			
Ending Balance of Spill Account		\$50.3	\$31.6	\$24.5
Ending Balance of Abatement Account		(\$1.4)	\$17.3	\$24.4
Total Cost to Surcharge Payee	\$26.2	(\$39.0)	(\$7.2)	(\$0.9)
Suspension and Reimposition Calculation	(\$6.1)	\$50.6	\$45.0	\$35.3
Fiscal Year 1996				
Beginning Balance of Response Fund	\$75.1			
Beginning Balance of Spill Account		\$50.6	\$45.0	\$35.3
Beginning Balance of Abatement Account		\$11.7	\$30.4	\$40.1
Total .05 Surcharge Collected in FY96	\$25.3			
Total Spill Surcharge Collected in FY96		\$0.0	\$6.3	\$10.1
Total Abatement Surcharge Collected in FY96		\$12.7	\$12.7	\$15.2
Prevention & Response Prgm. All Agencies	\$13.9	\$13.9	\$13.9	\$13.9
Estimated Spill Reserve Use	\$0.8	\$0.8	\$0.8	\$0.8
Estimated Cost Recovery	\$0.3	\$0.3	\$0.3	\$0.3
Forward Funding for FY97 Program				
Surcharge Tax Credit				
Ending Balance of Response Fund	\$60.7			
Ending Balance of Spill Account		\$50.6	\$45.0	\$34.5
Ending Balance of Abatement Account		(\$3.0)	\$15.7	\$26.2
Total Cost to Surcharge Payee	\$25.3	\$12.4	\$18.7	\$25.0
Suspension and Reimposition Calculation	\$4.5	\$50.9	\$51.8	\$44.9

	No Change From Existing Statute	SB 215 Version "U" .025/.025 entire Response Fund to Catastrophic Acct. *does not reflect inflation proofing	.025-Abatement Acct./025-Catastrophic Acct. Response Fund split evenly	.03-Abatement Acct./02-Catastrophic Acct. Administration Position
Fiscal Year 1997				
Beginning Balance of Response Fund	\$86.0			
Beginning Balance of Spill Account		\$50.9	\$51.6	\$44.9
Beginning Balance of Abatement Account		\$9.6	\$28.3	\$41.4
Total .05 Surcharge Collected in FY97	\$24.8			
Total Spill Surcharge Collected in FY97		\$0.0	\$0.0	\$7.4
Total Abatement Surcharge Collected in FY97		\$12.4	\$12.4	\$14.9
Prevention & Response Prgm. All Agencies	\$14.3	\$14.3	\$14.3	\$14.3
Estimated Spill Reserve Use	\$0.8	\$0.8	\$0.8	\$0.8
Estimated Cost Recovery	\$0.3	\$0.3	\$0.3	\$0.3
Forward Funding for FY98 Program				
Surcharge Tax Credit				
Ending Balance of Response Fund	\$71.2			
Ending Balance of Spill Account		\$50.9	\$51.6	\$44.1
Ending Balance of Abatement Account		(\$5.5)	\$13.2	\$27.1
Total Cost to Surcharge Payee	\$24.8	\$12.1	\$12.1	\$22.0
Suspension and Reimposition Calculation	\$14.2	\$51.2	\$51.9	\$51.8
Fiscal Year 1998				
Beginning Balance of Response Fund	\$96.0			
Beginning Balance of Spill Account		\$51.2	\$51.9	\$51.8
Beginning Balance of Abatement Account		\$6.9	\$25.6	\$42.0
Total .05 Surcharge Collected in FY98	\$23.8			
Total Spill Surcharge Collected in FY98		\$0.0	\$0.0	\$0.0
Total Abatement Surcharge Collected in FY98		\$11.9	\$11.9	\$14.3
Prevention & Response Prgm. All Agencies	\$14.8	\$14.8	\$14.8	\$14.8
Estimated Spill Reserve Use	\$0.8	\$0.8	\$0.8	\$0.8
Estimated Cost Recovery	\$0.3	\$0.3	\$0.3	\$0.3
Forward Funding for FY99 Program				
Surcharge Tax Credit				
Ending Balance of Response Fund	\$80.7			
Ending Balance of Spill Account		\$51.2	\$51.9	\$51.0
Ending Balance of Abatement Account		(\$8.6)	\$10.1	\$27.2
Total Cost to Surcharge Payee	\$23.8	\$11.6	\$11.6	\$14.0
Suspension and Reimposition Calculation	\$22.4	\$51.5	\$52.2	\$51.3

	No Change From Existing Statute	SB 215 Version "U" .025/.025 entire Response Fund to Catastrophic Acct. *does not reflect inflation proofing	.025-Abatement Acct./025-Catastrophic Acct. Response Fund split evenly	.03-Abatement Acct./02-Catastrophic Acct. Administration Position
Fiscal Year 1999				
Beginning Balance of Response Fund	\$104.5			
Beginning Balance of Spill Account		\$51.5	\$52.2	\$51.3
Beginning Balance of Abatement Account		\$3.3	\$22.0	\$41.5
Total .05 Surcharge Collected in FY99	\$22.4			
Total Spill Surcharge Collected in FY99		\$0.0	\$0.0	\$0.0
Total Abatement Surcharge Collected in FY99		\$11.2	\$11.2	\$13.4
Prevention & Response Prgm. All Agencies	\$15.2	\$15.2	\$15.2	\$15.2
Estimated Spill Reserve Use	\$0.8	\$0.8	\$0.8	\$0.8
Estimated Cost Recovery	\$0.3	\$0.3	\$0.3	\$0.3
Forward Funding for FY00 Program				
Surcharge Tax Credit				
Ending Balance of Response Fund	\$88.8			
Ending Balance of Spill Account		\$51.5	\$52.2	\$50.5
Ending Balance of Abatement Account		(\$12.7)	\$6.0	\$26.3
Total Cost to Surcharge Payee	\$22.4	\$10.9	\$10.9	\$13.1
Suspension and Reimposition Calculation	\$28.8	\$51.8	\$52.5	\$50.8
Total Net Cost - 5 Years (no discount)	\$122.5	\$8.0	\$46.1	\$73.3
Total Net Cost After Tax Effect (40% tax)	\$73.5	\$4.8	\$27.6	\$44.0
Total Tax Savings to Surcharge Payee Over Five Years When Compared to No Change to Existing Statute	\$0.0	\$114.6	\$76.4	\$49.2
Estimated 5-Year General Fund Fiscal Note	\$0.0	\$21.5	\$0.0	\$0.0
Total Cost to State of Alaska Over 5 Years	\$0.0	\$136.1	\$76.4	\$49.2



Regional Citizens' Advisory Council / 750 W. 2nd Ave., Suite 100 / Anchorage, Alaska 99501-2168 / (907) 277-7222 / FAX (907) 277-4523

"Citizens promoting environmentally safe operation of the Alyeska terminal and associated tankers."

Sectional Analysis of the Committee Substitute for Senate Bill 215 (RES), Relating to and Redesigning the Oil and Hazardous Substance Release Response Fund

Section 1 limits access to local impact grants and reduces the amount that can be granted to \$10 million per incidence. The response account can be used for grants for spills for which the response account can be accessed---catastrophic spills over 4.2 million gallons or spills for which the governor has approved use of the response account. All other grants are to come from the contingency and abatement account. Under AS 29.60.510(a)(1), local grants from the response fund are restricted to spills of 2,500 barrels or greater. It is unclear how this inconsistency in thresholds would affect grants---whether the contingency and abatement account can be used for spills less than 2,500 barrels and thus expands the grant program.

Section 2 amends AS 37.14.410 pertaining to reimbursements of expenses related to the *Exxon Valdez* clean up in light of the division of the fund into two accounts. Funds directed for deposit into the mitigation account are directed to the contingency and abatement mitigation account.

Section 3. This section imposes a new conservation surcharge of 2.5 cents per barrel used to fund the response account.

Section 4 carries forward the current provisions relating to the levy and collection of the oil conservation surcharge, but makes them applicable to the new surcharge and directs the deposit of the 2.5-cents-per-barrel surcharge to the response account in the fund.

Section 5 is the new language proposed by the Departments of Law and Environmental Conservation (DEC) as a compromise for not splitting the current nickel surcharge. It corrects the problem in current statute that under calculates the response fund balance as a result of unanticipated general fund appropriations into the response fund to pay for *Exxon Valdez* clean up. This section provides for quarterly calculation of the fund balance based on the current cash balance minus outstanding appropriations, encumbrances, and liabilities, plus the surcharge collections and the mitigation account balance available for appropriation into the fund. If this amount exceeds \$50 million or the inflation proofed amount after July 1, 1994, the surcharge is suspended. If it is less than \$50 million, the surcharge continues or is reimposed, as appropriate.

Section 6 is the incentive or blackmail clause that provides that the surcharge is suspended if surcharge proceeds are not annually appropriated to the response account within the fund. This section was also rewritten in the Department of Law and DEC compromise to include mitigation account proceeds collected as a result of expenditures from the fund.

Section 7 provides for an additional 2.5-cent-per-barrel surcharge and directs the deposit of proceeds of the surcharge to the oil and hazardous substances release contingency and abatement account in the fund.

Section 8 expands the definition of surcharge as a result of the division of the surcharge.

Section 9 redefines the purpose of the response fund and the two accounts within the fund. The purpose of the new oil and hazardous substance release prevention and response fund is 1) for expenses incurred by DEC "as an emergency first response to a release or threatened release of oil (response account), and 2) for state "use during a response to a release or threatened release of oil or hazardous substance" and "to pay the expenses of making preparations for the possibility of a release or threatened release (contingency and abatement account)."

Section 10 divides the fund into two accounts---the response account and the oil and hazardous substance release contingency and abatement account.

Section 11 provides that appropriations into either account in the fund do not lapse.

Section 12. Reflects the repeal of AS 46.08.040(d)--construction of ferries--in section 31. This provision was passed in 1991 to allow construction of a state ferry with oil spill containment and response capabilities. This section allows the fund to be used for the operating expenses and purchase of equipment to be placed in the oil and hazardous substance response depots. However, the contingency and abatement account would be used to support these activities.

Section 13 pertains to the financing of the contingency and abatement account. Funds available for appropriation into the account include federal, state, or privately donated funds; cost recovery of funds expended from the account; fines, penalties or damages recovered from spills in which response was paid from this account; interest on the fund; oil and hazardous substance release contingency and abatement mitigation account funds; and program receipts for the certification of laboratories and response action contractors. **There is no incentive or blackmail clause for the appropriation of any of these funds into the contingency and abatement account.**

Section 14 provides for the financing of the response account. Similar to section 13, funds available for appropriation into the account include federal, state, or privately donated funds; cost recovery of funds expended from the account; fines, penalties or damages recovered from spills in which response was paid from this account and all fines and penalties and damages collected under AS 46.08.005-.080 would be paid into the response account regardless of the nature of the spill.

Section 15. This section eliminates the authority to use funds in the response account for 1) maintenance of the oil and hazardous substance response office; 2) review oil discharge prevention and response plans; 3) conduct training, response exercises, inspections, and tests to verify equipment inventories and response

Regional Citizens' Advisory Council of Prince William Sound

preparedness; and 4) verification of financial responsibility. These functions are to be funded by the oil and hazardous substances release contingency and abatement account. In addition, the contingency and abatement account would be used to pay for response corps operating expenses and to purchase of equipment for response depots. **The contingency and abatement account would be used for all restoration of the environment regardless of the size or nature of a spill.**

Money from the response account can be used to 1) respond to catastrophic oil spills, 2) provide matching funds for federal oil discharge activities and the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA) in the event of a catastrophic oil release, and 3) for recovery of costs of containment and cleanup resulting from a release or threatened release to the state, a municipality, or a village from a catastrophic oil release.

This section eliminates funding for the Oil and Hazardous Substance Response Office to conduct certain spill technology research.

Section 16 provides for the use of the fund to pay for the Alaska Department of Military and Veteran Affairs expenses related to the State Emergency Response Commission to the extent to which the costs are oil or hazardous substance related.

Section 17. Requires specific appropriation for federal matching or cost recovery from the response account or *all* uses of the oil and hazardous substances release contingency and abatement account---the account can not be used unless an appropriation has been made specifically for that purpose.

Section 18 provides that the contingency and abatement account can be used to fund the Citizens' Oversight Council on Oil and other Hazardous Substances upon a request of the Alaska Legislative Council.

Section 19. Provides for the use of the response fund for sub-catastrophic spills in cases in which the DEC commissioner reports to the governor within 120 hours the nature and extent of the spill, the response action taken, the expected costs of response, and other relevant information. The governor must respond with an administrative order within the same 120 hours approving use of the fund.

Sections 20 and 21 add the requirement that the DEC commissioner report to the legislature on the uses of both accounts created by the division in this bill. It reduces some of the DEC auditing requirements for uses of the fund.

Sections 22 and 23 makes changes conforming to sections 25 and 27 for statutes related to state liens on property for the collection of of the cost of state response to releases or threatened releases.

Sections 24, 25 and 27. These sections attempt to provide consistency in the use of terms "release" and "threatened release" in AS 46.08. Section 25 provides a technically revised definition of "release" and section 24 substantially amends the definition of "threatened release." In current statute, the definition of threatened

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release is "an imminent danger that a release will occur." The new definition would be narrowed to mean a release is imminent.

A release is imminent if "it is impending, on the point of happening, or in the judgment of the commissioner, may reasonably be expected to culminate in an actual release, and that actual release may reasonably be expected to cause personal injury, other injury to life, or loss or damage to property, including the environment." It is unclear if this narrowing of definition and additional proof of "reasonableness" could impact the ability of the state to recover costs of response to threatened releases.

Section 26 is a technical cross reference of definitions.

Section 28. Repealer section including:

- repeals the authority to use the response fund for the construction or refurbishment of Alaska Marine Highway vessels with spill response capabilities;
- repeals of the Conservation Surcharge on Oil replaced by this bill, AS 43.55.200-240;
- removes DEC's authority to collect fees for contingency plan review and financial responsibility filings under AS 44.46.025(a)(4) and (5); and
- repeals the ability of the governor to access the fund in cases in which the governor has declared a disaster emergency under AS 26.23.020(c) for purposes related to oil and hazardous substances; and
- repeals section 3 of Senate Bill 260 passed in 1989; to ensure the \$50 million balance is achieved, this section makes ineffective the blackmail clause that suspends the surcharge if the legislature fails to appropriate surcharge proceeds to the response fund until the balance of the fund reaches \$50 million.

Section 29 is a note to the reviser of statutes to change the name of the response fund in other sections of law as appropriate.

Section 30. This section clarifies how appropriations, if any, made to the spill reserve fund mentioned within the context of former AS 29.60.510(b), are to be treated for purposes of determining the suspension or reimposition of the surcharge. The section states that appropriations to the former spill reserve in AS 29.60.510(b), are not expenditures.

Section 31 is a blackmail section that permanently suspends the 2.5 cent response fund surcharge if the balance of the current oil and hazardous substance release response fund is not appropriated to the response account by the Eighteenth Alaska State Legislature.

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Sections 32 is a transitional section relating to collection of surcharge proceeds that must have a drafting error because it make no sense as currently written.

Section 33 is the effective date clause for **bill section 16** which reflects the transfer of the Alaska Emergency Response Commission by Senate Bill 33.

Section 34 is the effective date clause of July 1, 1994 for all sections except section 16.



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"Citizens promoting environmentally safe operation of the Alyeska terminal and associated tankers."

Testimony on the Proposed Senate Finance Committee Substitute for ~~SB 215~~ (RES), April 7, 1994

My name is Wayne Coleman. I am a member of the executive committee of the Prince William Sound Regional Citizens' Advisory Council (RCAC). Thank you for the opportunity to testify on the proposed finance committee substitute for Senate Bill 215. While RCAC by no means embraces this bill, we appreciate the recent efforts of the Senate Finance Committee in developing this significantly improved committee substitute. We believe that RCAC has sincerely offered constructive comments on this legislation. The changes in this draft reflect the committee's willingness to listen and respond, at least in part, to our concerns.

First, I would like to briefly comment on the improvements in the draft.

- RCAC does **not** support "splitting the nickel" but we do appreciate that the prevention account conservation surcharge is increased from 2.5 cents to 3 cents per barrel. This surcharge level should provide sufficient revenues to fund the Alaska Department of Environmental Conservation (DEC) current spill prevention programs at FY 94 levels through the year 2000, if and only if, the legislature can refrain from shifting its "questionable" uses of the respond fund to the prevention account.
- Compared to previous versions of the bill, the response account is accessible for spill response actions. This is an extremely important change. In addition, response action is not limited to initial first response.
- The response account inflation proofing provision that would have resulted in a substitution of general fund deposits for surcharge collections was deleted. RCAC is not opposed to inflation proofing the response account but the proposed method was unacceptable.
- The threshold for municipal impact grants continues to be releases of 2,500 barrels or more (as in current statute). We believe that it is appropriate for grants to be paid from the response account.
- Language in the previously proposed committee substitute authorizing use of the prevention account for response depot equipment and for the acquisition of assets for preparedness measures is clarified to better ensure that expenditures relate to oil and hazardous substances.

New or unchanged problems in SB 215:

- The Senate Finance Committee substitute authorizes use of the prevention account for underground storage tank grants. This is a new use of the response

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fund. The current backlog of grant requests totals \$65 million and the application period, which was to sunset this fiscal year, is likely to be extended. Approximately \$5 million has been spent annually on this program, primarily from mitigation account proceeds. The problem with this new use of the prevention account is that 1) the 3-cent surcharge is insufficient to fund the underground storage tank grant program and maintain current spill prevention programs, 2) other sources of funds are available to underground storage tank owners, and 3) this action is inconsistent with the original stated intent of the proponents of response fund legislation---to provide greater equity in surcharge payments between crude and non crude operators.

- The entire estimated balance of the spill reserve is appropriated to the response account despite 1) approximately 42 percent of the balance originating from state general funds and not surcharge payments and 2) the current practice of paying the next fiscal year's prevention program appropriations prior to appropriating the unencumbered balance to the spill reserve. Forward funding prevention programs will become increasingly critical as North Slope production declines and the 3-cent surcharge becomes inadequate to fund prevention programs.
- In previous drafts, if the entire balance of the spill reserve was not appropriated by this 18th legislature or if the appropriation was vetoed or reduced by the governor, the 2-cent-response surcharge would be permanently suspended. In this most recent proposal, the 2-cent-response surcharge is suspended until June 30, 1995. While this is an improvement, at least 42 percent of the balance should go to the prevention account and/or FY 95 programs should be paid before appropriating the balance to the response account.
- Authorization for oil and hazardous substance response depot equipment purchases specifies the Alaska Department of Military and Veteran Affairs (DMVA), Division of Emergency Services. The DEC also has authority for establishing response depots and is the more appropriate lead agency for oil and hazardous substance depots or the oil and hazardous substances component of all-hazards depots. The DMVA would be the lead agency on all-hazards depots.
- Cost recovery efforts for state expenditures would be paid from the response account while local government and school district cost recovery efforts would be paid from the prevention account. This is inconsistent with using the response account to pay for costs associated with releases or threatened releases.

Thank you for the opportunity to testify.



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"Citizens promoting environmentally safe operation of the Alyeska terminal and associated tankers."

Testimony to the Senate Finance Committee on the Committee Substitute for Senate Bill 215 "i" draft March 25, 1994

My name is Wayne Coleman. I am a member of the executive committee of the Prince William Sound Regional Citizens' Advisory Council (RCAC). We appreciate the opportunity to testify and would like to reiterate the concerns expressed in our March 9 letter to Senator Drue Pearce and other Senate Finance Committee members. RCAC has two principal concerns regarding SB 215---access to response account funds in an efficient and effective manner in the event of spills and adequate funding for spill prevention and preparedness programs. However, the bill as currently drafted contains numerous other problems and inconsistencies.

We are extremely concerned about the changes in the "i" draft. In general, these changes reflect increased expenditures out of the contingency and abatement account that is already short funded. Specifically:

- we do not support paying costs of the under ground storage tank assistance program out of *Exxon Valdez* settlement payments directed to the contingency and abatement account because this further decreases funding for prevention programs;
- inflation proofing the balance of the response account while leaving the response account cap calculation at \$50 million effectively substitutes general fund dollars for surcharge payments---if the account is to be inflation proofed, the cap needs to be adjusted;
- while RCAC strongly supports the response depots and corps program, 1) these costs should come from the response account or only from the contingency and abatement account if the current response fund balance is divided evenly between the response account and contingency and abatement account and 2) section 15 and section 18 AS 46.08.040(a) (2)(C)(v) are too broadly worded---the current wording is a blank check to the Department of Military and Veterans' Affairs (DMVA) for all disaster related equipment and staff costs. While this is a real and valid need, at least 95 percent of these costs should more appropriately be paid from the general fund. Section 15 allows all disaster planning and preparedness to be paid from the contingency and abatement account. We believe oil and hazardous substances depot equipment costs should be appropriated from the response account to the Alaska Department of Environmental Conservation. The DMVA's record to date on response depots and corps is at best poor (see attached report).

Response Account Access

Under the Resource Committee CS, access to response account funds for spill response is limited to catastrophic oil spills (4.2 million gallons). The account can also be accessed for oil spills less than 4.2 million gallons or all hazardous substance spills, if within 120 hours the DEC commissioner prepares and provides the governor a written report. Within that same 120 hour period, an administrative order must be written approving the use of the funds.

As mentioned previously, what recourse is there if approval does not occur, the 120-hour time period is missed. In the cases of the thousands of relatively small, chronic spills in which the administrative order provisions may prove to be excessive, it is unclear how access to the contingency and abatement account for spill response would occur. As written, all uses of the contingency and abatement account are subject to legislative appropriation. As currently drafted, the abatement account can not be accessed for spill response. Though this probably does not matter since there will be insufficient funds in the account for spill response.

In none of the many hearings on SB 215 and the House companion HB 238 have any reasons been cited for limiting access to response funds to catastrophic spills. There is no evidence that the Alaska Department of Environmental Conservation (DEC) has misused response funds in the course of responding to spills. As a matter of fact, in the last five years less than one percent of response fund expenditures have been used by DEC to pay for spill response. All other expenditures of response funds have been by legislative appropriation for uses authorized in statute. A recent legislative audit has confirmed that the DEC has used response funds properly.

The administrative order provision is cumbersome, inefficient, bureaucratic and expensive. At the very least it should include a provision for paying out of the response account the Department of Law and the Office of the Governor for processing an average of three administrative orders per day---approximately 2,000 spills happen annually in Alaska. The DEC responds to about half of these and all except the *Exxon Valdez* spill are subcatastrophic.

A likely impact of this legislation is that DEC will respond to fewer spills despite the threat of these spills to the environment and public health. One of the complaints voiced by communities regarding DEC is that DEC does not access response funds to respond to spills often enough.

Spill Prevention and Preparedness Program Funding

The FY 95 governor DEC budget request represents continued funding at the FY 94 level. The FY 94 budget was a substantial reduction from earlier budgets. This level of funding has been termed by a recent legislative audit

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of the response fund as already seriously cut--- "We wonder whether complacency is again taking root." While 2.5 cents may be a Senate caucus position, it is unreasonable, unfounded in reality, and seriously jeopardizes spill prevention and preparedness programs.

Opposition to dividing the fund is based on insufficient revenues generated by the 2.5 cent surcharge. If the proposal provided an adequate and predictable level of funding for spill prevention and preparedness programs, this might be reasonable. To date, however, bill proponents have offered little more than misinformation, bordering on slander, to justify the adequacy of their proposed level of funding. An unbiased review of the numbers clearly indicates that 2.5 cents is inadequate. The legislative audit confirms this point.

Other points to consider:

- Appropriation of the entire balance of the response fund into the response account makes uncertain the funding mechanism for FY 95 spill prevention programs.
- Restoration costs should be paid by the response account not the abatement account because restoration is part of spill clean up.
- The response account should be accessible for the purchase of equipment for response depots.
- Fines and penalties should not be counted against the \$50 million cap--- this is synonymous to using proceeds from a bank robbery to pay restitution.
- The committee substitute contains a blackmail section that permanently suspends the 2.5 cent response fund surcharge if the balance of the current oil and hazardous substance release response fund is not appropriated to the response account by the Eighteenth Alaska State Legislature. This is a rather extreme measure that seriously jeopardizes the existence of Alaska's response fund.
- This proposed committee substitute specifically removes the Alaska Department of Environmental Conservation authority to charge fees for review of contingency plans and financial responsibility filings. This was done to avoid the potential shifting of the costs of these services to non-crude oil and hazardous substances operators. However, the statutory requirements for these programs are not changed. Therefore, the deterioration in the level, quality, and timeliness of these services will be the cost to all oil and hazardous substance businesses. This provision should be removed because it is a blatant attempt to neutralize public opposition but does not address the problem of inadequate funding.

CORRECTION

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

Prince William Sound Regional Citizens' Advisory Council

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Prince William Sound Regional Citizens' Advisory Council

- The committee substitute limits the amount of local grants to \$10 million per spill and restricts use of the response account for local grants for catastrophic spills---10,000 barrels or 4.2 million gallons or spills which the governor has approved use of the response account. All other grants are to come from the contingency and abatement account. Under AS 29.60.510(a)(1), local grants from the response fund are restricted to spills of 2,500 barrels or greater. It is unclear how this inconsistency in thresholds would affect grants---whether the contingency and abatement account can be used for spills less than 2,500 barrels and thus expands the grant program. It is likely, however, that there will be insufficient funds in the contingency and abatement account to make grants for spills less than 10,000 barrels.
- The impact on state cost recovery authority of the amended definition of "threatened release" remains unclear.



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"Citizens promoting environmentally safe operation of the Alyeska terminal and associated tankers."

**Testimony to the Senate Finance Committee on the
Committee Substitute for Senate Bill 215 (RES)
March 22, 1994**

My name is Wayne Coleman, vice-president of the Prince William Sound Regional Citizens' Advisory Council (RCAC). We appreciate the opportunity to testify and would like to reiterate the concerns expressed in our March 9 letter to Senator Drue Pearce and other Senate Finance Committee members. RCAC has two principal concerns regarding SB 215---access to response account funds in an efficient and effective manner in the event of spills and adequate funding for spill prevention and preparedness programs. However, the bill as currently drafted contains numerous other problems and inconsistencies.

Response Account Access

Under the Resource Committee CS, access to response account funds for spill response is limited to catastrophic oil spills (4.2 million gallons). The account can also be accessed for oil spills less than 4.2 million gallons or all hazardous substance spills, if within 120 hours the DEC commissioner prepares and provides the governor a written report. Within that same 120 hour period, an administrative order must be written approving the use of the funds.

As mentioned previously, what recourse is there if approval does not occur, the 120-hour time period is missed. In the cases of the thousands of relatively small, chronic spills in which the administrative order provisions may prove to be excessive, it is unclear how access to the contingency and abatement account for spill response would occur. As written, all uses of the contingency and abatement account are subject to legislative appropriation. As currently drafted, the abatement account can not be accessed for spill response. Though this probably does not matter since there will be insufficient funds in the account for spill response.

In none of the many hearings on SB 215 and the House companion HB 238 have any reasons been cited for limiting access to response funds to catastrophic spills. There is no evidence that the Alaska Department of Environmental Conservation (DEC) has misused response funds in the course of responding to spills. As a matter of fact, in the last five years less than one percent of response fund expenditures have been used by DEC to pay for spill response. All other expenditures of response funds have been by legislative appropriation for uses authorized in statute. A recent legislative audit has confirmed that the DEC has used response funds properly.

Prince William Sound Regional Citizens' Advisory Council

The administrative order provision is cumbersome, inefficient, bureaucratic and expensive. At the very least it should include a provision for paying out of the response account the Department of Law and the Office of the Governor for processing an average of three administrative orders per day--- approximately 2,000 spills happen annually in Alaska. The DEC responds to about half of these and all except the *Exxon Valdez* spill are subcatastrophic.

A likely impact of this legislation is that DEC will respond to fewer spills despite the threat of these spills to the environment and public health. One of the complaints voiced by communities regarding DEC is that DEC does not access response funds to respond to spills often enough.

Spill Prevention and Preparedness Program Funding

The FY 95 governor DEC budget request represents continued funding at the FY 94 level. The FY 94 budget was a substantial reduction from earlier budgets. This level of funding has been termed by a recent legislative audit of the response fund as "already seriously cut--- "We wonder whether complacency is again taking root." While 2.5 cents may be a Senate caucus position, it is unreasonable, unfounded in reality, and seriously jeopardizes spill prevention and preparedness programs.

Opposition to dividing the fund is based on insufficient revenues generated by the 2.5 cent surcharge. If the proposal provided an adequate and predictable level of funding for spill prevention and preparedness programs, this might be reasonable. To date, however, bill proponents have offered little more than misinformation, bordering on slander, to justify the adequacy of their proposed level of funding. An unbiased review of the numbers clearly indicates that 2.5 cents is inadequate. The legislative audit confirms this point.

Other points to consider:

- Appropriation of the entire balance of the response fund into the response account makes uncertain the funding mechanism for FY 95 spill prevention programs.
- Restoration costs should be paid by the response account not the abatement account because restoration is part of spill clean up.
- The response account should be accessible for the purchase of equipment for response depots.
- Fines and penalties should not be counted against the \$50 million cap--- this is synonymous to using proceeds from a bank robbery to pay restitution.

Prince William Sound Regional Citizens' Advisory Council

- The committee substitute contains a blackmail section that permanently suspends the 2.5 cent response fund surcharge if the balance of the current oil and hazardous substance release response fund is not appropriated to the response account by the Eighteenth Alaska State Legislature. This is a rather extreme measure that seriously jeopardizes the existence of Alaska's response fund.
- This proposed committee substitute specifically removes the Alaska Department of Environmental Conservation authority to charge fees for review of contingency plans and financial responsibility filings. This was done to avoid the potential shifting of the costs of these services to non-crude oil and hazardous substances operators. However, the statutory requirements for the programs are not changed. Therefore, the deterioration in the level, quality, and timeliness of these services will be the cost to all oil and hazardous substance businesses. This provision should be removed because it is a blatant attempt to neutralize public opposition but does nothing to address the problem of inadequate funding.
- The committee substitute limits the amount of local grants to \$10 million per spill and restricts use of the response account for local grants for catastrophic spills---10,000 barrels or 4.2 million gallons or spills which the governor has approved use of the response account. All other grants are to come from the contingency and abatement account. Under AS 29.60.510(a)(1), local grants from the response fund are restricted to spills of 2,500 barrels or greater. It is unclear how this inconsistency in thresholds would affect grants---whether the contingency and abatement account can be used for spills less than 2,500 barrels and thus expands the grant program. It is likely, however, that there will be insufficient funds in the contingency and abatement account to make grants for spills less than 10,000 barrels.
- The impact on state cost recovery authority of the amended definition of "threatened release" remains unclear.

5B 215

My name is Wayne Coleman, I am a member of the Executive Committee of the Regional Citizens Advisory Council (RCAC) of Prince William Sound. I am the Kodiak Island Borough's representative on that Council.

The RCAC continues to stress grave concerns regarding both the process for and the intent of this bill. Inter Alia the all too fast-track of this bill leaves little time for public scrutiny. Additionally the process, such as delaying the start of this hearing today, really constrains citizen's input because most of us are busy trying to make a living and we do not have the luxury of spending an inordinate amount of time on these issues.

We have previously testified to this committee and to other Senate and House committees regarding this issue. Our concerns are a matter of record and I would urge committee members to review and seriously consider the information provided by the RCAC. Accordingly I will not categorically reiterate out relative and sincere concerns at this time.

I want to point out that the scorecard to date is running more than 10 to 1 in opposition to this bill and the various versions rendered by both bodies of the Legislature. It is basically the public (10) who would be adversely impacted by this bill to the industry (1) who would benefit.

One additional thing to consider: The administration is presently proposing a motor fuel tax increase from the current \$3.36 per barrel to \$10.50 per barrel rate. This higher rate equates to TWO HUNDRED TEN (210) NICKELS. Why is the Legislature proposing a reduction of a part of a NICKEL for the producers while there is the potential to increase the levy by ONE HUNDRED FORTY THREE NICKELS (67 current to 210 proposed) for consumers.

Thank You for the opportunity to again be a part of this process, at least by accepting this written testimony, even though the time restrictions this date precluded my oral participation.



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"Citizens promoting environmentally safe operation of the Alyeska terminal and associated tankers."

Committee Substitute for Senate Bill 215 (RES)

The Committee Substitute (CS) for Senate Bill (SB) 215 (RES) makes three fundamental changes to the Oil and Hazardous Substance Release Response Fund (OHSRRF)---the CS 1) restricts uses of the fund; 2) divides the fund into two accounts, the response account and the contingency and abatement account; and 3) changes the method for calculating the balance of the fund.

The committee substitute incorporates language changes the method for calculating the \$50 million cap on the response fund balance and the manner in which the surcharge is imposed and suspended.

The incorporation of this language constitutes at least a \$52 million reduction in North Slope oil producers' surcharge payments in the near term. In addition, dividing the surcharge into two, 2.5-cent accounts is worth an additional approximately \$22 million to surcharge payers. This results from insufficient funding of DEC spill prevention and response programs for fiscal years 95 through 2000. Therefore, the direct cost of this proposal in surcharge payments to the state of Alaska is approximately \$74 million.¹ Indirect costs resulting from impacts of losing prevention programs may be considerably higher.

The committee substitute contains a blackmail section that permanently suspends the 2.5 cent response fund surcharge if the balance of the current oil and hazardous substance release response fund is not appropriated to the response account by the Eighteenth Alaska State Legislature.

This overview discusses the principal features of the proposed CSSB 215 (RES). Sections of the bill are included to facilitate reference.

Purposes of the Fund

The purpose of the new oil and hazardous substance release prevention and response fund is 1) for expenses incurred by DEC "as an emergency first response to a release or threatened release of oil (response account), and 2) for state "use during a response to a release or threatened release of oil or

¹This estimate is based on a 1) November 5, 1993 spreadsheet by the Office of the Governor, Office of Management and Budget which showed the statutory calculation of the response fund at -\$15.1 million while the actual balance is \$37.2 million. and 2) an estimate of the annual budget shortfall based on the DEC fiscal note for SB 215 (2/24/94). Fiscal note calculations hold the DEC, Division of Spill Prevention and Response (SPAR) at FY 94 levels through FY 2000. These budgets reflect reductions from prior years.

hazardous substance" and "to pay the expenses of making preparations for the possibility of a release or threatened release (contingency and abatement account)." The purposes section in this draft is relatively unclear compared to current statute. [section 9]

"Two-and-a-Half-Cents" Accounts

The proposal divides the new fund into two accounts. The "catastrophic oil release account" referred to in draft committee substitutes is now called the "response account." This new name reflects the expanded use of the account to include hazardous substances and the ability to access the fund for subcatastrophic spills if approved by the governor. While the Senate Resources Committee expanded the use of the response fund to include hazardous substance response, this change is not reflected in section 19, "use of the balance of the response account."

The response account would receive 2.5 cents of the surcharge. Uses of the response account would be restricted to spill response [sections 15 and 19]. When the \$50 million cap is reached, this 2.5 cent portion of the surcharge would be suspended [section 5]. The committee substitute inflation proofs the \$50 million response account [section 5].

Spill response for all spills less than 100,000 barrels or 4.2 million gallons would be paid for from the contingency and abatement account unless the DEC commissioner requests and receives within 120 hours an administrative order from the governor approving use of the response fund. **If this approval does not occur, the 120-hour time period is missed, or in the cases of the thousands of relatively small, chronic spills in which the administrative order provisions may prove to be excessive, it is unclear how access to the contingency and abatement account for spill response would occur. As written, all uses of the contingency and abatement account are subject to legislative appropriation.**

Similar to earlier drafts, the purpose and name of the "oil and hazardous substances release contingency and abatement account" remains the same. The **contingency and abatement account** would receive 2.5 cents of the 5-cent surcharge [section 7]. All funding for spill prevention programs would be from this account [section 15]. This 2.5-cent surcharge would be paid indefinitely with no capping mechanism.

The primary flaws of this proposal are that the 1) 2.5-cent-per-barrel surcharge is insufficient to fund DEC spill prevention, preparedness, clean up and response programs and 2) despite the Senate Resources Committee attempt to remedy the problems imposed by restricting access to the response fund based on spill size, the state's ability to respond to most spills is still significantly hampered. Funding for prevention programs is insufficient with current oil production levels and the problem becomes more acute as North Slope production declines. The proposal

would force a continued reduction in DEC programs or the supplementing of general fund money at the same time state revenues are also declining.

Fiscal Impact

According to a Alaska Department of Environmental Conservation (DEC) analysis and fiscal note, the 2.5 cent account is insufficient to fund the department's core prevention and response programs. This analysis was conducted using the DEC's FY 94 budget, which is significantly reduced from prior years. According to DEC, changing the allocation of surcharge revenues to provide 3 cents of each nickel for spill preparedness, prevention, and clean up programs is still insufficient.

Changing how the fund balance is calculated and appropriating the balance of the fund to the response account is worth \$52 million to surcharge payers. In addition, another approximately \$22 million less in surcharge payments occurs from insufficient funding of DEC spill prevention and response programs for fiscal years 95 through 2000. Therefore, the direct cost to the state of Alaska of this proposal is at least \$74 million. It is unclear how FY 95 prevention and response programs will be paid from the contingency and abatement account if the balance of the current Oil and Hazardous Substance Release Response Fund is paid to the response account [sections 31 and 32, though section 32 appears to have a drafting error which when fixed would appropriate half of FY 94 surcharge proceeds to the contingency and abatement account].

This proposed committee substitute specifically removes the Alaska Department of Environmental Conservation authority to charge fees for review of contingency plans and financial responsibility filings [section 28]. This was done to avoid the potential shifting of the costs of these services to non-crude oil and hazardous substances operators. However, the statutory requirements for these programs are not changed. Therefore, the deterioration in the level, quality, and timeliness of these services will be the cost to all oil and hazardous substance businesses.

Definition of Threatened Release

In current statute, the definition of threatened release is "an imminent danger that a release will occur." In both proposals, the new definition would be narrowed to mean a release is imminent. A release is imminent if "it is impending, on the point of happening, or in the judgment of the commissioner, may reasonably be expected to culminate in an actual release, and that actual release may reasonably be expected to cause personal injury, other injury to life, or loss or damage to property." [sections 25, 27] It is unclear if this narrowing of definition and additional proof of "reasonableness" could impact the ability of the state to recover costs of response to threatened releases.

Municipal Grants

The committee substitute limits the amount of local grants to \$10 million per spill and restricts use of the response account for local grants for catastrophic spills--10,000 barrels or 4.2 million gallons or spills which the governor has approved use of the response account. All other grants are to come from the contingency and abatement account. Under AS 29.60.510(a)(1), local grants from the response fund are restricted to spills of 2,500 barrels or greater. It is unclear how this inconsistency in thresholds would affect grants--whether the contingency and abatement account can be used for spills less than 2,500 barrels and thus expands the grant program. It is likely, however, that there will be insufficient funds in the contingency and abatement account to make grants for spills less than 10,000 barrels.

Response Corps and Depots

Prior versions transferred the response corps and depots from the Alaska Department of Military and Veteran Affairs (DMVA), Division of Emergency Services (DES) to the Alaska Department of Environmental Conservation (DEC) and the state emergency response commission and the local emergency planning commissions from DEC to DMVA. These sections have been dropped. Transfer of the SERC still occurs in SB 33. Depots and corps are not transferred but become "all-hazards" in SB 33.

Mitigation Account Funds

For purposes of determining whether the tax shall apply, the calculation of the income stream is amended to include amounts previously expended from the oil and hazardous substance release response fund (the current 470 fund) that have been recovered and re-deposited into the mitigation account [section 14]. Appropriation of mitigation account funds to the response account are included in the "incentive or blackmail clause." [section 6]

Cost Recovery

The proposed CS contains more specific language regarding cost recovery and some provisions that appear unclear or contradictory [sections 13 and 14]. The bill includes municipal and village costs paid from the contingency and abatement account as recoverable back to that account. For the response account, municipal and village costs from a catastrophic release are recoverable to that account even if they were not paid out of response account (no parallel wording regarding the extent to which funds originated in the account). **In addition, it appears that all fines, penalties, and damages recovered**

under AS 46.08.005-.080 would be paid into the response account regardless of the nature of the spill.

Restoration

Under this new proposal, the contingency and abatement account would be used for all restoration of the environment even if the spill was catastrophic. [section 15]

From the desk of

Richard A. Fineberg
Ester, Alaska 99725

P.O. Box 416

Phone / Fax (907) 479-7778

(Via Fax)

March 21, 1994

Senator Drue Pearce, Chair
Senate Finance Committee
Alaska State Legislature
Juneau, Alaska 99801-1182

Re: SB 215 / HB 238 ("470" Fund)

Dear Senator Pearce:

Once again you are being asked to consider bills modifying the oil spill response "470" fund on behalf of the oil industry. I am strongly opposed to any attempt to restructure or reduce the "470" fund and its mission without clear recognition of two things:

==> the crucial importance of prevention in the State's oil spill prevention program; and

==> the incredible magnitude of North Slope profits.

Regarding the first point, I find it strange that less than five years after the Exxon Valdez ran aground, unleashing what was arguably the worst oil spill in this nation's history, citizens are once again have to remind the Legislature that foolish complacency and misplaced trust played major roles in causing that spill. Although the Senate Resources Committee blatantly ignored the testimony from others in opposition to changing the "470" fund at this time, I believe that strong and well-grounded testimony covered the first point; I turn therefore to the second.

Spread across all North Slope oil production, the so-called "nickel-per-barrel" surcharge actually amounts to less than three cents per barrel after taxes. According to the Dept. of Revenue's Feb. 9 letter to Senator Zharoff, there are two principal reasons for this: First, the surcharge does not apply to royalty barrels, and, secondly, on the remaining 7/8 of production to which the surcharge applies, it is deductible from federal income tax. In simplified form, the true cost of the nickel per barrel would look like this:

\$0.05	surcharge on taxable (non-royalty) barrels
x 0.875	approximate equity (non-royalty) fraction
= \$0.04375	pre-tax surcharge spread across all barrels
x 0.65	35% federal income tax allowance for the \$0.04375 per-barrel payment
= \$0.02843	(2.843 cents per barrel) cost of the nickel-per-barrel after consideration of royalty and federal income tax effects

That's less than one percent of CY 1993 after-tax Alaska North Slope production and pipeline profits of approximately \$2.96 per barrel. That per-barrel profit produced an annual profit in excess of \$1.7 billion for the industry. This estimate, incidentally, fully recognizes the industry's poor fourth-quarter performance. Even on those few dark days in December when prices were at the \$10.00 per-barrel level, it appears that North Slope profits were still running on the order of \$400,000.00 per day.

To determine whether this 2.8 cents per barrel significantly affects oil industry operations, let's consider these profits in terms of what an investor might earn

elsewhere. If North Slope production and pipelining were controlled by one company instead of three, that firm's 1993 profits would have ranked on a par with the seventh most profitable firm on the Fortune 500 list of the nation's most profitable companies in 1992. Clearly, North Slope investors would be hard-pressed to duplicate their North Slope profits anywhere else in the nation. The Fortune listing from 1992 is attached to demonstrate that North Slope operations rank among the most profitable enterprises in the nation.

It is also noteworthy that compared to Fortune 500 leaders in other industries, the North Slope is remarkably constant in its profits. Between 1987 and 1992, I estimate that North Slope production and pipelining profits exceeded \$2 billion in every year. By comparison, during those years, Fortune 500 powerhouses such as GM and IBM vanished from the ranks of the most profitable, racking up huge losses for several years in a row when they encountered hard times. In contrast, the costs of the Exxon Valdez didn't even knock Exxon out of the top five in 1989, while the oil market's travails in late 1993 only put a relatively small dent in the profitability of Alaskan operations for the year.

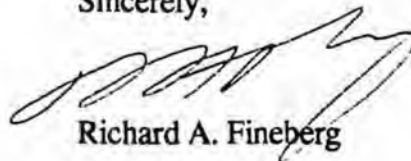
The spreadsheet on which my 1993 profit estimates are based is attached. The right-hand column identifies the sources for the data I have used. These are all published sources, and perhaps the most surprising thing is that the industry's ongoing public relations campaign has been so effective that these numbers are not widely discussed. Those of you who are familiar with the estimates I did in 1992 in a report to the Senate Finance Committee will recognize that I have revised my estimates to reflect new production cost data released by the Department of Revenue and published last fall by the Legislative Research Agency.

Clearly, \$0.03 per barrel is at most a minute fraction of North Slope profits. Moreover, this surcharge is virtually irrelevant to long-term industry profitability models, which typically forecast price changes in the \$2.00- to \$5.00-per-barrel range. Those models indicate that the North Slope should produce similarly strong profits into the next century, with or without alteration to the "470" fund.

I can think of several reasons why the oil industry might wish to divert the Legislature into wasting time on this red herring. But I can see no good reason why you, as our elected representatives, should fall for this industry ploy. In my estimation, your time during a 120-day session is too valuable to waste on this excursion. Your services are badly needed in other areas.

If I can provide additional information, please let me know. In the meantime, I close with best wishes in your efforts to resolve the far more pressing administrative and budget problems facing you.

Sincerely,



Richard A. Fineberg

enc.

1993 Profit est. (1 page)

ANS Profits Worksheet (Research Associates 2/94)

North Slope Profit Analysis: ALL FIELDS		-- CY 93 ANS Avg. (\$/bbl.) -- /		Notes (2/16/94) LRA 9/93 prod. costs
		Gulf Coast	West Coast	
1	Average Price for ANS (Spot)	\$16.36	\$15.45	ADOR (thru Nov.; Dec. = BP posting)
2	Quality Adjusted Price			(n.a.)
3	Production / Disposition	<i>Bbls. year</i>	<i>Day</i>	
a	Production (mm bbls. yr. / day)	586.19 /	1.606	ADOR (MMS; ReveNews)
b	Volume to East / West Coast (%)	13.80%	36.20%	ADOR (avg. thru Nov.)
4	Feeder Pipeline Tariffs	(\$0.10)	(\$0.10)	Wghtd. avg. sum of items 4a thru 4g (1992 data)
a	Operating & capital costs	(\$0.04)	(\$0.04)	Alaska Dept. of Law (ADL; 7/29/92) less 4b
b	State & local property tax (pipelines)	\$0.00	\$0.00	30% of total property tax * (feeder tariff / TAPS tariff)
c	State income tax (pipelines)	\$0.00	\$0.00	4d * (eff. state tax rate / eff. fed. tax rate)
d	Federal income tax (pipelines)	(\$0.01)	(\$0.01)	ADL (7/29/92) less item 4c
e	After-tax margin	(\$0.02)	(\$0.02)	ADL (7/29/92)
f	Recovery of deferred return	(\$0.01)	(\$0.01)	*
g	DR&R allowance	\$0.00	\$0.00	*
5	TAPS Pipeline Tariff	(\$2.92)	(\$2.92)	From ADOR Shortcut
a	Operating & capital costs	(\$0.97)	(\$0.97)	Line 5 - (lines 5b thru 5g)
b	State & local property tax (pipelines)	(\$0.16)	(\$0.16)	30% of total property tax
c	State income tax (pipelines)	(\$0.09)	(\$0.09)	5d * (eff. state tax rate / eff. fed. tax rate)
d	Federal income tax (pipelines)	(\$0.60)	(\$0.60)	ADL (7/29/92) less item 4c
e	After-tax margin	(\$0.56)	(\$0.56)	ADL (7/29/92)
f	Recovery of deferred return	(\$0.49)	(\$0.49)	*
g	DR&R allowance	(\$0.05)	(\$0.05)	*
h	Pumpability Charge			
6	State Share (Feeder Lines)	(\$0.01)	(\$0.01)	Sum of items 4b, 4c
7	Federal Share (Feeder Lines)	(\$0.01)	(\$0.01)	Item 4d
8	Industry Profit (Feeder Lines)	\$0.03	\$0.03	Sum of items 4c, 4f
9	State Share (TAPS)	(\$0.25)	(\$0.25)	Sum of items 5b, 5c
10	Federal Share (TAPS)	(\$0.60)	(\$0.60)	Item 5d
11	Industry Profit (TAPS)	\$1.05	\$1.05	Sum of items 5e, 5f
12	Tanker (to Gulf / West Coast)	(\$3.42)	(\$1.11)	ADOR (from USFRA/ATRA thru July)
13	Wellhead value	\$9.92	\$11.32	Sum of items 1, 4, 5, 12
14	State Royalties, Production & Property Taxes	(\$2.78)	(\$3.12)	Sum of items 14a thru 14d
a	Royalty	(\$1.17)	(\$1.34)	Item 13 less field costs * est. field royalty
b	Severance tax	(\$1.19)	(\$1.36)	Item 13 * .875 * nominal severance * ELF
c	Spill Response & Conservation Tax	(\$0.05)	(\$0.05)	\$0.054 * .875
d	State & local property tax (production)	(\$0.37)	(\$0.37)	70% of total property tax (from ADOR Spr. 93, p. 6)
15	Production costs	(\$5.17)	(\$5.17)	Sum of items 15a, 15b (assumed = FY 1993)
a	Lifting Costs	(\$1.86)	(\$1.86)	From Leg. Res. Agency FY 93 (Sept. '93)
b	Depletion, Depreciation & Amortization	(\$3.31)	(\$3.31)	*
16	Net Revenue (production)	\$1.98	\$3.03	Sum of items 13, 14, 15
17	State Income Tax (production)	(\$0.12)	(\$0.12)	ADOR Fall 93 forecast less items 4c, 5c
18	Federal Income Tax (production)	(\$0.61)	(\$0.94)	Est. 33.0% of items 16 + 17
19	Industry Profit (production)	\$1.24	\$1.98	Sum of items 16 thru 18
20	Total State Share (production + pipelines)	\$3.15	\$3.49	Sum of items 6, 9, 17
21	Total Federal Share (production + pipelines)	\$1.23	\$1.55	Sum of items 7, 10, 18
22	Total Industry Profit (production + pipelines)	\$2.33	\$3.06	Sum of items 8, 11, 19
23	CY 93 Industry Avg. per-barrel ANS Profit			\$2.96 (Gulf [line 22 * line 3b]) + (W. C. [line 22 * line 3b])
24	Est. CY 93 Industry Profits = = = >	\$1,735.5	billion	(Line 23 * line 3a)



Cordova District Fishermen United

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March 21, 1994

Senator Drue Pearce
Co-Chair, Senate Finance Committee
State Capitol
Juneau, AK 99801-1182

MAR 24 1994

Dear Senator Pearce:

On behalf of the Cordova District Fishermen United (CDFU), I wish to express our opposition to the SB 215 (Resources). There is no compelling reason for this bill other than to provide a tax reduction to the oil industry and undermine state authority to prevent and respond to oil and hazardous substance spills.

There is a great deal of misinformation being spread about the 470 Fund. Most of the examples being cited to show how the fund is being misused actually involve relatively small amounts of money for contaminated sites on state land where the responsible party is unknown or unable to pay and the site is posing a threat to public health or the environment. In addition, these appropriations were approved by the legislature through the appropriations process. If adjustments are necessary, a more direct method is to amend the DEC budget through the finance committee appropriations process. In addition, the audit recently conducted by Legislative Budget and Audit shows that expenditures made by DEC were all appropriate and within the allowable uses of the fund.

One of the most important lessons we learned from the Exxon Valdez oil spill is that prevention is the best tool we have to protect public health and the environment from oil spills. By splitting the nickel, the legislature is, in effect, reducing funding for critical prevention programs and reducing what was intended to be a 5 cent tax to a 2.5 cent tax in the future.

The "catastrophic oil release response account" which would receive 2.5 cents of the per barrel surcharge would be available only for the most extreme spill events, and only for "emergency response." Since the likelihood of an oil spill of 100,000 barrels or more is quite small, we can anticipate this fund will remain dormant and collect dust while the state is left without the ability to deal with the serious acute and chronic effects of smaller spills. Any spill can be catastrophic. The size of a spill matters far less than where the spill occurs (i.e., a municipal drinking water system or an anadromous fish stream) or what substance is spilled. CDFU recommends that if the fund is split, the response fund should be available for response all sizes of spills both oil and hazardous substances.

The remaining 2.5 cents would go into the "oil and hazardous substances release contingency and abatement account." This amount would be woefully inadequate to fund the ongoing spill prevention and response programs presently being funded from the 470 Fund.

There are several other problems with the SB 215. Among other things, it would:

- cause detrimental reductions in spill prevention and response programs now and especially in the future as North Slope production declines, threatening public health and the environment;
- give a \$74 million reduction in the nickel-per-barrel tax that was intended to be ongoing;
- reduce DEC's ability to respond to hazardous substance spills and spills smaller than 100,000 barrels;
- allow the legislature to permanently suspend the surcharge if the legislature does not appropriate the entire balance of the spill reserve to the new response account;
- reduce DEC's flexibility to expeditiously respond to a spill that could threaten the economy, public health or the environment;
- allow fines and penalties levied for illegal actions to be credited toward the suspension of the tax; and
- place the entire balance of the spill reserve into the catastrophic account, allowing for no transition period and potentially causing layoffs in the Spill Prevention and Response Programs.

Apathy caused the Exxon Valdez Oil Spill. The state had virtually no spill prevention and response program in place when it occurred. Nearly 5 years later, the legislature is threatening to turn back to the same vulnerable position. SB 215 removes much of the oversight that has been put in place since the 11 million gallon oil spill in Prince William Sound.

CDFU urges the Senate Finance Committee to oppose SB 215 and protect critical spill prevention and response programs. Thank you for your consideration.

Sincerely,



John Bocci, Legislative Committee Chair

cc:

Governor Hickel
 Senator Halford
 Senator Jacko
 Senator Kelly
 Senator Rieger
 Senator Sharp
 Senator Kerttula