

ALASKA LEGISLATURE SPECIAL COMMITTEE/SUBJECT FILE 8672

1640 SCOMM 62: SENATE SPEC. COMM. ON OIL & GAS, 1989-1990 1208

Bernie Saupe's
Testimony Offered to Senate Oil & Gas
Sub-Committee - via teleconference March 6, 1990

Thank you, Madam Chairman:

My name is Bernie Saupe' - I have owned and operated a small fuel distributorship here in Fairbanks for 15 years. My testimony will be brief and within the 5 minute guideline. I appreciate the opportunity to testify, because I'm one of the little guys that will be put out of business by this Bill.

It was heartening to me in listening last night to hear that you all share the concern, confusion, and uncertainty that we feel regarding SB-504. I applaud your attempts to identify exactly what the Bill will require, and I share your fear that the regulations will not coincide with the intent of the Bill.

The chairman of the study commission stated that their study included 3 large marine terminals and huge ocean-going super-tankers - yet the requirements proposed in "504" include little operations like my Fairbanks bulk plant! In fact, plants as small as $\frac{1}{4}$ our size, along with many river barges, would also be put out of business by "504" - many rural villages depend on facilities like these for economical fuel delivery! (I might note here that while we have almost 40,000 Bbls. of storage on site, we typically use only about 5,000 Bbls. at any given time.)

The DEC testimony indicates an adequate contingency plan includes virtually absolute and predictable control of 250,000/barrel releases. "504" requires me and many others like me to maintain the capability of recovering an unspecified portion of such a spill in an unspecified period of time. This is totally unrealistic - first of all, it would literally take us a whole year to spill that much product, based on our average thru-put for any 12-month period. A year-long spill is probably as unlikely a scenario as our being able to meet "504"'s requirements! Secondly, if it's impossible for major companies like Arco Shipping to comply with this contingency plan, it's utterly ridiculous for anyone our size to even suggest we could comply in any respect!

It's pretty obvious there are significant differences between a 1,000-foot ocean-going vessel and our little plant on Illinois St. There are worlds of differences between us and an Alyeska, or a Nikiski, or even a Drift River. There are even major differences between us and the 3 other plants like mine that are within 600 feet of my office! Yet "504" fails to see any difference between all of these examples! Again, if folks like Arco can't comply, it's clear that I and dozens of others like me, are instantly out of business!

Even greater and more immediate impacts are revealed by the "fantasy-world" financial-responsibility requirements of "504". It would be sheer hysteria for me to even anticipate \$50 million coverage from any source! If my customers would tolerate a 20 or 30¢ increase in my prices, I might be able to handle premiums for a year or so, but there's still nobody out there to offer the coverage if I could afford it! The \$50 million requirement would instantly strangle my business, and my company could then be faced with a subsequent bankruptcy.

For the last 4 or 5 years, we've been hard-pressed to obtain the 1 million coverage presently required - and we usually have only one carrier available to write it. Several years ago I attempted to add an extra umbrella of \$500,000 but the additional premium for just the 1/2 million extra was \$53,000!! Multiply that sort of costs by a 50-fold increase, and you could only guess what the annual premium might be!

Fortunately I don't have to attempt such estimates and projections. I'd like to quote verbatim from a letter I received today from my insurance broker: Quote:

"The limit of \$50 million per incident is simply not available for an operation of your size in today's marketplace. Underwriters I contacted stated not only no, but "Hell No."..... and,

"If, by some stretch of the imagination, this limit was available to you, the cost of this coverage alone would be in the neighborhood of half a million dollars." End of Quote.

I don't know what else I could tell you, or of any nicer way to say it - so I'll just say thanks for hearing me, and I sincerely hope you'll remember all us little guys out here while you figure out what our future may hold! Thanks again!

(Hearing attended by Chairwoman Sen. Drue Pearce, and Sens. Tim Kelly, Paul Fischer and Rick Halford)

BP Alaska Exploration, Inc.
Testimony Before the Senate Oil and Gas Committee
March 5, 1990

Thank you for giving BP the opportunity to comment on Senate Bills 468, 503 and 504. While most of BP's comments will be directed towards this legislation, it is important to understand that oil spill legislation combined with other state and federal actions, will implement Alaska's total oil spill response program. To accurately judge any piece of legislation, the entire program must be viewed as a whole. Therefore, my comments also address the general subject of laws affecting oil spill response.

Concerning the use of the State's disaster response powers and resources to respond to major oil spills, BP supports the use these powers and the dedication of State resources for the response activities. BP, however, recommends that changes be made in the State's administrative structure so that a clear and effective chain of command exists when the State responds to an oil spill.

Senate Bills 503 and 468

Portions of Senate Bill 503 and Senate Bill 468 attempt to implement recommendations made by the Alaska Oil Spill Commission. BP supports the Oil Spill Commission's recommendation that the Division of Emergency Services be given primary responsibility to respond to an oil spill. The Division of Emergency Services, as part of the Department of Military and Veteran's Affairs, uses a military command structure and has experience in dealing with complicated logistics and supply problems. This type of experience and operational command is exactly what is needed in an oil spill response. Experience plus a clear and effective chain of command will promote prompt decisions and a rapid response to a spill.

While the Department of Environmental Conservation has scientific and technical expertise, it is not as well equipped as the

Division of Emergency Services to deal with the logistics of responding to a spill. Consequently, their services should be used to provide the Division of Emergency Services with scientific and technical direction, in coordination with the applicable facility, regional or state oil spill plan as ultimately developed by the DEC. As the Oil Spill Commission recommended, the Division of Emergency Services should be the lead State Agency for oil spill response.

Senate Bill 504

Senate Bill 504 seeks to strengthen oil spill contingency requirements, increase financial responsibility requirements, and give the Department of Environmental Conservation the authority to inspect the structural integrity of tank vessels and oil barges. Viewed in the abstract, these goals are reasonable. However, when the bill is examined section by section, it becomes increasingly apparent that these new provisions are unreasonable as well as impractical.

1. Delays in Reviewing Oil Spill Contingency Plans. In the past, the DEC has not been able to review or approve oil spill contingency plans in a timely manner. For example, since January 1988, BP has had its Prudhoe Bay and Endicott oil spill contingency plans pending before the DEC, with virtually no response from the agency. If SB 504 was enacted tomorrow, both fields would be required to cease operations because the spill contingency plans had not been approved. While the extensive administrative discretion incorporated in SB 504 might permit waivers to be granted by the DEC, essentially SB 504 relinquishes all decisions about the operation of oil terminal facilities, oil and gas exploration and production facilities and tanker vessels or oil barges to the DEC. BP believes that the DEC is not the appropriate agency to exercise such discretion. Further, any legislation which links continued operation of a facility with approval of the oil spill contingency plan should also contain provisions which force approval of submitted plans within a definite time, and which outlines the contents of an acceptable plan.

2. The Cleanup Standard. Subsection (f) of Section .030 requires the permittee to maintain "in its area of operation . . . sufficient oil discharge containment, storage, transfer, and removal equipment, manpower and resources to rapidly contain a realistic maximum oil discharge and remove that discharge within the shortest possible time." A maximum oil discharge is further defined as the DEC's estimate of the maximum and most damaging oil discharge that could occur during the life of a facility. The magnitude of oil produced from North Slope fields and the immense volume of oil transported through TAPS make literal application of this provision impossible. Even though significant changes have occurred in cleanup capability at the Valdez terminal, the concept of maintaining equipment and manpower equal to what was required during the Exxon Valdez disaster along the entire North Slope and along the entire length of the pipeline is simply unworkable.

3. Financial Responsibility. While it is desirable to require proof of financial responsibility for operators of facilities subject to this legislation, the increase in limits and the use of ambiguous language in the legislation combine to make it difficult, if not impossible, to implement the provisions of the bill. For example, the legislation requires that the limits be on a "per incident" basis but the meaning of this phrase is not defined in the bill. The Committee should also be aware that the continued operation of the facilities covered by the legislation is conditioned upon obtaining proof of financial responsibility. Consequently, the feasibility of insurance should be understood before a provision of this nature is adopted.

4. Inspection of Tanker Vessels and Oil Barges. The U. S. Coast Guard currently inspects tanker vessels and oil barges; this legislation would establish a second regulatory regime requiring inspection by the DEC, an agency with no previous experience in this area. Inspection of tanker vessels and oil barges is a specialized, complicated and sometimes dangerous process

requiring entry into the compartments where oil is stored. The legislation provides no guidelines for the methods or frequency of inspections to be provided by DEC. Further there is no evidence of appropriate fiscal or manpower resources within DEC to implement such a program. Rather than renewed testing of the limits of Alaska's jurisdiction in this area, a more constructive approach would be to require close cooperation between the Coast Guard and the DEC concerning the approval of tanker vessels, to establish a specific division within the DEC to monitor available records and inspection reports.

In closing, BP hopes that this committee view the entire oil spill legislative and regulatory program before enacting specific pieces of legislation. BP will continue to help and assist in this process.

MAR 28 1990



1835 SOUTH BRAGAW STREET, ANCHORAGE, ALASKA 99512, TELEPHONE (907) 278-1611, TELEX 090-25-127

March 25, 1990

Senator Drue Pearce
Chairman, Senate Oil & Gas Committee
Room 510, Capitol Building
P.O. Box V
Juneau, Alaska 99811

Re: Inspection of Oil Terminal Facilities

Dear Senator Pearce:

Recently you requested information on the present requirements for inspection of oil transfer facilities and tanker vessels. I am pleased to have the opportunity to provide you with that information. ARCO Marine, Inc. will be providing additional information regarding hull inspections of vessels. Also, to illustrate the limitations of any inspection program to prevent equipment failures, I would like to describe the March 12, 1990, spill at the Valdez Terminal Facility.

Separate inspections of facilities and vessels are presently being conducted by Alyeska, the Coast Guard and Alaska's Department of Environmental Conservation. Each of these programs is detailed below:

ALYESKA INSPECTIONS

Alyeska inspection processes and checklists are set out in the Valdez Port Information Manual (PIM), second edition, October 1988, that establishes the conditions under which a vessel docks and receives oil at the terminal.

Prior to the discharge of ballast from a tanker or the loading of oil to a tanker, an Alyeska Terminal representative and a tanker officer must make a joint safety inspection to ensure that both the tanker and the Terminal Facility are safe for discharge or loading. Checklists supplied by the Terminal are used for this inspection. (See Attachments A and B.) Both parties must sign and initial the form signifying that each item has been inspected. During the time

the tanker is berthed, personnel from the tanker and the Terminal periodically review conditions to ensure that nothing has changed.

If either Alyeska or the vessel personnel believe that the conditions for discharge of ballast or loading of oil are no longer safe on either the tanker or at the Terminal, they have the right to suspend operations.

Among the items subject to the pre-transfer joint safety inspection are vessel moorings, deck scuppers, sea suction and overboard discharge valves, oil transfer lines and couplings, loading arm supports, the dock and water area around the vessel to detect leaks or seepage, mechanisms for containment, reporting and cleanup of a spill, communications systems and emergency shutdown systems. Other than rare, readily apparent visible defects, Alyeska does not evaluate tanker hull integrity.

COAST GUARD INSPECTIONS

The Coast Guard's responsibility to inspect oil transfer facilities and tanker vessels and the scope of the inspection are specified in Title 33 of the Code of Federal Regulations (CFR), Parts 154 (facilities) and 155 (vessels).

Part 154 requires the operator of an oil transfer facility to submit an operations manual to the Coast Guard which reviews it to ensure that it contains details on how to safely handle and transfer oil, procedures for oil spills, procedures for fighting fires, the location of emergency shutdown systems, the communications system and the training and qualification program for responsible persons.

Part 154 also details the facility equipment requirements, including hose assemblies, loading arms, monitoring devices, discharge containment and removal equipment, emergency shutdown systems, communications and lighting. The Coast Guard conducts a physical inspection of the Valdez Terminal Facility every six months to ensure that all of the equipment and operations requirements are being met. If an item needs correction the Coast Guard issues a "CG835 Item," comparable to an automobile equipment defect citation.

Part 155 details the equipment an oil tanker must have, including oil discharge containment equipment, bilge slops, oily-water separation equipment, bilge alarms and monitors, pumping, piping and discharge systems, and communications. The oil tanker must adhere to personnel qualifications and must adopt, and have

available for Coast Guard inspection, oil transfer procedures that comply with the regulations.

Each tanker vessel is set up on a Coast Guard computer schedule for a five year complete cycle of inspection.

Every six months the Coast Guard conducts a "pollution prevention and navigational safety exam" of a vessel as provided in Part 155 and the Marine Safety Manual. In addition to pollution prevention equipment, the Coast Guard reviews fire fighting, life saving and navigational equipment and inspects for general safety and habitation. The six month inspection is conducted while the vessel is at the terminal undergoing the deballasting process and is completed before the oil loading process begins.

In addition to this six month inspection, each vessel also undergoes a "mid-period exam" every 10 to 14 months during which the deck and vessel hull above the water line and all available interior spaces are inspected.

Every two years the vessel undergoes a "certification inspection" where it is raised as high as possible out of the water for an above water hull inspection. The interior of a portion of the cargo tanks must be available for inspection. (Over the five year complete inspection cycle of a vessel the interior of all tanks will be inspected.)

Once every five years the vessel is subjected to a dry dock complete hull and machinery inspection. This five year hull inspection schedule is in accordance with the American Bureau of Shipping standard.

The Coast Guard maintains an inspection record book for each vessel. This inspection book contains the equipment and operations requirements set out in Part 155 and is used by the Coast Guard as the vessel inspection "checklist."

All records of Coast Guard vessel inspections at the Valdez Terminal are available upon request. The DEC periodically requests and receives these vessel inspection records. The most complete dry dock hull and machinery inspection records are available at the location where the vessel is certificated.

Finally, the Coast Guard can and does conduct "spot inspections" of any vessel at any time and can issue a "CG835 Item" at any time.

Whenever the Coast Guard finds that conditions at a facility or vessel are unsafe for the transfer of oil such that a discharge could occur, it may issue an order under Part 156 suspending transfer operations.

ADEC INSPECTIONS

In addition to the oil transfer facility and tanker vessel inspections that must be done by Alyeska and the Coast Guard, Alaska's Department of Environmental Conservation has significantly expanded its routine vessel inspection program in the last year. ADEC's inspection authority is set out in AS 46.04.060. Alyeska Marine Terminal supervisors have assisted ADEC employees in the implementation of their inspection program. ADEC has just recently developed an inspection form, which we hope will be routinely used and shared with Alyeska. ADEC has provided us with a copy of its inspection form. (See Attachment C.)

Besides the vessel inspections, ADEC also has one or more employees at the terminal facility in Valdez approximately three out of every seven days inspecting for possible sources of pollution. There is no set schedule of items to be inspected or times for inspection. Items inspected on a particular day may include the ballast water treatment process, the vapor recovery system or the berth facilities. There is some overlap with the Coast Guard of items which ADEC inspects at the berths, but ADEC's inspections principally focus on pollution prevention.

MARCH 12, 1990, SPILL

The spill that occurred at Valdez on March 12, 1990, was from the vessel "Overseas Boston," berthed at the Terminal. Approximately 10-15 gallons of crude oil was spilled into the water. The spill was caused when a segregated ballast pipeline was fractured at the point where it ran through the cargo tank. The fracture may have been caused by a misaligned coupling or incomplete seal. The ballast pipeline was covered with crude oil and when the segregated ballast was discharged to the Bay, some oil from the cargo tank was mixed into the ballast through the fracture. Based on information presently available, it would not appear that this problem could have been detected or prevented by inspection by Alyeska, the Coast Guard or the Department of Environmental Conservation.

Like all vessels at the Terminal, the "Overseas Boston" was surrounded by containment boom while loading. That boom, supplemented by additional boom, successfully held the oil until

Senator Drue Pearce
March 25, 1990
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skimmers were deployed and all spilled oil was recovered, with no discernible environmental damage.

Please let me know if I can provide additional information to you.

Very truly yours,



Robert I. Shoaf

cc Senator Kelly
Senator Halford
Senator Fischer
Senator Adams

Attachments

Vessels Are Subject To & Must Comply With Alyeska's Port Information Manual

Vessel:	Start of Transfer Date:
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		Vessel Yes	Terminal Yes			Vessel Yes	Terminal Yes
1 Does the vessel have the Second Edition, October 1988 of Alyeska's Port Information Manual? Copies are available from the Marine Supervisor.	☐			21 Will transfer be shut down if oil loss from any system component occurs at rate which will exceed containment system capacity?	☐		
2 Are warnings displayed as required by 46 CFR 35.30?	☐			22 Is there a clear understanding at the terminal and on board ship of the steps to be taken for containment, reporting, and cleanup in the event of an oil spill?	☐		
3 Are Vessel's moorings adequate to hold in all expected conditions of tide, draft, drift, etc. during the transfer?	☐			23 Are both terminal and ship persons in charge aware of Federal, State and local rules which apply to oil transfer and of penalties involved for violation thereof?	☐		
4 Are all deck scuppers effectively plugged?	☐			24 Is ship-to-shore communication system in working order as proven by test?	☐		
5 Are loading arms long enough to allow vessel to move to limits of moorings without placing strain on the arm of transfer piping system?	☐			25 Is the system for achieving emergency shutdown of the transfer understood by the persons in charge and is the equipment associated with the system in place and tested operable?	☐		
6 Will transfer be shut down if vessel movement becomes excessive?	☐			26 Are vessel and terminal lighted adequately if transfer occurs between sunset and sunrise?	☐		
7 Are sea suction and overboard discharge valves closed and lashed?	☐			27 Is there a clear understanding of the watch and shift arrangement?	☐		
8 If it is necessary to open sea suction valves, will this operation be reported to the terminal?	☐			28 Will there be an English speaking person on duty at all times?	☐		
9 Has inspection been made to assure that there are no fires or open flames present on deck or in any compartment which is located on, facing, open and/or adjacent to the main deck of the vessel on which the cargo connections have been made?	☐			29 Will there be a designated person in charge on duty at all times during the transfer operation?	☐		
10 If galley fires are to be lighted, has inspection been made to determine that they may be operated with safety?	☐			30 Will there be a terminal representative on duty at all times to control oil transfer, make inspections, tend loading arms, and take appropriate action in an emergency?	☐		
11 Has inspection been made to determine that ship's boilers may be operated with safety?	☐			31 Will there be sufficient vessel personnel available at all times to properly control safe loading of cargo/discharge fuel, tend mooring lines, and take appropriate action in an emergency?	☐		
12 Has inspection been made to determine whether smoking is to be permitted?	☐			32 Are the transfer systems properly lined up for commencement of the oil transfer?	☐		
13 If smoking is to be permitted, have areas been designated for this purpose?	☐			33 Has a written plan of oil transfer and clear understanding of the plan been established between ship and terminal persons in charge? The plan is to include product identities, sequence of transfers, volumes, flow rates, line clearances. Discussion is to cover name, title and location of each person involved in the transfer, ship-to-shore communications, emergency procedures, particulars of the transferring and receiving systems, transfer shutdown procedures and critical stages of the operation.	☐		
14 Are oil transfer lines in good condition with proper couplings correctly made up?	☐			34 Is transfer system lined up for ballast transfer?	☐		
15 Is loading arm test record available for inspection?	☐			35 Is oil transfer operation ready to begin?	☐		
16 Are loading arms properly supported to prevent strain?	☐			36 Is ballast transfer ready to begin?	☐		
17 Are loading arms properly connected to a fixed cargo piping system on vessel and terminal?	☐			37 Will all transfer operations be secured during an electrical storm?	☐		
18 Are unused cargo/bunker connections blanked or blinded?	☐			38 Is the vessel aware that exhausting black smoke from the stacks is not acceptable and that they are to comply with state smoke emission regulations? Copy received?	☐		
19 Will there be a regular inspection of the dock area and the water area around the ship prior to and during transfer operations to detect any oil leaks or seepage?	☐			39 Has vessel reviewed oil characteristics table on reverse of this form?	☐		
20 Are adequate small discharge containment facilities in place, with scuppers and/or drains closed?	☐						

Attested by Persons in Charge

	Name	Title	Time	Date
For Vessel		Chief Mate		
For Terminal		Marine Supervisor		

Relieving Personnel

For Vessel				
For Terminal				

North Slope Crude Oil Characteristics

Property	Range of Values
Specific Gravity	0.888 @ 60°F.
API Gravity	27.8
Pour Point	+15°F.
Viscosity	73.5 SSU @ 100°F.
Reid Vapor Pressure	About 4.5 to 7.5
Sulfur Content	0.94% by weight
Waxing	85-115°F. begins to precipitate 50-55°F. wax begins to come out of solution
Mercaptan Sulfur	about 20 ppm
Dissolved H ₂ S	less than 0.2 ppm
Loading Temperature	about 80° F. to 120°F.
Flash Point	below -20°F.

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Vessels Are Subject To & Must Comply With Alyeska's Port Information Manual

Vessel:	Start of Transfer Date:
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	Vessel	Terminal		Vessel	Terminal
	Yes	Yes		Yes	Yes
1 Does the vessel have the Second Edition, October 1988 of Alyeska's Port Information Manual? Copies are available from the Marine Supervisor.	☐	☐	21 Will transfer be shut down if oil loss from any system component occurs at rate which will exceed containment system capacity?	☐	☐
2 Are warnings displayed as required by 46 CFR 35.30?	☐	☐	22 Is there a clear understanding at the terminal and on board ship of the steps to be taken for containment, reporting, and cleanup in the event of an oil spill?	☐	☐
3 Are Vessel's moorings adequate to hold in all expected conditions of tide, draft, drift, etc. during the transfer?	☐	☐	23 Are both terminal and ship persons in charge aware of Federal, State and local rules which apply to oil transfer and of penalties involved for violation thereof?	☐	☐
4 Are all deck scuppers effectively plugged?	☐	☐	24 Is ship-to-shore communication system in working order as proven by test?	☐	☐
5 Are loading arms long enough to allow vessel to move to limits of moorings without placing strain on the arm of transfer piping system?	☐	☐	25 Is the system for achieving emergency shutdown of the transfer understood by the persons in charge and is the equipment associated with the system in place and tested operable?	☐	☐
6 Will transfer be shut down if vessel movement becomes excessive?	☐	☐	26 Are vessel and terminal lighted adequately if transfer occurs between sunset and sunrise?	☐	☐
7 Are sea suction and overboard discharge valves closed and lashed?	☐	☐	27 Is there a clear understanding of the watch and shift arrangement?	☐	☐
8 If it is necessary to open sea suction valves, will this operation be reported to the terminal?	☐	☐	28 Will there be an English speaking person on duty at all times?	☐	☐
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19 Will there be a regular inspection of the dock area and the water area around the ship prior to and during transfer operations to detect any oil leaks or seepage?	☐	☐	39 Has vessel reviewed oil characteristics table on reverse of this form?	☐	☐
20 Are adequate small discharge containment facilities in place, with scuppers and/or drains closed?	☐	☐			

Attested by Persons in Charge

	Name	Title	Time	Date
For Vessel		Chief Mate		
For Terminal		Marine Supervisor		

Relieving Personnel

For Vessel				
For Terminal				

North Slope Crude Oil Characteristics

Property	Range of Values
Specific Gravity	0.888 @ 60°F.
API Gravity	27.8
Pour Point	+ 15°F.
Viscosity	73.5 SSU @ 100°F.
Reid Vapor Pressure	About 4.5 to 7.5
Sulfur Content	0.94% by weight
Waxing	85-115°F. begins to precipitate 50-55°F. wax begins to come out of solution
Mercaptan Sulfur	about 20 ppm
Dissolved H ₂ S	less than 0.2 ppm
Loading Temperature	about 80° F. to 120°F.
Flash Point	below - 20°F.

VESSEL					DATE				
BERTH No.					TIME				
1.	Are smoking regulations being observed?								
2.	Are galley requirements being observed?								
3.	Are naked light requirements being observed?								
4.	Are electric cables to portable equipment disconnected from power?								
5.	Are the vessel's main transmitting aerials switched off?								
6.	Are flash lights of an approved type?								
7.	Are portable R/T sets of approved design?								
8.	Are all external doors and ports in the amidships accommodation closed?								
9.	Are all doors and ports in the after accommodation that are to be closed in fact closed?								
10.	Are ventilators suitably trimmed with regard to prevailing wind conditions?								
11.	Are unsale air conditioning intakes closed?								
12.	Are window-type air conditioning units disconnected?								
13.	Is vessel securely moored and tension winches (if fitted) on manual brake?								
14.	Are all oil drips cleaned and contained?								
15.	Are unused cargo/bunker connections blanked?								
16.	Is stern discharge line (if fitted) blanked?								
17.	Are sea and overboard discharge valves (when not in use) closed and sealed?								
18.	Are scuppers effectively plugged?								
19.	Is the agreed ship/shore communication system working?								
20.	Are all cargo/bunker tank lids closed?								
21.	Are cargo tanks being loaded or discharged open to atmosphere via the agreed venting system?								
22.	Are fire hoses and equipment ready for use?								
23.	Are emergency towing wires correctly positioned?								
24.	Is the vessel ready to move under its own power?								
25.	Is pilot ladder rigged and secured on the offshore side of vessel?								
26.	Others								
Remarks:									
CHECKED BY									
1.	2.	3.	4.	5.					

"White" - Supervisor; "Canary" - Ships Master; "Pink" - File

TANKER DECK INSPECTION

SHIP: _____

DATE: _____

PERSON TALKED TO: _____

CARGO: _____

DESTINATION: _____

PROBLEMS:

1. LOCATION: _____

TYPE: _____

2. LOCATION: _____

TYPE: _____

3. LOCATION: _____

Statement of
Jerry A. Aspland
President, ARCO Marine, Inc.
Before the Alaska Senate Special Committee on Oil and Gas
Senate Bill 504
Juneau, Alaska

March 5, 1990

Madam Chair and committee members. My name is Jerry Aspland and I am President of ARCO Marine, inc., the marine transportation subsidiary of ARCO. I am a graduate of the California Maritime Academy and have spent most of my professional career in the marine transportation business. I appreciate this opportunity to appear before you today to express the views of ARCO Marine on Senate Bill 504, Oil Spill Contingency Plans/Requirements.

Before addressing the legislation, I would like to offer a few general comments on oil spill prevention, response and clean-up.

Prevention is the key to avoiding oil spills. I am concerned that most legislation, both federal and state, are concentrating on oil spill clean-up and penalties and not enough is being done on prevention. Vessel traffic system, ratification of the standards of training and watch keeping, new selection and certification criteria of seagoing personnel, are just a few areas of prevention which must be addressed. Prevention is the key to avoiding oil spills and it must be addressed in a logical and rational manner.

ARCO Marine's experience shows that the success of an effective clean-up operation is dependent, not only on the adequacy of resources but, most importantly, on good human interaction and cooperation among industry, government and the members of the community. It is essential that in responding to spills all the elements of this network work together and integrate their efforts to mitigate the problem.

There are two key factors in a successful spill response and clean-up:

The ~~first is~~ sufficient pre-planning aimed at a realistic goal. It is essential to develop an environmental map, identifying environmentally sensitive areas, and to prepare a matrix that prioritizes the level of protection that would be afforded to each of these environmentally sensitive locations. It is also important to prepare, in advance, a list of available equipment, their locations, and the strategy of deploying such equipment. Last, continual training of those directly involved in clean-up is a necessity.

The second factor is the management of the clean-up efforts. This demands decisiveness, experience and expertise in spill response, and the ability to utilize resources efficiently. Without good management all the contingency plans and equipment can not be utilized most effectively.

Madam Chair, while ARCO Marine has many concerns with this legislation, we have decided to state our views on one specific aspect of SB 504 with which we believe compliance is impossible. Section 1 of SB 504, amends AS 46.04.030 (f) to mandate that an applicant for an oil discharge contingency plan demonstrate an ability to rapidly contain a realistic maximum oil discharge, and to remove that discharge within the shortest possible time. This mandate represents a radical policy departure from the existing regulatory requirement that an oil discharge contingency plan provide for containment and removal of the most likely oil spill. Moreover, this mandate is simply impossible to achieve given the current limitations in oil spill response technology. In other words, the requirements to demonstrate a rapid response and removal of a realistic maximum oil discharge, as defined, is rationally meaningless. Environmental eradication of large spills, such as these that are well beyond 10,000 barrels is currently neither technologically nor operationally feasible. With this in mind, I know of no way that ARCO Marine could meet the proposed requirements for obtaining an approved oil discharge contingency plan.

Furthermore, let us assume this legislation passes and we try to meet the intended meaning of the legislation, we will spend considerable amount of resources, along with state officials, and not accomplish much because we will pass the point of no return on mechanical recovery and not be able to finish the job. Therefore we would strongly recommend that the legislation be amended to reflect a target amount of oil spilled to be removed within the shortest possible time and a scenario plan for the maximum amount of oil discharged.

ARCO Marine is already among only a few marine companies that hold approved oil spill contingency plans with the State of Alaska. Additionally, our oil spill response team has demonstrated its ability with its clean-up efforts in the 1985 Port Angeles oil spill and several training exercises, including the 1988 exercise in Valdez. Recently, we were able to provide expertise and assistance in the Huntington Beach oil spill response in Southern California.

If ARCO Marine is incapable of complying with proposed SB 504, I believe that demonstrates a fundamental shortcoming with the legislation.

I would like to thank you for the opportunity of appearing before you today. ARCO Marine, Inc. stands ready to assist your committee in this effort. I would be pleased to answer any questions you might have regarding my statement or any other related subjects.

STATEMENT OF
MIKE WILLIAMS
Vice President for Environmental Planning & Control
Alyeska Pipeline Service Company
to the
Senate Oil and Gas Committee
on
March 1, 1990

Thank you for inviting Alyeska Pipeline Service Company to describe the Tanker Spill Prevention and Response Plan for Prince William Sound. My name is Mike Williams. I am Vice President for Environmental Planning and Control at Alyeska. Shortly after the EXXON VALDEZ spill, I was transferred by my employer, British Petroleum, to lead the team that developed and implemented Alyeska's new Tanker Spill Prevention and Response Plan that I will describe during my testimony.

My career with BP began in 1958 as an apprentice on board tankers. Ultimately, I earned an unlimited master's license. During the construction of the pipeline, I was assigned to the Marine Department of Sohio.

Alyeska wishes to cooperate with the Legislature in its evaluation and, where appropriate, enactment of the Oil Spill Commission recommendations. We urge, in the process of consideration of any new legislation related to oil spills, that you include comprehensive analysis of federal and state laws. That analysis will be essential to effective, fair and responsible legislation. For the most part, we at Alyeska believe that existing laws provide an adequate framework for prevention and management of oil spills.

and the General Accounting Office, the Commission concluded that it is impossible, given existing technology, to remove all of a catastrophic spill. In a study for the General Accounting Office, ECO, which also provided technical support for the Oil Spill Commission, concluded that if all of the recovery equipment and manpower assembled in Prince William Sound by August last year had been immediately available to respond to the spill, only 35% to 45% of the oil would have been recovered. Few people urge that thousands of people and hundreds of skimmers should be positioned in Prince William Sound, Cook Inlet, southeast and western Alaska to respond if another catastrophic spill occurs.

Instead, most agree with the Oil Spill Commission's recommendation, that in light of the limited ability to recover spilled oil, our first priority should be prevention.

Prevention is the only way to protect the oceans and coastlines from oil spills. Once it reaches the water, spilled oil is extremely difficult to contain and collect, even under ideal conditions. And the conditions under which oil is spilled are seldom ideal.

General Accounting Office data suggest no more than 10-15 percent of oil lost in a major spill is ever recovered.

AOSC Executive Summary, p. 11

As initial responder on behalf of tankers in Prince William Sound, Alyeska has developed a Tanker Spill Prevention and Response Plan that is being reviewed by the state and federal agencies and the public, in a series of 19 public hearings. Prevention of spills from tankers is the first priority in the

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Alyeska's goal is to determine and meet reasonable expectations for prevention efforts and response capability in Prince William Sound. We feel compelled to remind you that even as Alyeska achieves that goal, you still must resolve difficult issues such as the appropriate role for state government in Prince William Sound spill response and the appropriate blend of federal, state and private efforts in the rest of Alaska. During the next year, enactment and implementation of comprehensive federal legislation will establish major new components of a national prevention and response system. Also, the State's planning and response capability mandated last year will be developed during 1990. All involved should strive through coordination and cooperation to achieve maximum benefit from the private and public funds expended.

The Alaska Oil Spill Commission has made several recommendations that are addressed by bills before this Committee. My testimony will describe the prevention and response planning under way at the Valdez Marine Terminal and in Prince William Sound. I will also briefly comment on SB 503 and SB 504. Alaska should encourage prevention and response capabilities that are compatible with other state and federal efforts, are based on achievable, economically realistic standards, and are unambiguous and easily understood by all parties. We at Alyeska are prepared to work with the State to meet those guidelines.

The Oil Spill Commission's report provides an appropriate starting point for your policy deliberations. Like the Coast Guard

and the General Accounting Office, the Commission concluded that it is impossible, given existing technology, to remove all of a catastrophic spill. In a study for the General Accounting Office, ECO, which also provided technical support for the Oil Spill Commission, concluded that if all of the recovery equipment and manpower assembled in Prince William Sound by August last year had been immediately available to respond to the spill, only 35% to 45% of the oil would have been recovered. Few people urge that thousands of people and hundreds of skimmers should be positioned in Prince William Sound, Cook Inlet, southeast and western Alaska to respond if another catastrophic spill occurs.

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plan. A comprehensive risk assessment for Prince William Sound, by a contractor to Alyeska, identified the risks that should be addressed by prevention strategies. Independently of Alyeska's risk assessment and planning work, the Commission's technical experts assessed the risks of spills in Prince William Sound and recommended appropriate prevention strategies.

As shown in the following table, Alyeska has implemented ECO's prevention strategies that are directly applicable to Alyeska.

Before describing the tanker plan for Prince William Sound, I would like to make a few additional comments on the Commission's report.

While reviewing legislation based on the Commission's recommendations, you must independently evaluate the direct and indirect costs to the state. During earlier testimony, Commissioners estimated that implementation of all of its prevention recommendations for Prince William Sound would cost six cents per barrel. Alyeska's prevention and response costs already exceed that level. Not counting administrative and capital costs, we are now spending around \$44,000,000 per year, which equals over seven cents per barrel at an average throughput of 1.9 million barrels per day. That cost per barrel will rise with inflation and declining throughput. Many believe that other areas cannot support the level of protection now in place for Prince William Sound. Obviously, important public policy issues are involved as the Legislature establishes standards for industry and makes appropria-

TABLE VI-2. COSTS ASSOCIATED WITH
PRINCE WILLIAM SOUND MARINE TRANSPORTATION SYSTEM
MODIFICATIONS *

<u>SYSTEM MODIFICATION</u>	<u>ALYESKA PREVENTION EFFORTS</u>
GROUP I	GROUP I
1. Mandatory Drug and Alcohol Testing	1. Alcohol testing for Masters and Crew
2. Emergency and High-risk Navigation Area Training	2. Endorse Navigation Committee
3. Port Closure System	3. Endorse Navigation Committee
4. Two Person Watchstanding Requirement	4. Vessel prerogative
5. Improved Loading/Unloading Procedures	5. All vessels boomed at Terminal; booms monitored
6. Local Spill Prevention Involvement	6. Regional Citizens Advisory Committee; Area and Community Response Centers
7. Spill Response Equipment Coordination	7. Incident Command System; predesignated call out, including contracts with fishermen
GROUP II	GROUP II
1. Vessel Monitoring System	1. Support mandatory Vessel Traffic System
2. Traffic Separation Lanes with One-Way Traffic	2. Vessels to stay in lane; reduce speed if encounter ice. One way traffic in Valdez Narrows
3. Designated Anchorage Areas	3. In Spill Prevention and Response Plan
4. Emergency Response Pollution Control Vessels	4. Five ERV's in Valdez. Two vessels escort laden tankers
5. Improved Loading/Unloading Design	5. Will review when full response available
GROUP III	GROUP III
1. Improved Tanker Design	1. Issues for tankers

* Reproduced based on Table VI-2, ECO Report to Alaska Oil Spill Commission

tions for oil spill programs. We hope that before creating new programs, you determine whether existing ones, with adequate funding, can be molded to meet new demands.

Alyeska agrees with the Commission's conclusion that regulation of industry should meet the expectations of Alaska citizens. In our opinion, the best way to achieve this goal is through a constructive professional relationship between industry and its regulators. We agree with Commissioner Parker's testimony last night that liability is not an effective enforcement tool. To establish and maintain a constructive relationship between the state and industry, regulations must be rational, scientifically based, and predictable. It is critical that agencies - especially the DEC - are adequately funded. Without adequate funding, the DEC is unable to develop and implement clear and concise regulations. Without adequate funding, the agency cannot employ enough qualified employees to interpret and enforce these regulations across all walks of industry. Without good, clear, concise and scientifically accurate regulations, it is difficult -if not impossible - for industry to operate free of controversy with an agency. With funding, both sides benefit.

On the subject of our relationship with the DEC, Alyeska desires to establish a constructive relationship consistent with the need for safety and our prerogative to make daily operational decisions. The Commission has expressed concern about DEC access to the Valdez Marine Terminal. During discussions in November 1989 with DEC personnel in Valdez, we renewed our commitment to provide

rapid, escorted access to the DEC in Valdez that would not delay or impede legitimate regulatory processes. Recently, I have discussed access with DEC officials and believe we will agree that DEC employees will be allowed to proceed immediately, without escort, to vessels or to an office on the terminal provided by Alyeska. Escorts to other areas from the DEC office on the terminal will be provided within 10 minutes of the request. In turn, we believe that local and state government agents should conduct an exit interview after inspecting a facility and should, as a matter of course, provide written documents generated as a result of a site visit. We anticipate receiving this cooperation from the DEC in the future.

Alyeska also agrees with the Commission recommendation that the company employ an executive whose principal responsibility is to achieve compliance with environmental regulations. That is my job which Alyeska's new President, Jim Hermiller, created last fall. Alyeska has created a new division, which I head, employing approximately 50 people with an additional 100 people employed under contract as crews on the Emergency Response Vessels and as spill response workers. For the past nine months, I have focused much of my energy on directing the development of a new spill prevention and response plan for Prince William Sound. I am also responsible for environmental compliance company-wide and will provide internal review of contingency planning and preparedness and response to spills.

I would like to summarize the prevention and response systems that I mentioned earlier. State and federal law places liability and clean up responsibility for an oil discharge on the spiller - in this case a tanker owner/operator. As operator of the pipeline, Alyeska has no direct affiliation with tanker owners and operators. However, to centralize prevention and initial response efforts on behalf of those tankers, Alyeska has developed the Prince William Sound plan. Once approved, the Tanker Spill Prevention and Response Plan developed by Alyeska will be incorporated into tanker contingency plans that must be approved by the DEC for each vessel in the TAPS trade. Alyeska will contract with the vessels to provide this service. Those contracts and the vessel plans will prescribe an orderly transition of spill response management from Alyeska to the vessel in the event of a large spill. An overview of the plan is submitted for your reference. One copy of the three volume plan is provided to the Committee.

Alyeska agrees with the Commission that recovery of all the oil from a catastrophic spill is impossible and, therefore, prevention is the first priority. Programs to prevent tanker accidents in Prince William Sound include:

1. Tanker crew members returning from shore leave are tested for alcohol if their conduct or breath odors indicate consumption.
2. Tanker masters are given a breathalyzer test within one hour prior to sailing.

3. Drug testing will be implemented once federal regulations are in place.
4. Alyeska installed new communications sites in Prince William Sound in order to maintain radio contact with tankers in the Sound.
5. Each laden tanker is escorted in Prince William Sound by two vessels that have the capability to tow a fully loaded tanker. This system proved its effectiveness when the vessel Atigun Pass lost power in the vicinity of Bligh Reef and was taken under tow by its escorts.
6. Alyeska supports Coast Guard operation of an appropriate Vessel Traffic System in Prince William Sound.
7. Through its escort system, Alyeska has obtained tanker agreement to abide by traffic rules in Prince William Sound, including a 10 knot speed limit, no deviation from traffic lanes, and a decrease in speed when ice is encountered.
8. Alyeska will not provide escort services if the weather in the Sound would appear to create unacceptable safety hazards for personnel on the ERV. Through this approach, Alyeska is in effect saying tankers will not sail in bad weather. We are building an experience base to determine the safe operating conditions. Presently, if bad weather

develops during the transit of the Sound, the Coast Guard and the masters decide how to proceed.

9. We are working with the Coast Guard to develop rules governing tanker operations in the port area during adverse weather conditions.

Prevention strategies must be backed up by appropriate oil spill response strategies. Alyeska's strategies are based on the assumptions that oil will spread rapidly once it is on water, and that weathering and changing environmental factors make recovery more difficult as time passes. If a spill occurs, our initial strategy will be to control the oil as close to the source as practical. Then we will endeavor to remove the oil quickly, prior to weathering or loss of control due to weather or sea conditions.

To enable these two fundamental strategies, booming and skimming equipment is kept in proximity to laden tankers traveling through the Sound. Under the tanker plan, response capability includes:

1. Rapid response with booms and sea skimmers from at least one of the escort vessels.
2. Additional large scale skimming and lightering capability from vessels anchored in Prince William Sound midway along the tanker route.
3. Additional ocean skimming equipment and response material in Valdez.

4. Pre-positioned equipment and pre-trained spill responders in communities and hatcheries.
5. Larger stockpiles of dispersants and Alaska-based application equipment.
6. Larger stockpiles of fire boom and igniters for in situ burning.

Alyeska's response to a tanker spill will utilize the Incident Command System (ICS), recommended to us by Prince William Sound communities and wholeheartedly endorsed by the Oil Spill Commission. This ICS will be tailored to facilitate coordination between industry and government response efforts and to structure transition of response management from Alyeska to the spiller. Alyeska held its first major desk top drill of the Incident Command System in Valdez the last week of January 1990. Alyeska, shippers and government personnel, along with representatives of potentially impacted communities participated in, and critiqued, the drill. It may be of interest for you to know that BP used the ICS system developed by Alyeska in its successful response to the Huntington Beach spill.

It is essential to note that despite our desire and commitment to prevent an oil spill, or to clean up as much oil as possible after a spill, there can be no guarantee that all accidents will be prevented or all spilled oil recovered. Nonetheless, we believe the prevention and response systems now in place are second to none.

Alyeska is funding and working with an independent citizens advisory committee that represents a cross-section of the concerned communities, to evaluate these new measures and assist our training and diligence. Our goal for Alyeska is to meet our responsibility to the people of Alaska while operating the pipeline efficiently. We are receptive to your suggestions, on behalf of your constituents.

I would like to conclude with a few general comments on SB 503 and SB 504.

SB 503. At the urging of Prince William Sound communities, and with the support of the Commission, Alyeska has developed an Incident Command System to organize its response to tanker spills. The system will be used to manage industry response internally, coordinate it with federal and state response to a spill and establish the capability for rapid, military style decision making. However the state allocates response capability, state responders should be at least as well trained as their industry and federal counterparts and should be prepared to make decisions as rapidly as necessary. This may require making decisions based on limited information or based on tradeoffs that seem appropriate at the time. State and regional plans should be designed to effectively integrate the state response with other efforts. Industry should be encouraged to participate in all of the state's response planning and on commissions that oversee the government effort.

SB 504. Alyeska's primary concern with this bill is what response capability will be required. Last night, Walt Parker, Chairman of the Oil Spill Commission, reiterated that complete removal of a catastrophic spill is an unachievable goal with existing technology. As a result, you must establish a policy that will create achievable standards applicable throughout Alaska. Alaska law should encourage and nurture prevention. After prevention, we would suggest that on hand response capability focus on the most likely spills. In addition, in Prince William Sound, we are preparing for another catastrophic event of 250,000 barrels. Because of numerous variables, neither Alyeska nor the tankers can guarantee removal of all the oil spilled. With the civil and criminal penalties in place, no responsible business would guarantee recovery of a large spill. If legislation requires unattainable performance guarantees, our operation would end and the state would be presented with the difficult goal of meeting its energy needs when businesses are not capable of providing guarantees for movement of refined and crude petroleum.

Rather than seeking unachievable guarantees for worst case spills, the state should require transporters to have realistic crisis management plans that detail equipment and manpower mobilization for response in the event of a worst case spill. Rather than requiring a replication of these large scale mobilization plans for each facility and vessel covered by this legislation, the state's master plan should provide a system to be utilized by all in the state. This could be achieved by a coopera-

tive planning effort between transporters and the state. The final crisis management plan could be incorporated into each individual plan.

After we hear more about this legislation from the administration, we would appreciate the opportunity to comment further on specific issues that are of concern.

Thank you for the opportunity to testify this evening.

TESTIMONY OF WALT SCHLOTFELDT
BEFORE THE SENATE OIL & GAS COMMITTEE
RE: SENATE BILL 504
MARCH 6, 1990

I would like to preface my comments on SB 504 with an introduction to our company. Petro Star is a wholly owned subsidiary of the Arctic Slope Regional Corporation. Our operations include the refining and distribution of heating/diesel fuel products in Alaska, primarily the Interior. Our refinery takes approximately 6,500 bpd of State of Alaska Royalty Crude from the Trans-Alaska Pipeline. Approximately 1,500 bpd of heating/diesel fuels are produced and stored in five tanks ranging in size from 2,500 bbls to 10,000 bbls. Our total storage capacity at the refinery is 27,500 bbls. These products are distributed by truck to our customers. We have outlets in Fairbanks, North Pole and Delta Junction.

I have many concerns with SB 504. I would like to raise my concerns point by point, starting at the beginning of the Bill.

-- Under existing statutes, "A person may not cause or permit the operation of an oil terminal facility in the State unless an oil discharge plan for the facility has been approved by the Department..." Due to the delays incurred in obtaining approval from the Department, for whatever reasons, I suggest that this be amended to "submitted." This would then place the burden on the DEC to quickly review the plan and make their recommendations in a timely manner. This is especially important if SB 502 is passed, and penalties of from \$2,500 to \$100,000 per day

may be assessed. Petro Star just received (after four months) approval of our plan. The DEC's approval gives us one month to modify, with their specific recommendations, our submitted plan. It's approval is limited to a three-year period. We also must re-submit for approval of a new plan once the Department has finalized their review and revisions of contingency plan approval criteria.

-- Sec. 1(a): Adding the language "...and has been properly implemented" is very subjective.

-- Throughout the Bill, the words "tanker vessel" and "tank vessel" are used interchangeably. Although this Bill does not affect tanker trucks, the current definition of tank vessels ("tank vessel" means a self-propelled vessel that is constructed or converted to carry liquid bulk cargo in tanks...) appears to allow tanker trucks to be "tank vessels". This should be clarified. HB 315 was amended to correct this in the House Judiciary Committee. Their amendment defines tank vessel as "a vessel that is constructed or adapted to carry or that carries, as a means of transportation by water, oil or hazardous material in bulk as cargo or cargo residue."

-- Sec. 1(d): The term "timely" is very subjective and should be further defined.

-- Sec. 1(e): The approval of an oil spill contingency plan is currently not an easy process. Approval may be delayed for significant periods of time. DEC is charged with protecting the environment of Alaska. The inclusion of the Department of Fish & Game and the Department of Natural Resources in the approval process

would be a serious mistake. I can envision the requirements of contingency plans expanding exponentially to the point of meaninglessness. The time to get approval on a plan would be lengthened. The practicality and effectiveness of a plan would be questionable.

-- Sec. 1(f): This section is totally unreasonable. Requiring applicants for oil discharge contingency plans to maintain all of the resources necessary to remove a spill in its area of operation (on-site) is totally unrealistic. What does "shall maintain in its area of operation" mean? The industry would probably have difficulty in committing to a pooling of resources because we are not willing to assume any potential liability for non-responsiveness to our competition. Please note that this paragraph applies to "applicants." Why would an applicant need to maintain all of the resources if an applicant is not allowed to operate a terminal? I have serious problems with the requirement that we have all manpower in our "area of operation". Does this mean that I must keep all staff required on the payroll ready to respond to a spill? This could be terribly expensive. I am concerned about the cost of maintaining the other resources required.

The meaning of the term "realistic maximum oil discharge" is very confusing to me. In interpreting the definition, I would presume that, due to our total tank capacity, PSI would be required to plan for a 27,500-bbl. spill. This is ludicrous, since our largest storage tank is only 10,000 bbl. I do not think we should be required to plan to respond even to a 10,000-bbl. spill because these tanks are installed within a lined containment area.

What is the national incidence of complete tank failures? As you see, Section 1(f) would be terribly detrimental to PSI.

-- Sec. 1(g): It will be costly to Petro Star to resubmit a contingency plan every three years. We are currently required to submit a new contingency plan if we change our operations. As I have already stated, the DEC is currently limiting the approval period for these plans to three years. The existing requirement to resubmit plans upon changes in operations seems adequate.

-- Sec. 1(h): The word "reasonable" is subjective and should be defined. The words "sufficient resources" are subjective. The word "shortest" is very subjective. Is 36 hours the shortest possible time? I interpret the words "best available technology" to mean that we will be required to continually upgrade all of our plan and equipment as new technology is developed. Technology in this area is currently developing very rapidly and we would be hard-pressed to monitor and acquire such technology at the speed that we would probably be required. Why should the Department require an applicant to demonstrate ability through training, exercises and equipment? Would these be required prior to the start-up of a new facility?

-- Sec. 1(j): The word "shortest" is subjective.

-- Sec. 2: What is a crude oil facility? In last night's testimony, the pipeline was referred to by the DEC as an adjunct to the Valdez terminal. Could the Petro Star refinery be considered an adjunct to the Valdez

terminal? We currently have less than 1,000 bbls. of crude oil in process at any given time. Does this crude oil make us a crude oil terminal facility? Please define crude oil terminal facility.

-- Sec. 2(d)(2) & (3): We currently deliver to barges on the Tanana and on the Yukon. These barges (Yukon) can be as large as 10,000 bbls. What evidence of financial ability will these barge owners provide us prior to loading fuel? Can we accept a notice from the Department which may have subsequently been rescinded? How will we know for sure? Am I inheriting some liability in this area?

-- My most serious problem with this Bill is the requirement in Section 2(b)(2) to have \$50 million proof of financial responsibility. This would be a very serious problem for PSI and would likely put us out of business. I believe any reasonable person would be hard-pressed to determine how our small operation could possibly generate a \$50 million risk. We currently have \$1 million insurance.

-- I have highlighted the many concerns I have with SB 504. The Department is over-reacting to the Exxon Valdez spill by imposing requirements on many segments of the State which would be unreasonable. I hope that the Governor, the Legislature and the Department have considered the staffing levels and availability of knowledgeable, experienced personnel to be able to effectively implement the significant changes which the Governor's oil spill packages will create. Also, please consider the punitive nature and level of penalties which SB 432, SB 502 and HB 315 would impose, even under SB 504. Lastly, and most significantly,

please consider my request to input some REASON into any oil spill bills and consider their effects on facilities around the State of all sizes and potential risks. Please consider the consequences to the people of the State as consumers.

I appreciate this opportunity to provide input and would be happy to answer any questions now or at my office tomorrow (488-0730).



**SORIERO &
SEFFENS^{INC.}**

April 18, 1990

Mr. Gene Burden
Tesoro Alaska Petroleum Company

Re: Insurance Companies admitted in Alaska

Dear Gene:

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

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

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

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

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

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

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

SECTIONAL ANALYSIS

The following is a sectional analysis of a bill that strengthens the Department of environmental Conservation's ("DEC") oil contingency plan requirements, financial responsibility requirements, and inspection authority under AS 46.04.

Section 1 strengthens DEC's authority to require and enforce oil discharge contingency plans. Section 1 requires that contingency plans be properly implemented; clarifies and strengthens DEC's authority to approve, modify, or revoke contingency plans; requires contingency plan applicants to maintain in their areas of operation sufficient resources to contain and remove a realistic maximum oil discharge within the shortest possible time; provides the Department of Fish and Game and the Department of Natural Resources an opportunity to comment on contingency plans; and authorizes DEC to revoke a contingency plan if the plan has not been properly implemented.

Section 2 strengthens the financial responsibility requirements of AS 46.04.040. Section 2 establishes a \$50,000,000 financial responsibility requirement for crude oil terminal facilities; establishes a \$1,000,000 financial responsibility limit for non-crude oil terminal facilities with a storage capacity of 5,000 to 10,000 barrels; establishes a \$50,000,000 financial responsibility limit for non-crude terminal facilities with a storage capacity of more than 10,000 barrels; establishes a \$50,000,000 financial responsibility requirement for offshore exploration and production facilities; establishes a \$500,000,000 financial responsibility requirement for crude oil tank vessels and barges; establishes a \$20,000,000 financial responsibility requirement for large (greater than 300 gross tons) tank vessels and barges carrying non-crude oil or other hazardous substances; establishes a \$1,000,000 financial responsibility requirement for smaller (less than 300 gross tons) tank vessels and barges carrying non-crude oil or other hazardous substances.

Section 3 lowers the effective storage capacity above which a contingency plan is required from 10,000 barrels to 5,000 barrels.

Section 4 authorizes DEC to enter and inspect oil terminal facilities, exploration and production facilities, tank vessels, and oil barges to ensure compliance with AS 46.04 and to examine the structural integrity of tank vessels and oil barges.

Section 5 defines "realistic maximum oil discharge," as used in sec. 1.

Section 6 provides that the Act takes effect immediately.

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3. Direct action by Alaskan government against underwriters.

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

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

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

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

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

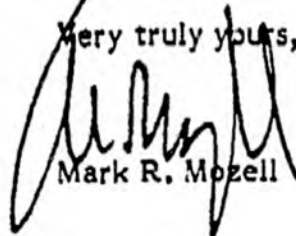


Mr. Gene Burden
April 18, 1990
Page 2

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

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

Very truly yours,



Mark R. Mozell

MRM:dg

MRM-1727

SECTIONAL ANALYSIS

The following is a sectional analysis of a bill that strengthens the Department of Environmental Conservation's ("DEC") oil contingency plan requirements, financial responsibility requirements, and inspection authority under AS 46.04.

Section 1 strengthens DEC's authority to require and enforce oil discharge contingency plans. Section 1 requires that contingency plans be properly implemented; clarifies and strengthens DEC's authority to approve, modify, or revoke contingency plans; requires contingency plan applicants to maintain in their areas of operation sufficient resources to contain and remove a realistic maximum oil discharge within the shortest possible time; provides the Department of Fish and Game and the Department of Natural Resources an opportunity to comment on contingency plans; and authorizes DEC to revoke a contingency plan if the plan has not been properly implemented.

Section 2 strengthens the financial responsibility requirements of AS 46.04.040. Section 2 establishes a \$50,000,000 financial responsibility requirement for crude oil terminal facilities; establishes a \$1,000,000 financial responsibility limit for non-crude oil terminal facilities with a storage capacity of 5,000 to 10,000 barrels; establishes a \$50,000,000 financial responsibility limit for non-crude terminal facilities with a storage capacity of more than 10,000 barrels; establishes a \$50,000,000 financial responsibility requirement for offshore exploration and production facilities; establishes a \$500,000,000 financial responsibility requirement for crude oil tank vessels and barges; establishes a \$20,000,000 financial responsibility requirement for large (greater than 300 gross tons) tank vessels and barges carrying non-crude oil or other hazardous substances; establishes a \$1,000,000 financial responsibility requirement for smaller (less than 300 gross tons) tank vessels and barges carrying non-crude oil or other hazardous substances.

Section 3 lowers the effective storage capacity above which a contingency plan is required from 10,000 barrels to 5,000 barrels.

Section 4 authorizes DEC to enter and inspect oil terminal facilities, exploration and production facilities, tank vessels, and oil barges to ensure compliance with AS 46.04 and to examine the structural integrity of tank vessels and oil barges.

Section 5 defines "realistic maximum oil discharge," as used in sec. 1.

Section 6 provides that the Act takes effect immediately.

SB 504 ISSUE SHEET

April 6, 1990

1. Proof of Financial Responsibility [Sec. 2 AS
46.04.040(d)]

A. The current version provides for varying levels of financial responsibility for non-crude facilities and transporters; however any transporter of crude oil, irrespective of the size of the vessel, will be required to have \$500 Million proof of financial responsibility. The Assistant Attorney General (McDonough) testified in House Resources that in the event a 50,000 barrel barge was to transport oil from the West Side of Cook Inlet to Nikiski that it would have to have the same \$500 Million proof as would a large tanker travelling from Valdez to the West Coast.

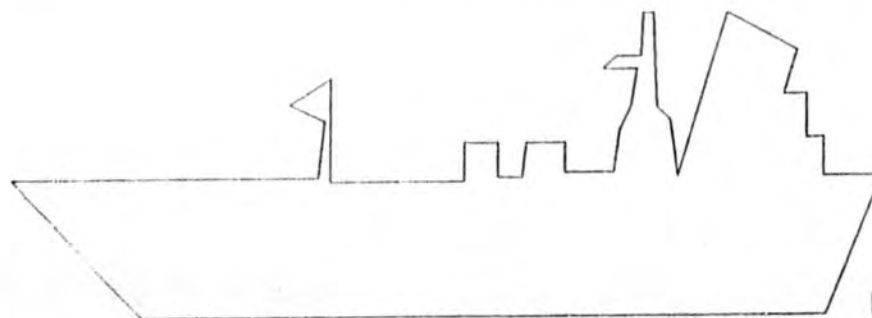
The attached page provides a summary of tanker sizes operating in Alaska and making deliveries to Nikiski. The approximate number of barrels of crude oil per ton is 6.8. The maximum amount presently delivered to Nikiski is less than 400,000 barrels. It is recommended that the provision be modified to account for the difference in tank and barge sizes that are used or may be used in Alaska waters.

B. The current version provides that a "...person may not operate a tanker vessel or an oil barge within the waters of the state, or cause or permit the transfer or oil to or from a tank vessel, or an oil barge, unless the person ...[furnishes proof of \$500 M financial responsibility for a tank vessel or barge carrying crude oil]. A change similar to that made in the CS of HB 567 is recommended. That change was as follows:

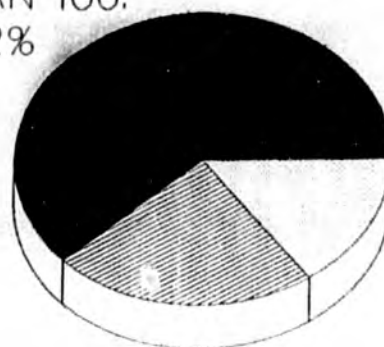
"A person may not operate a tank vessel or an oil barge within the waters of the state or cause or permit the transfer of oil to or from a tank vessel or an oil barge, unless the person operating the tank vessel or oil barge has furnished to the department ...proof of financial responsibility..."

Gene Burden Tesoro Alaska Juneau Message Number: 586-1715

TANKER VESSEL TRAFFIC IN ALASKA WATERS VESSEL SIZE DISTRIBUTION IN MDWT

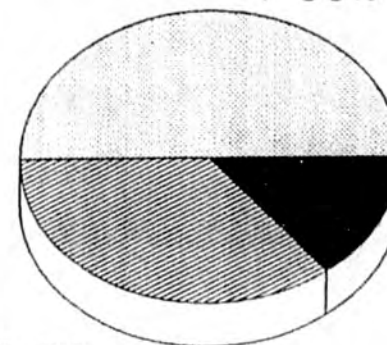


LESS THAN 100:
57 62%



**TOTAL OIL TANKERS
OPERATING IN
ALASKA *1**

UNDER 70:
7 50%



70-80:
5 36%

OVER 80:
2 14%

**OIL TANKER TRAFFIC
TO TESORO ALASKA'S
KENAI REFINERY *2**

Source: House Research Agency Request 89.352; 7-7-89
Tesoro Alaska regarding tanker calls at the Tesoro Refinery

*1

*2

OIL TANKER TRAFFIC ALASKA		
SIZE (MDWT)	NO.	%
OVER 200	14	15%
100 - 200	21	23%
LESS THAN 100	57	62%
Source: House Research Agency Report (89.352, July 7, 1989)		

OIL TANKER TRAFFIC TO TESORO ALASKA NIKISKI REFINERY		
SIZE	NO.	%
OVER 200	0	
100 - 200	0	
OVER 90	0	
OVER 80	2	14%
70 - 80	5	36%
UNDER 70	7	50%
Source: Tesoro Alaska Petroleum Co.		

APR 4 1990

ARCO Alaska, Inc.

External Affairs
Mailing Address: 134 Franklin Street
Juneau, Alaska 99801
Telephone 907 586 3680



Beverly A. Ward
Director, Southeast
Government & Community Relations

April 4, 1990

Senator Drue Pearce
Alaska State Senate
Capitol Room #510
P.O. Box V
Juneau, AK 99811

Dear Senator Pearce:

On March 28, 1990, you asked us to review a letter written to you by Commissioner Kelso, outlining in some detail what structural integrity inspections of tank vessels, as authorized under SB 504, would entail.

We have reviewed the Commissioner's letter, and we believe that everything proposed by the Department of Environmental Conservation is already being done by the U.S. Coast Guard. To give DEC inspection authority of tank vessels would be a duplicative effort and would add a cost for which there is no benefit.

In addition to deriving dubious benefits from a state inspection program, there may be potential liabilities to the state. We would encourage the Oil & Gas Committee to thoroughly review any provisions included in legislation which would grant inspection authority.

If you have additional questions, please do not hesitate to call.

Sincerely,

Beverly A. Ward
Director Southeast

BAW/lw



Alaska State Legislature

Senator Zharoff &
~~Local Senator & the~~
~~House Resources~~
~~Committee~~
 committee name

Please enter into the record my testimony to the

committee on See below, dated 9 March 90
 bill/subject

SUGGEST:

HOUSE BILL NO. 565 - SECTION 1, AS 46.03.758(a)(2)(1),
 (C) \$50.00 per gallon of oil that enters an unconfined salt-
 water environment . . . (Pg 3, 1)

HOUSE BILL NO. 566

Under Sec 46.13.040 suggest the designee
 for the Department of Environmental Conservation
 be ~~a position~~ in charge of keeping an up to
 date "Emergency Response Plan" up dating
 the Local Emergency Planning Committees with
 changing Technologies in the field should also
 fall to this designee.

Thank you for your time.

Signed:

William Brith

Testifier

myself

Representing (Optional)

1516 clmailow PO Box 1398 KODIAK, AK
99615

Address

486-2504 HOME / 486-6760 WORK

Phone No.

Alaska Rural Electric Cooperative Association
Comments Regarding
House Bill 567 -and- Senate Bill 504

March 8, 1990

Section 2 of SB 504 would have a devastating impact on the electric utilities throughout the state.

Just among ARECA members alone, the following small cooperative or municipal utilities have fuel tanks large enough that Section 2(b)(2), as presently written, would require them to maintain \$50,000,000 in storage facilities liability insurance:

Kotzebue Electric Association
Nome Joint Utilities
Nushagak Electric Cooperation (Dillingham)
Naknek Electric Association

It would be an utter impossibility for these small systems to comply with that requirement. Moreover, some of the larger electric utilities -- such as Chugach Electric Association in Anchorage -- maintain fuel oil storage facilities as back-up generation fuel or as primary fuel. For these utilities, too, \$50,000,000 liability coverage would be prohibitively expensive or impossible to find.

In all cases, insurance costs would be borne by the utilities' consumers in the form of rate increases -- very large ones in many cases.

Present law requires even the small utilities to demonstrate financial responsibility for \$1 million. Quotations for pollution liability insurance policies with very restricted coverage have ranged from \$23,000 to \$45,000 per year each.

Nushagak Electric presently maintains a \$1 million pollution liabilities insurance policy with Lloyds of London at an annual cost of \$23,000. The other cooperatives decided that so little of their real exposure to potential clean-up costs would be covered by the commercial policies available that they have arranged to be essentially self-insured through a program made available by the ARECA Insurance Exchange. This arrangement complies with DEC requirements, but it does nothing to transfer the liability to a third party.

* Coverage on available insurance policies is limited to third party liability cases. They pay nothing for cleanup of oil spills on the insured's own property. All of the tanks owned by these utilities are properly diked, so the utilities fully expect any likely oil spills to be confined to their property, in which case the insurance policy would be of no benefit.

To provide an understanding of the scale involved in the small utilities, we would submit the following information from Nushagak Electric as a representative example.

Nushagak Electric serves fewer than 1,100 consumers. Its net assets are a little less than \$2 million, and its annual revenues are about \$2.4 million. Approximately \$2.2 million is spent to pay for annual operating expenses. Despite its small size, Nushagak Electric has more than 24,000 barrels of fuel tank capacity. This amount of storage is necessary because of the limited time available to receive fuel shipments each year.

In addition to the above examples, there are many even smaller electric utilities providing essential service to small villages or other communities scattered throughout the state. Many of these systems would be impacted by Section 2(b)(1), which would require \$1,000,000 in liability coverage for refined oil storage facilities between 5,000 and 10,000 barrels in size. The \$1,000,000 requirement for these very small utilities would be as impossible as the \$50,000,000 would be for those with storage facilities greater than 10,000 barrels.

The present law imposes a hardship on the electric utilities -- most of them non-profit corporations or municipally owned -- for which we have unsuccessfully sought relief in earlier legislative sessions.

We propose that refined petroleum products be exempted from the requirement of Section 2(b)(1) and (2) of the proposed legislation. We believe this makes good sense because this would exempt electric utilities from an impossible requirement, and because refined petroleum products do not have the same level of toxicity as crude oil. We hope reason will prevail here.



ALASKA

NUSHAGAK ELECTRIC CO-OPERATIVE, INC.

P.O. BOX 350
DILLINGHAM, ALASKA 99576

TELEPHONE (907) 842-5251
TELECOPIER (907) 842-2799

TO: Senate Oil and Gas Committee
FR: *David F. Bouker*
David F. Bouker, General Manager
DT: April 9, 1990
RE: SSSB-504

My name is David F. Bouker. I am the general manager of Nushagak Electric Cooperative, Inc., a small non-profit electric utility serving the Bristol Bay communities of Dillingham and Aleknagik.

The part of this bill that gives cause for concern is that section which modifies AS 46.04.040 titled, "Proof of Financial Responsibility."

At this time, an oil terminal operator of a facility with 10,000 barrels of storage, or greater, is required to show ability to self insure or to have an insurance policy of \$1 million to indicate proof of financial responsibility for a spill during transfer operations. Our plant capacity is 25,333 barrels. The policy vehicle we currently have in force is written by Lloyds of London and costs us over \$21,000 per year.

The proposed bill would increase the required coverage from \$1 million to \$10 million. An increase of tenfold. We had extreme difficulty in obtaining the existing policy because no U.S. carrier would touch it. Our net worth is less than \$2 million, and I do not believe that we are insurable for anything over that amount.

We are located north of Dutch Harbor and this means that we can only receive fuel during the summer months. Therefore, we have to have the storage capacity to carry us through from September to May or June. Other communities such as Naknek, Bethel, Nome, and Kotzebue are in much the same position. This bill would also impact the local wholesale distributors. If the insurance coverage requirements increase tenfold, you can be assured that the attendant costs of that insurance will mean substantial increases in cost of power (which the state may help finance through Power Cost Equalization), heating fuel, and gasoline to those rural communities already beset by extremely high cost of living standards relative to the railbelt area.

I would like to propose several alternatives:

1. Keep the financial responsibility requirements at their present level for small isolated communities. They have not contributed to the Prince William Sound spill but are seemingly being penalized for it.
2. Increase the exemption or floor to 50,000 barrels of refined products so that the impact of increased financial responsibility on rural areas could be minimized.
3. Establish a state-run financial responsibility pool whereby all terminal operators would have to contribute, and this would help to mitigate impact of increased costs to small communities while building a reserve to cover emergencies. This would seem to make a lot more sense than requiring local communities to put up substantial sums of cash in order to purchase insurance from some foreign entity.

Last, but not least, SSSB-504 requires (lines 24, page 5) that each barge carrying from 10,000 to 49,999 barrels of non-crude oil carry \$1 million of financial responsibility insurance. What this means is that the local communities are required to go out and purchase ten times the insurance that is required of the barges that bring us our fuel. We get two barges a year and the greatest amount of exposure is limited to the transfer operations from the barges to our tanks. From our perspective, it does not appear that the \$10 million insurance requirement is really equitable.

Therefore, we would appreciate your critical review of this bill.

Thank you.

(lwb:reports\SB504)

G Cathcart Ltd.

MAR 9 1990

First Interstate Bldg. • 520 5th Ave., Suite 323 • Fairbanks, AK 99701 • Phone: (907) 451-6053 • Fax: (907) 451-7945

March 6, 1990

Bernie Saupe
Saupe Enterprises, Inc.
418 Illinois Ave
Fairbanks, AK 99701

Re: Senate Bill 504

Dear Bernie,

I am writing this letter in reference to the above captioned bill. Specifically with reference to the Financial Responsibility language.

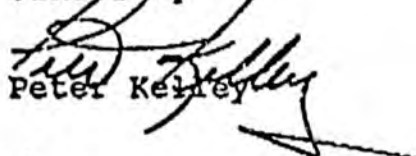
The limit of \$50,000,000 per incident is simply not available for an operation of your size in today's marketplace. Underwriters I contacted stated not only no, but "Hell No."

As you will recall, I had quite a bit of difficulty just obtaining a limit \$1,000,000 for you two years ago.

If, by some stretch of the imagination, this limit was available to you, the cost of this coverage alone would be in the neighborhood of half a million dollars. (I estimated this by using your premium of \$16,000 for \$1,000,000.

I hope this information can be of help.

Sincerely


Peter Kelley

Precision Insurance For Your Precise Business Needs

Anchorage: PO Box 190548 • Anchorage, AK 99519-0548 • Phone: (907) 258-6240 • Telex: 26-649 • Fax: (907) 258-2411



Alaska State Legislature

Please enter into the record my testimony to the Senate Oil & Gas
committee name

committee on SB 504, dated 3-6-90
bill/subject

I'd like to speak in favor of B.B. 504
Any tools available to the state to drag us into
the 90's as far as protecting the environment
through financial responsibility requirements and
inspection authority will help in accountability

Thank you

Signed: Sheila Dickson

Testifier

P.A.C.E

Representing (Optional)

100 Trading Bay, Suite 4 Kenai, AK 99611
Address

283-7170

Phone No.

1-23-90 Testimony of Daniel Lawn
Before the House Resources Committee

Mr. Chairman

In 1973 I received a Bachelor of Science degree in environmental resources engineering from the University of California at Humboldt.

In the fall of 1973, I joined Fluor Engineers and Constructors, the prime design and engineering management contractor for the Valdez Marine Terminal. After spending a year in the civil design and project engineering section in the LA area, I was one of the 1st two people Fluor sent to Valdez as their construction start up team.

From May 4, 1974 to March 1977, I was a field engineer/civil supervisor for Fluor at the Valdez Marine Terminal. My primary responsibilities included oversight of construction activities of the prime Earth work contractor.

I joined the Department of Environmental Conservation as an Environmental Engineer III in August of 1977, shortly after oil began flowing through the Trans-Alaska Pipeline System.

As requested; I am prepared to give you my impression from a field perspective of the Valdez Office's role in the oversight of

the Alyeska Marine Terminal. Our basic experience has been that the harder we worked, the more we found, the more difficult access to the terminal became. But let me first give you some background.

In the early days, my chief duties were the development and implementation of the field activities as they related to the Tanker Inspection Program at Valdez. In addition, I responded to most of the oil spills at the Valdez Marine Terminal, where I observed Alyeska's Contingency plan in action. I documented, analyzed and reported on the adequacy of their response.

At that time, the Prince William Sound District Office was a regional office with as many as 5 field positions and 1 clerical position.

As I recall, two positions were sole Alyeska oversight with reimbursable funding. Two other positions covered other Departmental programs and the regional supervisor's position which primarily interfaced with Alyeska Management, the several community leaders in Prince William Sound area, and other department oil program development, management and administrative functions.

In 1979 with the demise of Alaska's tanker safety program some planned positions for Valdez never became a reality. The Prince

William Sound Regional Office was downgraded to a District Office and one position was transferred to Anchorage; and the other was never filled.

Since that time, the Valdez District Office has had 3 field and one clerical position.

In addition, funding sources changed and all the positions started working in all program areas (DW, WW, AQ, SAN, OIL, etc). There was no position dedicated solely to Alyeska oversight, so oversight of Alyeska suffered and became almost non-existent or cursory at best.

In 1981 I was appointed the District Engineer/District Supervisor which was an additional work load.

In 1982 during an Alyeska Contingency Plan review, field staff used the first 5 years of oil spill response and clean up observations to say Alyeska's cleanup response was inadequate and their skimmer capacity highly overrated.

In 1984, I wrote two memos which described in some detail a general "disemboweling" of the Alyeska trained cleanup team and documented broken down clean up equipment.

From 1977 up to this period, 1984, Valdez field staff had

relative easy access to the Terminal although not enough time or energy to spend much time there.

In 1985 the Department began responding to allegations that there were serious problems at the Valdez Marine Terminal.

A good portion of the Valdez Field staff's workload was reassigned and increased so that we had an increased presence at the Terminal. I became the Department's principal investigator in Valdez.

This investigation has taken place over several years and covered many topics. One of which was a monumental undertaking of reviewing thousands of pages of reports and documents concerning the ballast treatment plant. The Valdez field office staff's knowledge and understanding of the system allowed us to evaluate some of these reports. Our work helped the Department set new discharge limits in the NPDES permit.

Also during this time the Department undertook another review of the Alyeska Contingency Plan. This review was hampered by the resistance of Alyeska to make changes in their plan and to drastically improve implementation of the plan. This delaying and resistance turned a few week process into an 18 month exercise.

Since 1985 when the Department began to investigate these several allegations, it seemed to all the Valdez field staff that the harder we worked, the more we found, the more we found, the more difficult access to the terminal became. The restricted access delayed entry onto the terminal to a point that on some occasions field staff were unable to carry out inspections.

I can give you some examples:

In 1986, Valdez field staff documented access problems over a 16 day period. During that time the staff made over 70 phone calls to Alyeska to schedule the 28 trips to the terminal. About 1/3 of the trips were for unannounced compliance sampling, 1/3 for spill response, and 1/3 related to oversight of the Ballast Water Treatment Tank cleaning sludge removal process.

Department staff lost almost two man days trying to contact Alyeska to schedule visits. After the visits were scheduled, we lost 1/2 day waiting at the gate. We lost another 1 1/2 days being taken or directed to go somewhere other than where we needed to go.

In addition, on several occasions we were prevented from inspecting certain activities for several hours (2-4) and in one case that delay was over 20 hours. On more than one occasion the delay actually prevented the inspection due to other commitments.

COMMENTS ON SB 502, SB 503, AND SB 504
GOVERNOR COWPER'S OIL & GAS LEGISLATIVE PACKAGE
AND SB 468
PRESENTED TO THE SENATE SPECIAL COMMITTEE ON OIL & GAS

MARCH 5, 1990

MICHAEL S. O'MEARA

P.O. BOX 1125, HOMER, ALASKA 99603

I was very pleased to see the Governor's oil and gas legislative package introduced. It is disappointing, however, that prior to introduction he chose to present the bills to industry alone for critique. This bodes ill for the greater public oversight and participation recommended by the Alaska Oil Spill Commission. Happily, you have taken a step in the right direction by scheduling these teleconferences at a time convenient for the working public. Let me commend you and thank you for the opportunity to express my views.

In a recent presentation to the Homer Chamber of Commerce, Exxon's Don Carpenter explained that it was company policy to comply with the "letter of the law", not the "spirit of the law." High officials from British Petroleum and other corporations have reflected the same commitment on a number of occasions.

If nothing else does, this should bring home the need to reform that body of law governing oil industry operations in Alaska. Some of the legislative reforms which I feel should be enacted are touched upon in the Governor's bills.

1. Increase, broaden, and clarify civil and criminal penalties for parties responsible for chronic and catastrophic spills of petroleum and other hazardous substances.
2. Require effective, coordinated response planning for both industry and government.
3. Require full financial responsibility for operators of oil & gas facilities and vessels.
4. Strengthen and clarify the authority of regulatory agencies to inspect oil & gas facilities and vessels.
5. Improve the ability of regulatory agencies to assure compliance with health, safety, and environmental regulations and lease or permit stipulations.
6. Provide adequate funding for more effective spill prevention and response capabilities.

To the extent that these bills would help realize these reforms, I support them. In reading over them it became obvious that in a number of ways they fall short of doing so, and of course, there are important areas of concern beyond their scope which must be addressed as well. For now I will confine my comments to suggestions regarding the reforms enumerated.

There are a number of important omissions in the Governor's package. At least twelve of the Alaska Oil Spill Commission's recommendations have not been addressed -- as follows:

-- PAGE 3, O'MEARA --

- 1) Seven day tank farm capacity (PG. 18)
- 2) Establish a harbor administration office (PG. 28)
- 3) Establish state (PG. 21) and Regional advisory councils (PG.29) and they should represent local governments (PG. 29)
- 4) Licensing of all transportation safety personnel (PG. 24)
- 5) Compensation for persons impacted by oil spill who are not protected by unemployment insurance (PG. 44)
- 6) Regional and State oversight council (PG. 21)
- 7) Government space at Alyeska or other major terminals (PG. 24)
- 8) Task force on the environmental safety of pipeline (PG. 27)
- 9) Interstate compact (PG. 25)
- 10) Provision for citizen lawsuits (PG. 23)
- 11) Quick response (PG. 44)
- 12) Plans to cover worst-case scenarios (PG. 52)

-- page 4, O'MEARA --

Another important area that has not been considered in the present bills is the matter of criminal penalties. The State House has done so with HB 315 and HB 316, and ~~is~~ is my hope that the Senate will be supportive of this issue.

A major flaw in the liability legislation passed last spring was the exemption of refined products. As far as I can tell, the Governor's bills do not correct this error. It seems vital to me that all spill related law include both crude oil and refined product.

Now to specific bills (2/21/90 -- go00510s, go00520s, go00530s)

SB 502 CIVIL PENALTIES AND DAMAGE PROVISIONS

Page 2, Sec. 2, Lines 24 & 25

The wording "penalties...may not exceed" should be changed to read, "penalties...shall be set at"

At the very least, if a maximum penalty is to be stated, the a minimum penalty should be stated as well. As written, application of penalties in discretionary.

Page 4, Sec. 3, Line 1

I am pleased to see that the language exempting spills of 18,000 gallons or less has been stricken. Penalties should apply to all spills regardless of size.

Page 7, Sec. 8, Lines 20-25

This seems to relate to the same statutes as HB 409. It might be to incorporate language from that bill here -- especially with respect to administrative penalties.

-- page 5, O'MEARA --

**SB 503 AUTHORIZING USE OF HAZARDOUS SUBSTANCE RELEASE RESPONSE
FUND/ROLE OF ADES/ESTABLISHING EMERGENCY RESPONSE
COMMISSION**

The first thing that this bill should do is increase the size of the response fund to a minimum of \$1 billion.

This bill should incorporate language from HB 421, broadening the uses for the fund to cover many of the costs associated with prevention and response preparedness.

Page 1, Sec. 2, Lines 22-25

This language should be clarified to assure that the fund can be used only for prevention of and response to oil and hazardous substance disasters.

Page 2, Sec. 5, Lines 18, 19, 22, & 23

It is unclear exactly what the role and authority of the Alaska Division of Emergency Services is with respect to the A.D.E.C. and other agencies. This needs to be made clear.

Page 2, Sec. 6, Lines 26-28 and on...

Again, this is all very unclear. We need to have a clear understanding of the relative authority, responsibility, and working structure involving:

1. The Alaska Div. of Emergency Services
2. The Alaska State Emergency Response Commission
3. The A.D.E.C. Oil Spill Response Office, its response corps and depots
4. THE DEPARTMENT OF MILITARY AND VETERANS AFFAIRS

We need to know who is in charge. A single administrative presence with clear authority to direct all response activity is vital. Experience shows that we cannot do this by a committee of peers.

Page 3, Sec. 6, Lines 16-21 and Page 5, Sec. 6, Lines 8-11

Do the "emergency planning districts" correspond to the areas covered by the "regional contingency plans"? Will the commission take over direction of contingency plan and response office development started by A.D.E.C.? This is very confusing and we really need to get it worked out before we have to deal with another emergency.

-- page 6, O'MEARA --

**HB 504 CONTINGENCY PLAN REQUIREMENTS/FINANCIAL RESPONSIBILITY/
INSPECTION AUTHORITY**

Page 1, Sec. 1, Lines 13, 20, and 23

The bill requires a contingency plan for operation of oil terminals, oil platforms, and tank vessels or barges. I would suggest that it should also require such a plan for operation of refineries, pipelines, and onshore facilities.

Page 2, Sec. 1, Lines 11-16

There should a provision for public as well as agency oversight of contingency plan approval or modification. Citizen oversight and advisory councils as suggested on pages 21 and 29 of the Alaska Oil Spill Commission's executive summary could fulfill that role.

Page 2, Sec. 1, Line 22 and Page 3, Line 3

Requiring response to a spill in the "shortest possible time" is a fine idea, but I think we need to have some clarification as to what that means. It would be helpful if we could tie it down a bit more.

Page 5, Sec. 2, Lines 20 & 21

Given the great costs associated with oil spills, it would seem that demonstration of financial responsibility greater than \$500 million is called for. I would suggest raising the minimum to \$1 billion for tank vessels and barges.

Page 6, Sec. 2, Lines 15-17

There are only two ways to be sure of actual financial responsibility -- through bona fide insurance or by posting bond. These should be the only acceptable proofs of financial responsibility. I suggest all other so-called proofs be deleted from this bill.

Page 8, Sec. 4, Line 9

Clarification of rights of access for regulating agencies is very important and I am pleased to see this language. It does seem related to language in HB 409, and I would suggest adding the more comprehensive provisions from that bill here. I would also repeat my previous suggestion that provisions of this bill apply to refineries, pipelines, and all onshore facilities as well as those already cited in the bill.

PLEASE -- NO LIMITS ON "REALISTIC MAXIMUM OIL DISCHARGE"
OIL IS OIL! WE MUST BE PROTECTED NO MATTER WHO IS
INVOLVED. COST SHOULD NOT BE A FACTOR.

-- page 7, O'MEARA --

That concludes my remarks on these bills for now. Thank you again for your effort in bringing them before the public. I would appreciate being kept apprised of further work on these bills as well as introduction of other legislation dealing with oil and gas reform.

P.S. — I JUST GOT A COPY OF THIS BILL, SOOOO...

SB 468 DUTIES OF —
DEPT. OF MILITARY AND VETERANS AFFAIRS
DEPT. OF ENVIRONMENTAL CONSERVATION
IN RELATION TO OIL, ETC.

IT APPEARS THAT THIS BILL IS AN ATTEMPT TO ORGANIZE A VERY CONFUSING SITUATION
PAGE 1, SECTION 1, LINES 13-17 I AM IN FAVOR OF THAT.

THIS IS CONFUSING. IT SAYS THAT ~~ADVA~~
ADES SHALL ESTABLISH THE OIL AND HAZARDOUS
RESPONSE OFFICE — LAST YEAR SB 264 WAS
PASSED CHARGING ADEC TO DO THAT. SB 503
SEEMS TO CHARGE ADEC TO DO THAT ALSO, THROUGH
FORMATION OF THE ALASKA STATE EMERGENCY RESPONSE
COMMISSION. WHO IS IT? WHO IS IN CHARGE. SEE
MY COMMENTS ON SB 503.

PAGE 2, SECTION 3, LINES 11-17

IT SEEMS HERE THAT THE DIVISION OF
EMERGENCY SERVICES IS THE LEAD AGENCY. IS THAT
CORRECT? WHO IS THE ADMINISTRATOR WITH
ULTIMATE AUTHORITY TO DIRECT COORDINATED SPILL RESPONSE?

PAGE 3, SECTION 5, LINES 21 AND 26-28

- GOOD THAT PLANS WILL BE SUBMITTED FOR PUBLIC REVIEW.
- GOOD THAT UNANNOUNCED DRILLS WILL BE REQUIRED

PAGE 4, SECTION 7, LINES 10-27

- GOOD THAT YOU WISH TO EXPAND USE OF FUND
THIS IS SIMILAR TO LANGUAGE IN SB 503 AND
HB 421 — THESE BILLS SHOULD BE COMBINED.
SEE MY COMMENTS ON SB 503.

I WOULD SUGGEST THAT THE FUND MIGHT ALSO
BE USED TO FUND A STAFF OF DEDICATED MONITORING
PERSONNEL.

4AND
PAROS 5, SECTION, 8

Page 8, P. 1¹ mears

THIS SEEMS TO FINE TUNE PROVISIONS IN LAST YEAR'S
SB 264. IS THAT TRUE?

Statement of Annie McKenzie before the Senate Special Committee on Oil and Gas. Senate Bill 504. March 6, 1990.

Madam Chair and committee members. My name is Annie McKenzie. I own a small business in Seldovia and am currently serving as a volunteer for the Alaska Environmental Lobby. I served as volunteer coordinator for the Seldovia Response team during the Exxon-Valdez spill. From that perspective, I'd like to comment on several points recently discussed in this committee.

WHO'S IN CHARGE: My observation during the spill was not conflict between state agencies. The problems I observed arose because of the relationship between the USCG and Exxon. As federal onscene coordinator, the Coast Guard had final authority, but was loath to exercise it. They pleaded lack of authority and continually reminded us of their advisory capacity. Requests for needed materials and equipment were bumped up the line to Exxon, who always very sincerely promised to do their best to deliver, but often did so with incredibly long delays or not at all.

In addition, Exxon often responded to requests by saying they had to get approval from the Coast Guard. Thus they played a pass-the-buck game that lasted throughout the cleanup and foiled the best efforts of sincere people to control the damage. The authority problem must address not just in-state agencies, but must take into consideration federal and industry responsibilities.

EQUIPMENT: Mr. Asplund stated last night that having a plan doesn't mean buying new equipment or hiring new personnel; it means listing what would be needed. Mike Williams stated a key factor in a successful spill response and clean up plan is to "prepare, in advance, a list of available equipment, their locations, and the strategy of deploying such equipment."

These statements make me nervous. Listing available equipment is inadequate. A thorough inventory of equipment necessary to respond to a worst-case spill must be prepared. The equipment must be stockpiled and a mobilization plan completed including training of personnel and on-site drills.

Again let me relate the experience of Seldovia, where the Exxon-

Valdez spill initiated us to the concept of "limited resources." We needed booming materials for Seldovia Bay which is on the southern end of Kachemak Bay in the path of oncoming oil. Alyeska and Exxon had been deployed their small amounts of stockpiled boom in Prince William Sound, and we were told little or no additional boom was available. Areas within Kachemak Bay were prioritized for protection, our bay towards the bottom of the list. Limited resources would leave our bay unprotected. In desperation, we began fabricating boom from logs and seine nets, and as this was reported in the news, we began getting calls from companies with boom for sale. We relayed this information to the industry. They said it was inappropriate boom. Then they said it wasn't really available. Then they said it was too expensive. The industry's inability to provide equipment as fundamental as boom, emphasizes the need for stockpiling of large amounts of emergency materials.

The industry was also unable to provide sufficient tankerage for waste oil collected by our Seldovia team. When Seldovia personnel developed and initiated methods to collect oil from the water, asking industry only to relieve them of the waste collected, they replied that all barges were in use elsewhere. We had to fight through the press and the Coast Guard to get tankerage for this waste.

Obviously, your oversight is needed in seeing that legislation remains strong in its ability to require thorough contingency plans developed for a worst-case scenario.

TANKER INSPECTION: We must have routine comprehensive inspections by qualified personnel. It is common knowledge that the USCG does cursory inspections with inexperienced staff. Perhaps the companies should be required to provide a certificate of inspection for each vessel from an outside source every two years.

SEAL ROCK SOUTH: "Dispersants" as a contingency plan is inadequate. We should have well-placed stashes of equipment and materials in warehouses or barges along the coast with plans for utilization. Weather may not allow use of dispersants.

DISPOSAL OF OIL: All oil-spill contingency plans should have well-developed methods for disposing of all collected waste materials. Exxon-Valdez waste was disposed of in landfills, a method which threatens purity of groundwater, and by incineration, a method which

releases dioxins and furans into the environment. Dioxins and furans are some of the most powerful and deadly toxins known. They cause cancer, birth defects, and immune deficiency responses. They are fat soluble, remaining in the food chain from the smallest organisms up through fish and mammals to humans. Because of this quality, incinerating away from populated areas does not protect humans from their damage. Contaminated fish may travel long distances before being caught and consumed. The oil industry and perhaps the state should be carefully researching waste oil disposal within the state.

In summary, I must say I am disappointed and offended by Mr. Aspland's response to SB 504. He states "the mandate to rapidly contain a realistic maximum oil discharge, and to remove that discharge within the shortest possible time is impossible to achieve" due to "limitations in oil spill response technology." He goes on to say that "eradication of large spills, such as these that are well beyond 10,000 barrels is currently neither technologically nor operationally feasible." An oil company pleading incapacity with no remedy is unacceptable to the people of this state. Perhaps even more legislation is necessary which would address the need for intensive research in clean-up. We must not again be put in the position of experimenting with our wildlife as we did with hot water washes and bioremediation during the aftermath of Exxon-Valdez.

Obviously the oil industry needs motivation in addressing these concerns. The people of Alaska are watching and working for strong legislation which will help protect us from another oil-spill disaster. In this, we are looking to you, our elected officials, for leadership. In this, you have our full support.



Oil Reform Alliance



TESTIMONY BEFORE HOUSE RESOURCES COMMITTEE
ON
HB 565, HB 566, AND HB567

March 9, 1990

My name is Riki Ott. I am a commercial fisherman and Cordova resident. My training is in marine pollution: I have a Masters in oil pollution and a doctorate in sediment pollution. I am President of the Oil Reform Alliance, which is a grassroots coalition among commercial fishermen, environmentalist, and others within and outside Alaska who are dedicated to reforming oil industry practices that impact communities on social, economic, and environmental levels.

The Oil Reform Alliance (ORA) supports the intention of House Bills 565, 566, and 567. In the wake of the Exxon Valdez, we find that existing laws are clearly inadequate regarding the State's role in prevention and management of catastrophic oil spills from large facilities and tankers. In addition, we find that there are serious problems with spills, leaks, and illegal dumping of oil and hazardous wastes from numerous smaller facilities and operators statewide. We are very pleased with and strongly support the intent of this package to comprehensively address all polluters.

First, some general statements; then, some specific language changes.

Strengthening the state's role in prevention of oil spills seems to be the main theme of HB567. I find it an appalling state of affairs that the State has allowed the oil industry to proceed without common sense safeguards like state-approved contingency plans in place to protect other resources, the public, and the environment. Such oversight sends a clear message to industry that we don't care.

The public needs the assurance that industry has considered its safety and the environment in the event of an emergency as evidenced by an approved contingency plan. If DEC is currently a bottleneck in the approval process, then we ask the legislature to find out why and address this problem.

However, we urge caution on two accounts: 1) that DEC should not be forced to approve a contingency plan within a set time frame as this could result in industry pressuring DEC to approve a faulty plan; and 2) that the review process should NOT be extended to the Depts. of Fish and Game and Natural Resources as this would only further lengthen the approval process by including reviewers with limited expertise in this area.

We recommend the following specific language changes: to cover all facilities, on page 1, line 20, delete the word "offshore;" and on page 2, delete section (e) in its entirety which refers to multiple department review of contingency plans.

After the Exxon Valdez spill, Alyeska now claims they are prepared to respond to a maximum spill of 250,000 barrels. During testimony on these bills in the Senate Oil and Gas Committee, it was evident that 250,000 barrels has become the new industry standard.

This is NOT acceptable to the ORA. The Exxon Valdez only spilled one fifth of its cargo and tankers up to fifty percent larger than the Exxon Valdez carry oil from the terminal.

We ask that the industry assume a greater share of the inherent risk associated with transportation/production of oil -- as they have done in other parts of the world -- rather than push off this risk on the public. This is not an unrealistic request. In an area of northern Europe the geographic equivalent of Alaska, the combined response from scattered depots is 500,000 bbl/hr or 50 times the current capacity in the state.

We recommend that the language on page 2, lines 21-23, read: "...manpower and resources to rapidly respond to a maximum oil discharge in the time frame specified by the oil discharge contingency plan(s), but not to exceed 72 hours."

We can't require the oil industry to contain a spill because this may be impossible due to weather or other forces beyond their control. We can't require the oil industry to remove a discharge because this would eliminate the potential for dispersant use or burning as these methods do not remove oil, but instead force it into the air or water column.

But we can require the oil industry to stockpile the necessary equipment and pre-train the necessary manpower for rapid response to a maximum oil discharge. We stress that this language should apply to any applicants for an oil discharge contingency plan.

The current evacuation of the Drift River terminal is a forceful reminder that contingency plans must encompass total contents of terminals and tankers. What the oil industry calls redundancy, the public calls safety.

On page 2, lines 24-25, we recommend the following wording: "(g) An oil discharge contingency plan must be reviewed by DEC and upgraded, if necessary, by the applicant at least every three years."

We bring to the committee members' attention a booklet entitled: "A Citizen's Guide to Hazardous and Toxic Waste Sites of Fairbanks, Alaska" prepared for the Northern Alaska Environmental Center. This booklet documents and ranks 33 toxic waste problems ranging from a residential yard sprayed with PCBs to buried experimental military nuclear reactors. Twenty-five of the 33 toxic waste problems involved some form of petroleum hydrocarbons.

Ranked No.1 was the Fairbanks MUS city wells: "the sole source of all Fairbanks public water is contaminated with fuel. Benzene is present in city wells up to 13 ppb (the drinking water standard is 5 ppb.)

Ranked No. 2 was MAPCO which were "fined for polluting drinking water, not reporting spills, selling improperly identified fuel and dumping hazardous waste. Benzene contaminates the groundwater 4,000 times in excess of drinking water standards."

Ranked No. 3 was the Fort Wainwright Army Base which contaminated over 40 acres in a single gasoline/diesel spill and has at least nine leaking underground fuel storage tanks.

Ranked No. 5 was the Eielson Air Force Base which reportedly had the largest underground fuel spill in North America: over 10 million gallons on 2.7 acres. "The pollution is so widespread a lake on base is nicknamed "POL lake;" short for "petroleum, oil and lubricants. Eielson has a proposal to DEC to inject 12 million tons/yr of waste water underground."

Ranked No. 9 was PetroStar with fuel spills contaminating soils and groundwater. "Monitoring wells between MAPCO and PetroStar are now contaminated."

It is quite clear that spilling oil is not a phenomenon specific to tankers in Valdez or big operators like Alyeska. Nor is Fairbanks alone in this problem. A similar booklet on hazardous and toxic waste sites is available for the Kenai area. We also bring to the committee's attention a compliance chronology on the Tesoro refinery and a New York Times article on a fuel oil barge explosion in Arthur Kill.

Little operators as well as big operators have accidents and the ORA insists that legislators address all polluters to minimize risks to the public and environment. Don't cop out and pass a bill that only protects us from part of the problem.

There is a general misconception that refined products are less toxic than crude oil. In reality, refined products contain the most toxic fraction of crude oil. This fraction is also the most volatile and soluble. For example, benzene dissolves rapidly into groundwater. Comparative toxicity of refined versus unrefined oil depends upon physical and biological parameters of the environment in which the discharge occurred.

So work for full protection. Consider options. For example, the American Petroleum Institute or the oil industry within the state could form a PIRO type depot with equipment located throughout the state. This could be a cooperative effort with participation from all applicants of oil discharge contingency plans.

A similar type of cooperative cooperation could be used to address industry concerns in the section on financial responsibility. Proof of financial responsibility should be evaluated based on size of operation with limits increased for large operators to the maximum allowed by the state (\$500,000). Decreases could be awarded for good behavior based on past performance.

Requiring adequate proof of financial responsibility is well within the capability of the industry. Last September, fishermen, environmentalists, and tourism/recreational groups held a marine demonstration in front of Alyeska protesting Amerada Hess charters of Liberian-flagged, Israeli-registered, Italian-crewed tankers, some of which were up to 50% larger than the Exxon Valdez. We demanded a billion dollar bond for these tankers and Amerada Hess posted it. Amerada Hess is only a minor owner (1.5%) of Alyeska: surely the other owners could post similar bonds.

And finally the scope of Sec. 4, which deals with DEC inspections of oil industry operations, needs to be increased by adding this language after (2) on line 16: "(3) examine the structural integrity of terminals, pipelines, and other facilities related to the exploration, production, and transportation of oil."

The fleet carrying North Slope crude accounts for 13% of the U.S. tanker fleet, but this same 13% accounts for 52% of the structural failures in the fleet. Tankers are supposedly inspected by the Coast Guard. The Alyeska facility and Trans-Alaska Pipeline are also supposedly

inspected by federal agencies, but the Alyeska facility has never been inspected in 12 years of operation and recent tests for corrosion in the pipeline have revealed extensive problems in 300 of the 800 miles.

Clearly, there is something very wrong with the federal inspection programs. Until such time as the federal government strengthens these programs and carries out its duties, the ORA strongly supports state (DEC) oversight in all these areas, either directly or as part of a joint state/federal effort. The legislature should provide DEC with the funds to contract expertise to conduct these inspections.

Last in HB567, the ORA recommends the following wording on page 8, line 18, for section (5): "(18) "maximum oil discharge" means the maximum oil discharge that could occur during the lifetime of the vessel or facility.

Very briefly, in HB566, there is confusion within the ranks of the ORA as to the language and intent of the sections dealing with duties of DEC versus DES. However, there is a strong consensus that we want DEC telling DES what to do during an oil or hazardous substance discharge emergency, not vice versa.

Thank you for the opportunity to testify.



Oil Reform Alliance



SB 503 & SB 504

Testimony of Marna Lee Schwartz
Before the Senate Special Committee on Oil and Gas
3/90

Madame Chair, Members of the Committee,

For the record, my name is Marna Schwartz and I am representing the Oil Reform Alliance. In general, we strongly support the intent of SB 503 & SB 504. To make my testimony as brief as possible, I will speak only on Section 1 of SB 504 in which the applicant for an oil discharge contingency plan must be able to (as on page 2, lines 21 through 23) "rapidly contain a realistic maximum oil discharge and to remove that discharge in the shortest possible time" and also be prepared (as on page 3, lines 1 through 5) to deal with the release within "the shortest possible time after discharge and ... that the applicant properly implements the oil discharge contingency plan."

As others have asked over the course of these hearings, I, too, am perplexed by the language in this section. What is a "realistic maximum oil discharge?" How long is the "shortest possible time?" These terms are vague and indefinite, leaving the contents of oil discharge contingency plans open to controversy and deliberation. In order to make the bill as clear as possible for both the regulatory agency and the industry, it is imperative to require that the oil discharge contingency plan for a vessel or facility prepare for a total discharge of contained oil. As Mr. Asplund pointed out last night, "if you don't pre-plan, you can't make good rational decisions." Good rational decisions need to be made when the next catastrophic spill occurs. Furthermore, this pre-planning needs to be used. As in the language of HB321—a bill currently in Senate Labor and Commerce, it is crucial that this plan be implemented "immediately."

According to 46.04.030, oil terminal facilities, offshore oil exploration facilities, and tankers and barges involved with the transfer of oil cannot operate within this state without an approved oil discharge contingency plan. It seemed as though there were references made last night to situations where this was not the case. Is it true that there are as many as fifty vessels and facilities operating which are in violation of this statute? (See FY91, Governor's Operating Budget--Department of Environmental Conservation, p34.) Does the state need the help of its citizens in order to ensure the protection of its resources? Do we need legislation, like HB 558, which allows the public to sue industries that are in violation of the laws which protect our natural resources?

As I brought up in my testimony on SB 359, the Exxon Valdez disaster helped make the citizens of this state aware of the true costs

of oil development. Our sustainable resources need to be protected in order to ensure Alaska's future economic stability. Oil spills are not acceptable. Alyeska's plan which, and I quote Patti Epler in her article of February 27, 1990 in the Anchorage Daily News, "can't guarantee complete containment and clean-up of any spill," forces the state to reconsider the cost of oil transport.

I appreciate this committee's willingness to look at the bills and I hope that you all help pass strong language to ensure the healthy future of the state.



SEA HAWK SEAFOODS, INC.

P.O. Box 151 Valdez, Alaska 99686
Phone: (907) 835-4837 Telefax: (907) 835-4292

APR 23 1990

April 16, 1990

Senator Drue Pearce
Room 510, Capitol
P.O. Box V
Juneau, Alaska 99811

RE: SB502
SB504
HB409

Dear Senator Pearce:

I believe it imperative to request your consideration and support for what are commonly referred to as "the oil spill bills".

I have been publicly supportive of the philosophy that the private sector is indeed responsible for their actions. It would be a wonderful world if every company accepted their legal and environmental responsibilities and fulfilled their promises without legal pressure. There would be no need for guardians.

The EXXON VALDEZ disaster, and later the oil spill commission, shed light that Alaska laws and enforcement authority to protect the environment and public are woefully inadequate. It has become evident that we have serious weaknesses in our enforcement and inspection authority.

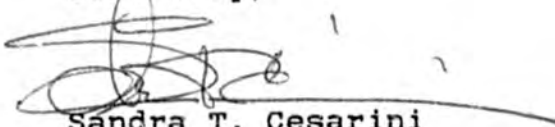
The idea that a state environmental inspector is denied access to the State's largest oil distribution center is reprehensible. The fact that the company had the ability to deny him access is even more outrageous.

The oil spill bills specifically define the States' authority and gives them sufficient muscle to enforce the laws.

The public perceives the State to be the guardian of public safety, health and environment. With your vote, we will have the tools to support that trust.

Thank you for your consideration in this matter.

Sincerely,



Sandra T. Cesarini

STC:alh
SHS1628



SEA HAWK SEAFOODS, INC.

APR 23 1990

P.O. Box 151 Valdez, Alaska 99686
Phone: (907) 835-4837 Telefax: (907) 835-4292

April 17, 1990

Senator Drue Pearce
Room 510, Capitol
P.O. Box V
Juneau, AK 99811

Dear Senator Pearce:

I respectfully request that as Senate Oil and Gas Committee Chairperson, you consider moving Oil Spill Bills (such as HB504) out of Committee as quickly as possible.

As one of the victims of the oil spill, I have taken a rather personal interest in the action taken by the Legislature on these bills.

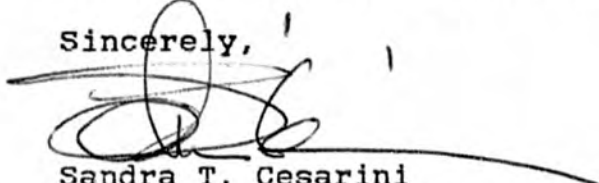
I strongly believe that these issues are for the public good and for the well being of our State.

It is evident that this (and other oil spill legislation) need to be completed this session. We need to know that the Legislature is behind the philosophy of protecting the public good.

Please consider a rapid and successful review of HB504 and all other oil spill legislation. We need your support.

Thank you for your kind consideration to this matter.

Sincerely,



Sandra T. Cesarini
Executive Vice President

cc: Senator Al Adams
Senator Paul Fischer
Senator Rick Halford
Senator Tim Kelly

STC:alh
SHS1632