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Alaska State Legislature

SENATE

Official Business

P.O. Box V
State Capitol
Juneau, Alaska 99811

MEMORANDUM

TO: Senator Sam Cotten, Chair
Oil & Gas Committee

RE: SJR 28 --
TAPS Oversight

FR: Senator Jay Kerttula

DATE: May 3, 1991

Thank you for taking the time to hear SJR 28, relating to the TAPS Task Force. I understand that the administration testified that: 1) the task force is not really needed since the existing oversight system is working well; and 2) that if the legislature were to act on SJR 28, mention should be made of the money promised in OPA which has not been forthcoming.

I believe that SJR 28 is needed, and that the focus of the resolution should not be changed.

During your hearing of SJR 28, the administration alluded to the GAO study on TAPS, giving the impression that the GAO study verifies the conclusion that there are no difficulties in TAPS operations. I was reluctant to bring up the GAO study, since it is still in draft form and is not yet public information. However, my understanding is that the draft GAO report concludes:

1. That current TAPS oversight is not systematic, disciplined and coordinated;
2. The Pipeline Coordinator's Office has no lead entity, ie., no clear authority, and no stable funding source;
3. "Oversight" agencies, including the Pipeline Coordinator's Office, rely largely on TAPS/Alyeska to police itself;
4. Steps taken by the state are not adequate to ensure long-term effectiveness of TAPS/Alyeska operations.

Thank you for your consideration of these matters.

JK:kh



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MEMORANDUM

TO: Senator Cotten, Chair
Oil and Gas Committee

SUBJ: SJR 28 --
TAPS Task Force

FROM: Senator Kerttula

DATE: April 29, 1991

Thank you for scheduling SJR 28.

The Oil Pollution Act of 1990 created a Presidential Task Force to conduct a two-year audit of the Trans Alaska Pipeline System. Three members of the TAPS task force are to be appointed by Governor Hickel.

Given the importance to the State of Alaska in ensuring environmentally sound oil development in the North Slope, I believe that it is important to encourage Governor Hickel to appoint the Alaska members of the task force as soon as possible.

JK:kh

From DEC Marilyn Heinman 10/20/90

- X plans and site specific regulations governing the activities and actions of terminal facilities and tankers.

The Citizens Advisory Council is appointed by the Governor and shall represent fishing, aquaculture, native corporations, environmental organizations, recreational organizations, state chamber of commerce (tourism), and specific representatives from local communities, and non-voting members including EPA, Coast Guard, NOAA, Forest Service, BLM, DEC, F&G, DNR, DES. Duties include: provide advice and recommendations to the Association on policies, permits and regulations relating to operation and maintenance of facilities and tankers which may effect the environment; monitor environmental impacts of the operations of facilities and terminals; review the adequacy of oil spill prevention and contingency plans for tankers and facilities; provide recommendations to the Association on Port Operations, policies and practices; recommend standards for permits and regulations, modifications of terminal facility and tanker operations; and modifications to prevention and contingency plans; and create additional committees.

Funding provided by the oil industry, contingency plans will not be approved if these Environmental monitoring and oversight programs are not funded. \$2 million in FWS, \$1 million in Cook Inlet.

3) The Transportation Secretary is required to establish special requirements for Prince William Sound including:

- a) an improved vessel traffic service system for the Port of Valdez and a Bligh Reef warning light
- b) pre-positioned oil spill containment and removal equipment in strategic locations
- c) establishment of an oil spill clean up force sufficient to clean up a 200,000 barrel spill
- d) training in oil removal techniques for fishermen and fishing industry employees in the area
- e) spill drills twice a year
- f) Tankers that have spilled more than 1 million gallons are prohibited from operating in Prince William Sound

TITLE VI - Miscellaneous

TITLE VII - Research and Development

1) \$26.5 million annually for a new research and development program coordinated by an Interagency Coordinating Committee on Oil Pollution Research. The Committee would coordinate efforts by federal agencies, industry, universities, research institutions, states and other nations. The Committee will investigate technologies to prevent and clean up spills, ways to improve industry and government response to spills, ways to restore damaged natural resources, the environmental effects of spills and other topics.

TITLE VIII - Trans-Alaska Pipeline System

1) Pipeline ROW holders are responsible for paying all costs and are strictly liable for \$350 million in damages.

2) Presidential Task Force - Composed of an appointee of the EPA, Interior, and Transportation, 3 members appointed by the Governor (one from DEC and one from DNR), one member nominated by OTA. The Task Force will conduct a comprehensive 2 year audit of the TAPS and terminal operations and make recommendations concerning prevention of oil spills, and health and environmental damage. the audit includes a review of whether Alyaska is in compliance with laws, regulations and right of way agreements. \$5 million annually is authorized from the fund.

3) Penalties

TITLE IX - Amendments to Oil Spill Liability Trust Fund. ETC.

OIL POLLUTION ACT OF 1990
TITLE I--OIL POLLUTION LIABILITY AND COMPENSATION

Sec. 1001. Definitions.	Page 3
Sec. 1002. Elements of liability.	Page 6
Sec. 1003. Defenses to liability.	Page 8
Sec. 1004. Limits on liability.	Page 8
Sec. 1005. Interest.	Page 10
Sec. 1006. Natural resources.	Page 11
Sec. 1007. Recovery by foreign claimants.	Page 13
Sec. 1008. Recovery by responsible party.	Page 14
Sec. 1009. Contribution.	Page 14
Sec. 1010. Indemnification agreements.	Page 15
Sec. 1011. Consultation on removal actions.	Page 15
Sec. 1012. Uses of the Fund.	Page 15
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Sec. 1015. Subrogation.	Page 19
Sec. 1016. Financial responsibility.	Page 19
Sec. 1017. Litigation, jurisdiction, and venue.	Page 21
Sec. 1018. Relationship to other law.	Page 22
Sec. 1019. State financial responsibility.	Page 23
Sec. 1020. Application.	Page 23

TITLE II--CONFORMING AMENDMENTS

Sec. 2001. Intervention on the High Seas Act.	Page 23
Sec. 2002. Federal Water Pollution Control Act.	Page 24
Sec. 2003. Deepwater Port Act.	Page 24
Sec. 2004. Outer Continental Shelf Lands Act Amendments of 1978.	Page 24

TITLE V--PRINCE WILLIAM SOUND PROVISIONS

Sec. 5001. Oil spill recovery institute.	Page 59
Sec. 5002. Terminal and tanker oversight and monitoring.	Page 61
Sec. 5003. Bligh Reef light.	Page 70
Sec. 5004. Vessel traffic service system.	Page 70
Sec. 5005. Equipment and personnel requirements under tank vessel and facility response plans.	Page 70
Sec. 5006. Funding.	Page 71
Sec. 5007. Limitation.	Page 71

TITLE VI--MISCELLANEOUS

Sec. 6001. Savings clause.	Page 71
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Sec. 6003. Outer Banks protection.	Page 72
Sec. 6004. Cooperative development of common hydrocarbon-bearing areas.	Page 75

TITLE VII--OIL POLLUTION RESEARCH AND DEVELOPMENT PROGRAM

Sec. 7001. Oil pollution research and development program.	Page 76
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TITLE VIII--TRANS-ALASKA PIPELINE SYSTEM

Sec. 8001. Short title.	Page 81
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Subtitle A Improvements to Trans-Alaska Pipeline System

Sec. 8101. Liability within the State of Alaska and cleanup efforts.	Page 82
Sec. 8102. Trans-Alaska Pipeline Liability Fund.	Page 82
Sec. 8103. Presidential task force.	Page 84

State due to injury, destruction, or loss of real property, personal property, or natural resources, or diminished economic activity due to a discharge of oil; and

"(B) the net cost of providing increased or additional public services during or after removal activities due to a discharge of oil, including protection from fire, safety, or health hazards, incurred by a State or political subdivision of a State.

"(14) Paragraphs (1) through (13) shall apply only to claims arising from incidents occurring before the date of enactment of the Trans-Alaska Pipeline System Reform Act of 1990. The Oil Pollution Act of 1990 shall apply to any incident, or any claims arising from an incident, occurring on or after the date of the enactment of that Act."

(d) **PAYMENT OF CLAIMS BY FUND.**—Section 204(c)(3) of the Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1653(c)(3)) is amended by adding at the end the following: "The Fund shall expeditiously pay claims under this subsection, including such \$14,000,000, if the owner or operator of a vessel has not paid any such claim within 90 days after such claim has been submitted to such owner or operator. Upon payment of any such claim, the Fund shall be subrogated under applicable State and Federal laws to all rights of any person entitled to recover under this subsection. In any action brought by the Fund against an owner or operator or an affiliate thereof to recover amounts under this paragraph, the Fund shall be entitled to recover prejudgment interest, costs, reasonable attorney's fees, and, in the discretion of the court, penalties."

(e) **OFFICERS OR TRUSTEES.**—Section 204(c)(4) of the Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1653(c)(4)) is amended—

(1) by inserting "(A)" after "(4)"; and

(2) by adding at the end the following:

"(B) No present or former officer or trustee of the Fund shall be subject to any liability incurred by the Fund or by the present or former officers or trustees of the Fund, other than liability for gross negligence or willful misconduct.

"(C)(i) Subject to clause (ii), each officer and each trustee of the Fund—

"(I) shall be indemnified against all claims and liabilities to which he or she has or shall become subject by reason of serving or having served as an officer or trustee, or by reason of any action taken, omitted, or neglected by him or her as an officer or trustee; and

"(II) shall be reimbursed for all attorney's fees reasonably incurred in connection with any claim or liability.

"(ii) No officer or trustee shall be indemnified against, or be reimbursed for, any expenses incurred in connection with, any claim or liability arising out of his or her gross negligence or willful misconduct."

SEC. 8103. PRESIDENTIAL TASK FORCE.

(a) ESTABLISHMENT OF TASK FORCE.—

(1) **ESTABLISHMENT AND MEMBERS.**—(A) There is hereby established a Presidential Task Force on the Trans-Alaska Pipeline System (hereinafter referred to as the "Task Force") composed of the following members appointed by the President:

(i) Three members, one of whom shall be nominated by the Secretary of the Interior, one by the Administrator of

the Environmental Protection Agency, and one by the Secretary of Transportation.

(ii) Three members nominated by the Governor of the State of Alaska, one of whom shall be an employee of the Alaska Department of Natural Resources and one of whom shall be an employee of the Alaska Department of Environmental Conservation.

(iii) One member nominated by the Office of Technology Assessment.

(B) Any member appointed to fill a vacancy occurring before the expiration of the term for which his or her predecessor was appointed shall be appointed only for the remainder of such term. A member may serve after the expiration of his or her term until a successor, if applicable, has taken office.

(2) COCHAIRMAN.—The President shall appoint a Federal cochairman from among the Federal members of the Task Force appointed pursuant to paragraph (1)(A) and the Governor shall designate a State cochairman from among the State members of the Task Force appointed pursuant to paragraph (1)(B).

(3) COMPENSATION.—Members shall, to the extent approved in appropriations Acts, receive the daily equivalent of the minimum annual rate of basic pay in effect for grade GS-15 of the General Schedule for each day (including travel time) during which they are engaged in the actual performance of duties vested in the Task Force, except that members who are State, Federal, or other governmental employees shall receive no compensation under this paragraph in addition to the salaries they receive as such employees.

(4) STAFF.—The cochairman of the Task Force shall appoint a Director to carry out administrative duties. The Director may hire such staff and incur such expenses on behalf of the Task Force for which funds are available.

(5) RULE.—Employees of the Task Force shall not, by reason of such employment, be considered to be employees of the Federal Government for any purpose.

(b) DUTIES OF THE TASK FORCE.—

(1) AUDIT.—The Task Force shall conduct an audit of the Trans-Alaska Pipeline System (hereinafter referred to as "TAPS") including the terminal at Valdez, Alaska, and other related onshore facilities, make recommendations to the President, the Congress, and the Governor of Alaska.

(2) COMPREHENSIVE REVIEW.—As part of such audit, the Task Force shall conduct a comprehensive review of the TAPS in order to specifically advise the President, the Congress, and the Governor of Alaska concerning whether—

(A) the holder of the Federal and State right-of-way is, and has been, in full compliance with applicable laws, regulations, and agreements;

(B) the laws, regulations, and agreements are sufficient to prevent the release of oil from TAPS and prevent other damage or degradation to the environment and public health;

(C) improvements are necessary to TAPS to prevent release of oil from TAPS and to prevent other damage or degradation to the environment and public health;

(D) improvements are necessary in the onshore oil spill response capabilities for the TAPS; and

(E) improvements are necessary in security for TAPS.

(3) **CONSULTANTS.**—(A) The Task Force shall retain at least one independent consulting firm with technical expertise in engineering, transportation, safety, the environment, and other applicable areas to assist the Task Force in carrying out this subsection.

(B) Contracts with any such firm shall be entered into on a nationally competitive basis, and the Task Force shall not select any firm with respect to which there may be a conflict of interest in assisting the Task Force in carrying out the audit and review. All work performed by such firm shall be under the direct and immediate supervision of a registered engineer.

(4) **PUBLIC COMMENT.**—The Task Force shall provide an opportunity for public comment on its activities including at a minimum the following:

(A) Before it begins its audit and review, the Task Force shall review reports prepared by other Government entities conducting reviews of TAPS and shall consult with those Government entities that are conducting ongoing investigations including the General Accounting Office. It shall also hold at least 2 public hearings, at least 1 of which shall be held in a community affected by the Exxon Valdez oil spill. Members of the public shall be given an opportunity to present both oral and written testimony.

(B) The Task Force shall provide a mechanism for the confidential receipt of information concerning TAPS, which may include a designated telephone hotline.

(5) **TASK FORCE REPORT.**—The Task Force shall publish a draft report which it shall make available to the public. The public will have at least 30 days to provide comments on the draft report. Based on its draft report and the public comments thereon, the Task Force shall prepare a final report which shall include its findings, conclusions, and recommendations made as a result of carrying out such audit. The Task Force shall transmit (and make available to the public), no later than 2 years after the date on which funding is made available under paragraph (7), its final report to the President, the Congress, and the Governor of Alaska.

(6) **PRESIDENTIAL REPORT.**—The President shall, within 90 days after receiving the Task Force's report, transmit a report to the Congress and the Governor of Alaska outlining what measures have been taken or will be taken to implement the Task Force's recommendations. The President's report shall include recommended changes, if any, in Federal and State law to enhance the safety and operation of TAPS.

(7) **EARMARK.**—Of amounts in the Fund, \$5,000,000 shall be available, subject to appropriations, annually without fiscal year limitation to carry out the requirements of this section.

(c) **GENERAL ADMINISTRATION AND POWERS OF THE TASK FORCE.**—

(1) **AUDIT ACCESS.**—The Comptroller General of the United States, and any of his or her duly appointed representatives, shall have access, for purposes of audit and examination, to any books, documents, papers, and records of the Task Force that are pertinent to the funds received and expended by the Task Force.

(2) **TERMINATION.**—The Task Force shall cease to exist on the date on which the final report is provided pursuant to subsection (b)(5).

(3) **FUNCTIONS LIMITATION.**—With respect to safety, operations, and other matters related to the pipeline facilities (as such term is defined in section 202(4) of the Hazardous Liquid Pipeline Safety Act of 1979) of the TAPS, the Task Force shall not perform any functions which are the responsibility of the Secretary of Transportation under the Hazardous Liquid Pipeline Safety Act of 1979, as amended. The Secretary may use the information gathered by and reports issued by the Task Force in carrying out the Secretary's responsibilities under that Act.

(4) **POWERS.**—The Task Force may, to the extent necessary to carry out its responsibilities, conduct investigations, make reports, issue subpoenas, require the production of relevant documents and records, take depositions, and conduct directly or, by contract, or otherwise, research, testing, and demonstration activities.

(5) **EXAMINATION OF RECORDS AND PROPERTIES.**—The Task Force, and the employees and agents it so designates, are authorized, upon presenting appropriate credentials to the person in charge, to enter upon, inspect, and examine, at reasonable times and in a reasonable manner, the records and properties of persons to the extent such records and properties are relevant to determining whether such persons have acted or are acting in compliance with applicable laws and agreements.

(6) **FOIA.**—The information gathered by the Task Force pursuant to subsection (b) shall not be subject to section 552 of title 5, United States Code (commonly referred to as the "Freedom of Information Act"), until its final report is issued pursuant to subsection (b)(6).

Subtitle B—Penalties

SEC. 8201. AUTHORITY OF THE SECRETARY OF THE INTERIOR TO IMPOSE PENALTIES ON OUTER CONTINENTAL SHELF FACILITIES.

Section 24(b) of the Outer Continental Shelf Lands Act (43 U.S.C. 1350(b)) is amended—

(1) by striking out "If any" and inserting in lieu thereof "(1) Except as provided in paragraph (2), if any";

(2) by striking out "\$10,000" and inserting in lieu thereof "\$20,000";

(3) by adding at the end of paragraph (1) the following new sentence: "The Secretary shall, by regulation at least every 3 years, adjust the penalty specified in this paragraph to reflect any increases in the Consumer Price Index (all items, United States city average) as prepared by the Department of Labor."; and

(4) by adding at the end the following new paragraph:

"(2) If a failure described in paragraph (1) constitutes or constituted a threat of serious, irreparable, or immediate harm or damage to life (including fish and other aquatic life), property, any mineral deposit, or the marine, coastal, or human environment, a civil penalty may be assessed without regard to the requirement of expiration of a period allowed for corrective action."

STATE OF ALASKA

WALTER J. HICKEL, GOVERNOR

DEPT. OF ENVIRONMENTAL CONSERVATION

OFFICE OF THE COMMISSIONER

P.O. BOX 0, JUNEAU, ALASKA 99811-1800

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May 13, 1991

faured
5-13-91
AM

The Honorable Sam Cotten, Chairman
Senate Special Committee on Oil and Gas
Alaska State Legislature
The Capitol
Juneau, AK 99811

Dear Senator Cotten,

When last your committee addressed Senate Joint Resolution 28, relating to oil and gas exploration in Alaska and the Presidential Task Force on the Trans Alaska Pipeline System, you invited us to submit language for possible changes.

We suggest you broaden the title to read "relating to oil and gas exploration in Alaska and the implementation of the Federal Oil Pollution Act of 1990," and

*Insert after line 8 on page 1, the following language:

WHEREAS the economy of Alaska and the United States depend, in large part, on the continued safe production of hydrocarbon reserves already known to exist on Alaska's North Slope; and

*Insert, after line 15 on page 1:

WHEREAS the Oil Pollution Act of 1990 addressed concerns of the American public following the Exxon Valdez oil spill by mandating creation of a Prince William Sound Oil Spill Recovery Institute to study improved oil spill prevention and response technology, as well as long-term effects of the Exxon Valdez spill; and

WHEREAS the Prince William Sound Oil Spill Recovery Institute is mandated to have an 18 member advisory board, including appointees of four Commissioners of relevant departments, and four representatives of affected communities to be recommended by the Governor to the U.S. Secretary of Commerce, and three Alaska Natives; and

*Insert, after the word "Force" on line 15, page 2:

and the Prince William Sound Oil Spill Recovery Institute
Advisory Board

Senator Sam Cotten
May 13, 1991
page two

*Insert, after the word "the" on line 21, page 2:

Prince William Sound Oil Spill Recovery Institute so that its work may be coordinated to complement ongoing federal and state work on the Exxon Valdez spill, and funding for

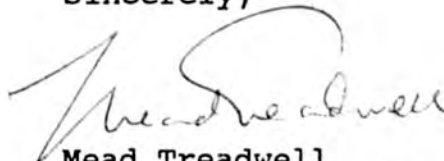
*Insert, after the word "the" on line 24, page 2:

Prince William Sound Oil Spill Recovery Institute, other regional research programs authorized in the Oil Pollution Act of 1990, and the

Mr. Chairman, in my testimony before the Committee I noted that the Governor had already sought names to submit to the President for the Task Force, and that the federal-state pipeline safety office has already taken on many of the studies suggested for the Presidential Task Force. We support this resolution but feel that other aspects of the Oil Pollution Act of 1990 are also being ignored by Congress, especially the creation of a long-term research program that can complement the litigation-driven damage assessment studies in the Sound.

Thank you for considering these amendments.

Sincerely,

A handwritten signature in dark ink, appearing to read "Mead Treadwell". The signature is fluid and cursive, with a large initial "M" and a long, sweeping underline.

Mead Treadwell
Deputy Commissioner



TELECOPY COVER SHEET
Anchorage Legislative Information Office
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TO: Sen. Cotten / Spe Comm on Oil + Gas

ATTN: _____ FAX: _____ PHONE: _____

FROM: Jerry McCutcheon PHONE: _____

INSTRUCTIONS: _____

SENT: Date 5-14-91 Time 2:26

DISPOSAL OF ORIGINAL: Discard _____ Hold for Pickup _____

NUMBER OF PAGES: 2 (counting cover sheet)

TRANSMITTED BY: Barbara

Amendments to Senate Joint Resolution #28

After line 4, page 2:

Whereas, the maximum competition for resources is in the best interest of Alaska and the United States

Whereas, the State of Alaska has been overcharged \$5 billion as of 1986 by the pipeline owners and the excessive charges will amount \$40 billion by the year 2010

Whereas, the excessive pipeline charges give an unfair advantage to the pipeline owners and constitute a restraint of trade which detrimental to the maximum return to Alaska and the United States and to the maximum utilization of the resource

Whereas, the oil reservoir commonly known as Prudhoe Bay (Salderochit) is capable of producing \$15 billion barrels of oil or 50% more than the oil companies have told the Alaska public and the oil companies have aggressively hidden this fact from the public

Whereas, the Alaska Oil and Gas Commission has been a willing co-conspirator to deceive the public by its unwillingness to use its \$500,000 3-dimensional computer model of the Salderochit to determine the best methods and rates of production that would lead to the highest yield from the Salderochit reservoir, nor retrospectively examine what the highest yield could have been, nor what the highest yield could be today given the condition the reservoir now

Insert after Line 24:

Further resolve that the Presidential Task Force examine the Trans Alaska Pipeline System tariffs and the antitrust aspects of the tariffs or request a Federal Grand Jury to examine the anti-trust nature of the Trans Alaska Pipeline System

Further resolve that the Presidential Task Force request use of the State of Alaska's Oil and Gas Commissions 3-dimensional computer model of Prudhoe Bay (Salderochit Reservoir) and that the task force hire an independent oil reservoir computer programmer to load the model and to determine:

1. What the maximum production of the Salderochit could have been? How it would have been produced?
2. Determine how best to maximize oil recovery from the Salderochit given the condition of the Salderochit today
3. Determine how many trillions of cubic feet of gas must be added to Prudhoe Bay or the Salderochit to maximize recovery

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Copies of minutes listed below were originally included in this file. The minutes are available on the STAIRS database CMPR. In order to save space copies of minutes have not been left in the files.

Mary Van Nimwegen ..

4-30-91 *S. Spec. Comm. on Oil & Gas*

11:12 AM

5-14-91 " " "

12:35 PM