

ALASKA LEGISLATURE SPECIAL COMMITTEE/SUBJECT FILES 8672

2271 SCOMM 93: HOUSE SPECIAL COMMITTEE ON OIL & GAS, 1993

MEMORANDUM

State of Alaska

Department of Law

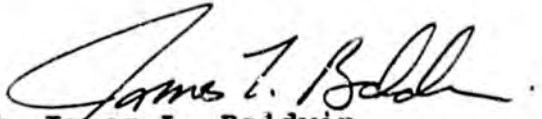
TO: Hon. Joe Green
Chairman
House Special Committee
on Oil and Gas

DATE: February 11, 1993

FILE NO:

TEL. NO: 465-3600

SUBJECT: Oil and gas litigation
funding history

FROM: 
James L. Baldwin
Assistant Attorney General
Oil & Gas Section - Juneau

The following is a listing of appropriations made to the Department of Law for oil and gas litigation. The appropriations began in FY 77 and continue to the current fiscal year, FY 93.

Department of Law

CH 89/SLA 77	\$ 465.0
CH 113/SLA 78/Pg. 55/Ln. 7	2,000.0
CH 7/SLA 78	958.3
CH 80/SLA 79/Pg. 46/Ln. 22	1,500.0
CH 120/SLA 80/Pg. 62/Ln. 16	2,000.0
CH 50/SLA 80/Sec. 257	1,920.0
CH 1/SLA 81 /Secs. 1-2	10,615.0
CH 1/SLA 81/Sec. 5	734.0
CH 101/SLA 82/Sec. 40	815.2
CH 101/SLA 82/Sec. 42	4,433.4
CH 101/SLA 82/Sec. 43	211.7
CH 101/SLA 82/Sec. 44	436.0
CH 107/SLA 82/Sec. 11	11,222.7
CH 2/SLA 83/Secs. 2-3	5,425.2
CH 122/SLA 84/Sec. 11	9,149.6
CH 98/SLA 85/Sec. 12	9,149.6
CH 129/SLA 86/Sec. 12	8,900.0
CH 130/SLA 86/Sec. 4	488.0
CH 95/SLA 87/Sec. 20	9,483.8
CH 9/SLA 87	(1,912.1)

CH 154/SLA 88/Sec. 17	14,474.0
CH 173/SLA 88/Sec. 4	400.0
CH 173/SLA 88/Sec. 5	1,539.0
 CH 116/SLA 89/Sec. 25	 14,000.0 ¹
CH 17/SLA 90/Sec. 1(p)	747.6
CH 17/SLA 90/Sec. 1(q)	8,274.3
CH 209/SLA 90/Sec. 30(a)	10,500.0
CH 207/SLA 90/Sec. 30(b)	3,500.0 ²
 CH 1/SLA 91/Sec. 14	 12,000.0 ³
CH 73/SLA 91/Sec. 40	11,000.0 ⁴
 CH 8/SLA 92/Sec. 2	 15,500.0 ⁵
CH 136/SLA 92/Sec. 44	<u>10,358.4⁶</u>
 TOTAL	 \$180,288.7

JLB:tg

¹ 3,500.0 of this appropriation is from the Permanent Fund Reserve Account to Law; the remaining 10,500.0 is from the general fund.

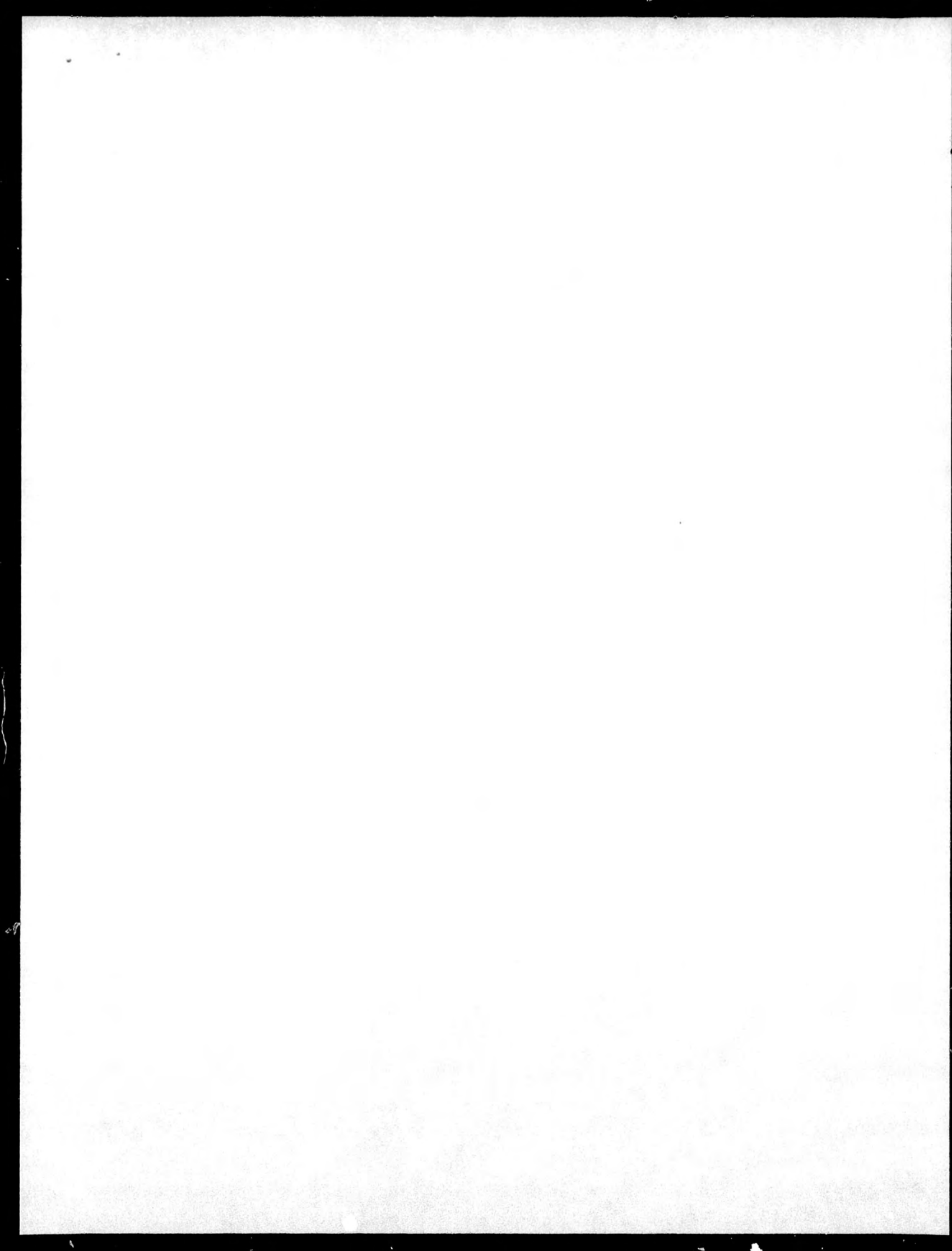
² This 3,500.0 appropriation is from the Permanent Fund Reserve Account to the Permanent Fund Board. The Board in turn provided these funds to Law for royalty and title litigation purposes.

³ 2,000.0 of this appropriation is from the Permanent Fund Earnings Reserve Account; the remaining 10,000.0 is from the general fund.

⁴ 1,750.0 of this appropriation is from the Permanent Fund Earnings Reserve Account to Law; the remaining 9,250.0 is from the general fund.

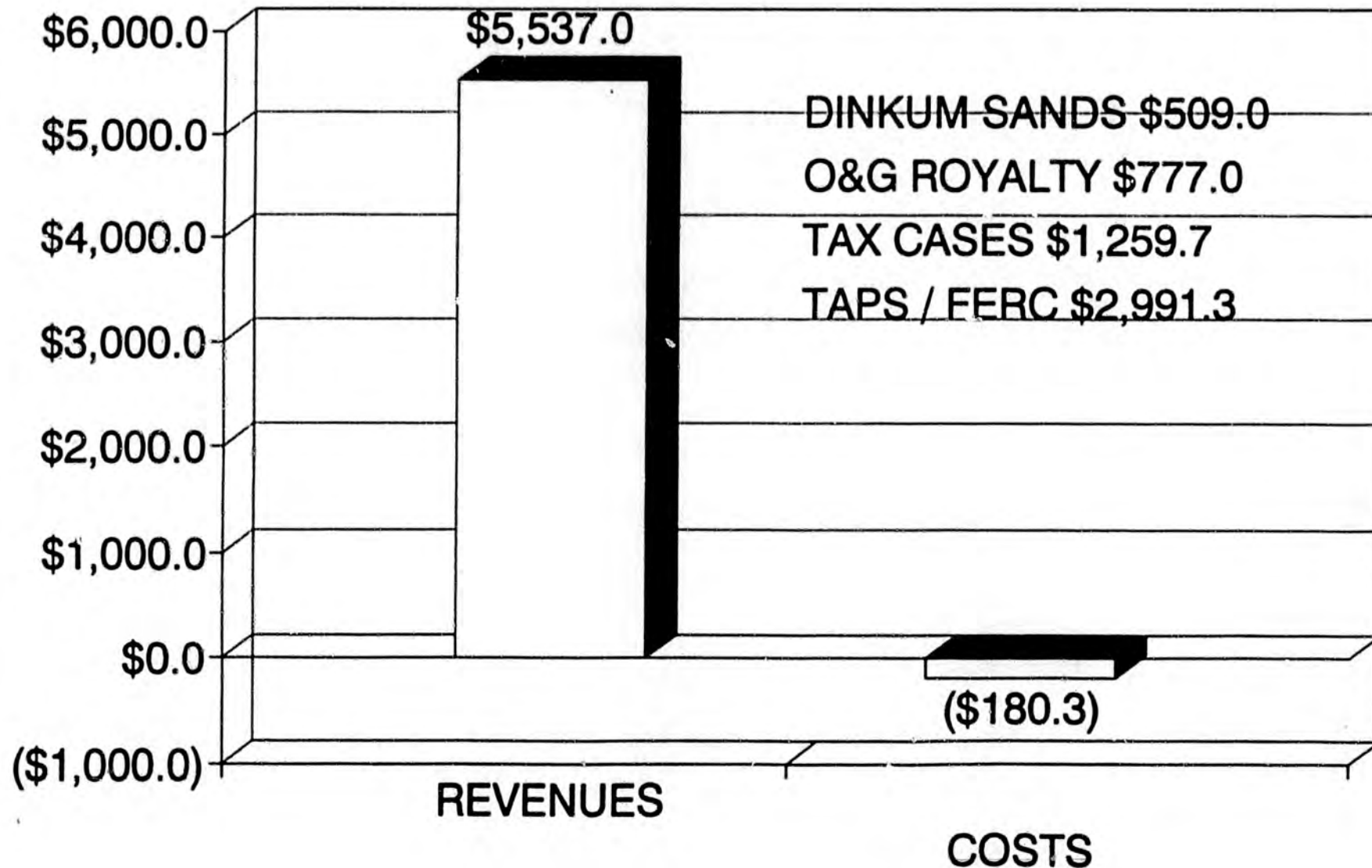
⁵ 2,500.0 of this appropriation is from the Permanent Fund Earnings Reserve Account to Law; the remaining 13,000.0 is from the general fund.

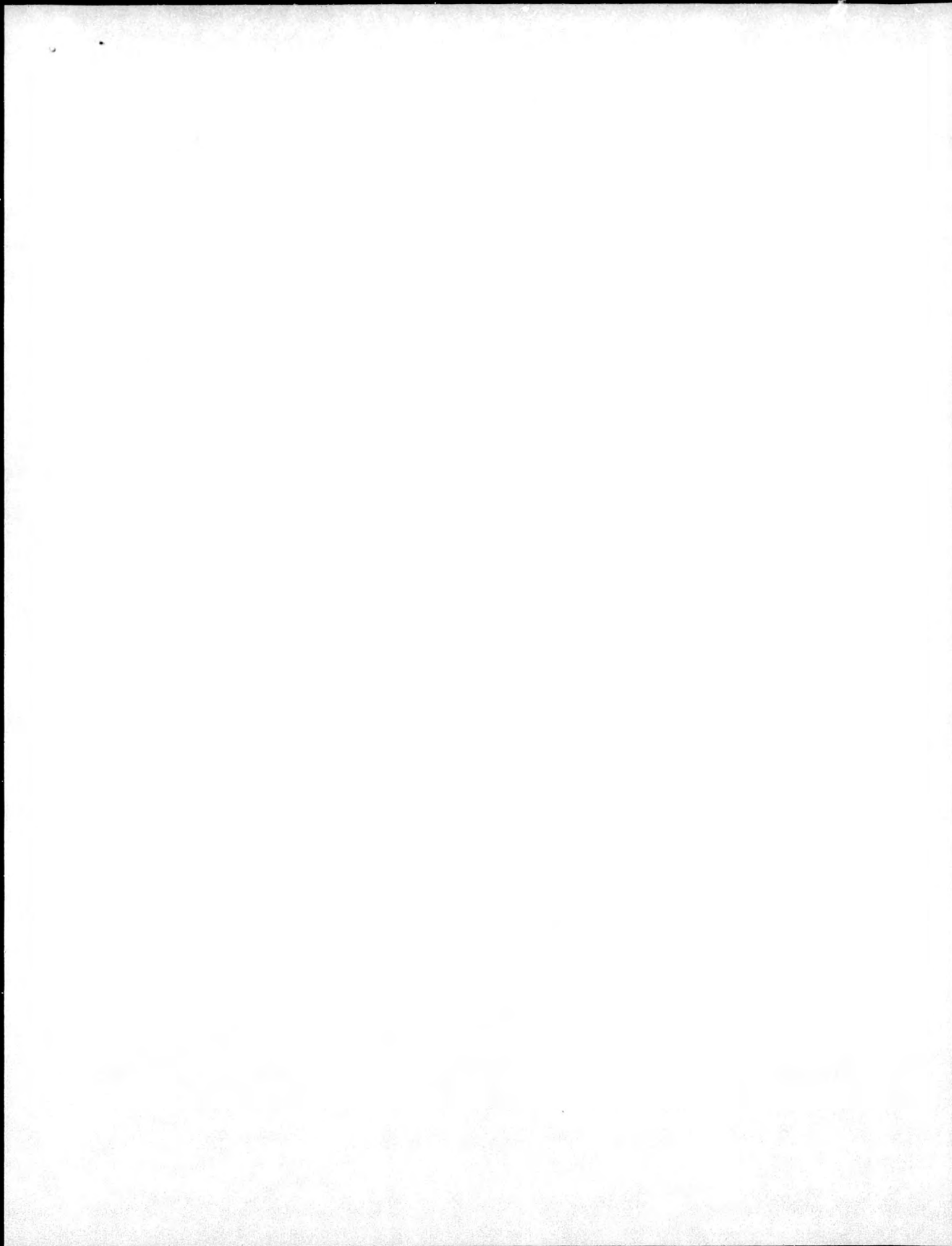
⁶ 2,750.0 of this appropriation is from the Permanent Fund Earnings Reserve Account to Law; the remaining 7,608.4 is from the general fund.



OIL & GAS LITIGATION

COSTS VS. REVENUES (\$ MILLIONS)





SCOMM

93:5

TRANSFORMING THE ALASKA BUSINESS

TESTIMONY OF

JULIAN R. DARLEY, PRESIDENT

BP EXPLORATION (ALASKA) INC.

TO THE

**SENATE AND HOUSE SPECIAL OIL AND GAS
COMMITTEES**

March 2, 1993

Mr. Chairman, Honorable Members of the Oil and Gas Committees, good afternoon.

For the record, my name is Julian Darley, and I am President of BP Exploration (Alaska) Inc. Thank you for this opportunity to appear before you.

I would like to speak to you today about the major transformation that has occurred in our business here in Alaska. It is a transformation that continues even now as I speak, and which will continue to evolve and develop for the foreseeable future.

Let me begin by describing what the outlook was for our Alaskan business just a few years ago. As you will shortly see, it was not very good, so we decided to do something about it. That's the second part of the story. The third part is the results of our actions, which are nothing less than a true transformation of our business and our outlook for Alaska. Finally, I would like to share with you my vision for the future of our business here as we continue to build from our successes. I should caution you now that this vision of the future is very much a "work in progress."

Just three years ago the outlook for BP's Alaskan business was, to be candid about it, decidedly unattractive. Prudhoe Bay production was off plateau and in its inevitable decline, which had commenced in 1988. True, a great deal of creativity and investment had combined to extend the production at 1.5 million barrels a day far longer than anyone, including ourselves, had originally expected. But that was past, and the inevitable had finally begun. The fact is today, we are now working hard to produce at 1.15 million barrels per day from Prudhoe - a nearly 25% decline from peak rates.

At the same time, the costs of operating the field were climbing at an alarming rate -- both in terms of dollars per barrel and in terms of the total amount of money being spent. Why were costs rising? - We were (and are) producing ever more water, more gas: they cost money to handle, and earn us nothing; we were suffering severe corrosion; higher maintenance needs. In other words, it looked as if Prudhoe was entering an inexorable upward cost spiral just at the time it was entering its inexorable decline in production.

The combination of spiraling costs and declining production is deadly. The outlook for Prudhoe made our entire Alaskan business look like a faltering business headed for failure -- a grim prospect. I am talking of three years ago. When you are faced with a bleak outlook for the future of your business, you work hard to address the situation, and in those rather dark days, BP considered many options for dealing with this major business problem of our Alaskan enterprise. It appears that we were not quite as poker-faced as we should have been. For it was then that stories started circulating that BP was going to turn over our Prudhoe Bay operatorship to ARCO, that our building in Anchorage was about to be put up for sale, that we were going to pull out of Alaska. Like a lot of rumors, these had a kernel of truth behind them.

It's self-evident that BP did not decide to exit Alaska; we decided to save our Alaskan business by doing business better. A transformation in performance was required. Our efforts have been along four basic lines,

- (i) eliminating duplication by sharing common services with our co-operator, Arco (You will recall that BP operates the West side of Prudhoe Bay field and Arco, the East.);
- (ii) radically increasing the effectiveness of what we in BP are doing;
- (iii) forming business alliances with vendors and contractors, to work together for better performance. 80% of our expenditures (excluding taxes) go to purchase of goods and services;

and

- (iv) looking beyond our existing assets, in active exploration on the North Slope.

With respect to our first line of effort, the sharing of services with Arco has been a considerable success. Beyond elimination of duplication, we share best practices and look for new ways to do the business more effectively, whoever is the operator. This collaboration is supported by exchanges of key staff. To transform our own performance -- our second effort -- we rigorously reviewed all aspects of our business. Multi-disciplinary teams from our organization challenged and questioned our business practices: Why are we doing this particular task? Do we need to do this task at all? Is it as important as the other things we have to do? Could this task be done more efficiently by someone outside the company? Are the skills required for this task, the type of skills that we need to have in the business for the future? This was a stressful, painful process.

Why painful? It wasn't just the hard work. It was because our answers to such questions led directly to a number of so-called "outsourcing" initiatives to streamline our business. Putting some functions originally handled by BP employees out, for third party service companies to handle.

For example, we discovered -- surprise! -- that we are an oil company, not a communications company. And when we checked with those who are in communications, we found they had developed ways to be efficient, thanks to business competition, that we had not found or could not emulate. The lesson we learned is that Alaskan businesses competing to stay in business could often do for less cost exactly the same things we were doing, and do them at least as well and often better.

We also learned how to make better use of the talents of our people. We are putting great emphasis on looking outward for new and better ways; on teamworking - supported by training - and particularly on the use of multi-discipline teams, often involving suppliers to help us break away from traditional thinking and traditional solutions. We are building an attitude of "continuous

improvement" - that with the knowledge and hindsight of the improvements we create today, we'll find further improvements tomorrow.

Finally, we are improving our effectiveness by drawing the collective goals and objectives of our people into greater alignment with the needs of the business. To support this, we have introduced a program we call "Gainsharing". In Gainsharing, we set specific targets in each of the major measures of our business performance --

such as safety, operating costs, capital expenditures, environmental protection, and production.

If all of the targets are met, employees will receive a modest bonus. But we also set "stretch" targets as challenges for the organization, and if all the "stretch" targets are met, the bonuses can get fairly handsome. This matching of incentives with specific performance targets helps each team and individual in the organization understand how their contribution fits into the overall performance of the business. The result is, we all pull on the oar together.

These initiatives have proven very successful in improving how we do our business. But we recognized at the outset that they would not be enough in themselves. Our internal costs represented only 20 cents on the dollar for what we were spending for operations. Clearly, the other 80 cents are critical. So we have focused on how we do business with vendors and contractors, and on their performance.

Our third area of effort has been with suppliers. For too long our style -- like that of most others in our industry -- had been that of a master and servant in our relationship with suppliers. Typically, we decided what we needed from a contractor or vendor, we said what we wanted, and then the supplier simply delivered what we wanted. This is a very inefficient process. Firstly, by not involving suppliers in our evaluation of what we need to do, we lose their input, ideas and creativity. Secondly, by not involving suppliers in our plans, and our thinking about future requirements, they are unable to set their resources of people or equipment appropriately and incur much higher costs for holding resources "just in case". We and they end up paying for this.

We are therefore working to introduce a new style of working with suppliers which is collaborative, and a "compact" based on transparency in our planning, close working relationships, open and honest communication, and on sharing of benefits. We are seeking *longer term* relationships, so that we benefit next year from the improvements and mutual learning of this year: in short, to achieve continuous performance improvement with our suppliers also.

In all this we try to structure the financial side of the arrangement to be a "win-win" situation for both the contractor and ourselves. For our part, we want to get the job done right, and safely. We also need more bang for our bucks! To the extent a contractor comes up with ways to save money and still do the job right and safely, we share part of that benefit through incentive awards.

This level of involvement with suppliers takes a considerable investment of time and effort on our part, and on theirs, on an on-going basis. To make a reality of this changed style of working and reap the benefits of it, we have had to focus down on fewer contractors and vendors than before.

The contraction in the number of contractors and vendors we do business with has been a difficult process. Difficult for them -- certainly. But difficult for us, too. It is not fun having to choose, when you know that those whom you don't choose may go out of business.

Recognizing this "life or death" aspect to our decisions on contracts, we have striven to make our selection process as objective and fair as we possibly can. We established multi-disciplinary teams to develop selection criteria for each area of business, and these teams conducted the supplier evaluations and made recommendations to management. Before sending out requests for bids on key contracts, we sat down with would-be bidders and explained to them what we were looking for and what our selection criteria would be.

- Cost, of course, is an important consideration.
- So is the ability to do the work expertly, on time, and in a manner safe both for people and the environment.
- It doesn't hurt a bidder to be able to adapt its style of doing business to the new collaborative approach we seek.
- Being Alaskan helps. So does being involved in the Alaskan community -- not only on the civic side, but the political as well.

None of these individually guarantees that a bidder will win the contract. But a bidder without them will lag behind others in the competition for our business.

I know there are those who don't believe we have been completely fair in awarding our contracts. Some have complained to me personally, others to people in my organization. In answering them, I could dwell on how we checked internally across our organization to develop selection criteria and the weight for each criterion *before* we received bids, about elaborate "decision matrices" and the processes we used to evaluate and rank competing bids, and so on. But I won't. No selection process will be perceived as completely perfect, and the losers inevitably suffer.

But I hope people will take it as *prima facie* proof of our sincerity in trying to be fair, that some of the winners in the competition for our business have also complained about not winning more business. But our fundamental aim is to spend less: and our contractors and vendors must learn to work smarter, and, with incentives, to earn their rewards by spending less of our money.

So, how are these changes proceeding? What are the effects?

We have made great strides with all these initiatives. On the expense side of the ledger, we proved that it was premature to think Prudhoe Bay had entered an inexorable cost spiral.

- Whereas our operating costs had risen 34 percent between 1989 and '90, our total operating costs were down eight percent in 1992 from the year before.
- Our Anchorage overheads this year will be six percent less than last year and 14 percent less than 1991.
- In late 1991 London set a challenge for BP's upstream business around the world, to reduce production costs by 50 cents a barrel. We met and surpassed that challenge.

These dramatic improvements on the expense side of the ledger have not come at the sacrifice of revenues. We cannot do anything to change oil prices. But we can, and *have*, done a lot to slow down the overall decline of North Slope production.

- Prudhoe Bay production for 1992 was down only six percent from the year before, and we project a decline of about eight percent this year.
- At the same time, Endicott last year averaged 115,000 barrels a day, versus the 100,000 barrels a day initially projected as its peak.
- And while I'm pointing to success on the production front, hats off to ARCO for getting Kuparuk up to 337,000 barrels a day in December 1992 -- over 10 percent higher than the "maximum" production expected when the field went into production.

These improvements have been delivered: firstly, by the efforts of talented people who have assessed actual field performance and identified ways to produce the fields more effectively; secondly, with the vital follow-up of on-going investment in the existing fields. I'll refer to this again, shortly.

So, I am now confident that the changes in the past two years or so are delivering the needed transformation of our business. The processes of change that we have set in motion are designed so improvement will continue to occur. Success becomes the foundation for further success. In fact, we have set ourselves the audacious target of keeping the real operating cost per barrel flat for the next years. We don't know how we will achieve this target, but we are confident of finding a way.

The outcome of all this is, that BP now takes a very positive view of the Alaska business and its future prospects. This confidence will be sustained by our maintaining a successful business here, in partnership with the State, notwithstanding a decline in production rates.

Last year we began telling you and the Alaskan public about this turnabout in our business outlook. Almost exactly a year ago Brian Davies, our Vice President for Endicott and Development Projects, testified to the House Special Oil and Gas Committee that BP is going to stay in Alaska for the long run.

Following that, in April, John Browne -- BP's chief executive for exploration and production worldwide -- told the Chamber of Commerce in Anchorage that Alaska would remain an important part of BP's business for a long time. We have been running on television a serious variation on "Knock, knock. Who's there?" -- saying there is a lot more oil on the North Slope to be produced, and BP will be here to help produce it.

This past January, I announced that BP plans to resume exploratory drilling on the North Slope this year. We intend to drill three wells and participate in a fourth this year. Not only does this program end an unusual hiatus in our activities, but it is the largest exploration program we have had in Alaska since 1985 -- the year before the big crash in oil prices.

Yesterday, we announced an agreement with Conoco and Petrofina under which BP will take over the operatorship for the Badami oil discovery east of Prudhoe Bay and Endicott. We will be starting seismic work later this month, and if that bears out our expectations, we will do additional drilling to delineate the field. I trust this will satisfy any remaining Doubting Thomases skeptical of our resolve to stay in Alaska -- we would not be taking on major new responsibilities like Badami if we were on our way out.

To borrow a slogan from Merrill Lynch, we are bullish on Alaska. We intend to remain here -- as a producer, as an investor, as an explorer, and as an operator. There is a good future, we hope a bright future, for us and for the state. Not the dazzling brilliance of the 1980s, but a bright one nonetheless.

Let me outline for you what we see in the next few years. By the end of this year the second gas handling project for Prudhoe Bay, GHX-2, should be installed and operating. That's a major investment which will help us maximize oil production from this field.

BP is paying half of its \$1.3 billion cost. We expect GHX-2 to increase the capacity to handle the natural gas that comes up with the oil, from 5.3 billion cubic feet a day to 7.5 billion. Since it is the gas-handling capacity that currently limits how much oil we can produce, GHX-2 should add some 100,000 barrels a day to what Prudhoe could otherwise produce.

That's the equivalent of almost a whole year's decline, so production from Prudhoe during 1994 promises to be down only slightly from this year's level. Although production after 1994 will resume its annual decline, the continued operation of GHX-2 will mean that each year's production will be significantly higher than it would have been without this investment.

On-going investment in continued development drilling, workovers of existing wells, and expansion of our secondary and tertiary oil recovery programs will also help slow the decline at Prudhoe in future years.

There will also be production from new fields coming into the picture. We expect production to begin from the Point McIntyre field in the second half of this year. BP has an approximate 33% stake in this development, along with Arco and Exxon.

Point McIntyre will be the largest example of a new generation of oil field development on the Slope. Instead of having its own production facilities to separate the oil from the associated gas and water, Point McIntyre will run its production through unused capacity in the production facilities for the Lisburne field.

Later, we expect to run production from our 100%-owned Niakuk field through the Lisburne facilities as well. This is a natural evolution from our running of production from the Sag Delta North field through the Endicott production facilities, which began in mid 1989.

By using unused capacity in existing facilities, smaller fields in the vicinity can be economically developed and produced. The small fields will pay a fee for using another field's capacity, instead of having to bear the full economic burden of installing their own production facilities. At the same time, the increased volume going through existing facilities should enable those facilities to operate more efficiently and hold down their operating costs per barrel. Plans are under way for additional fields, such as ARCO's West Beach, to follow this new approach to development.

All in all, these and similar activities can materially alter the outlook in the year 2000 and beyond. Here is an illustration of what I mean.

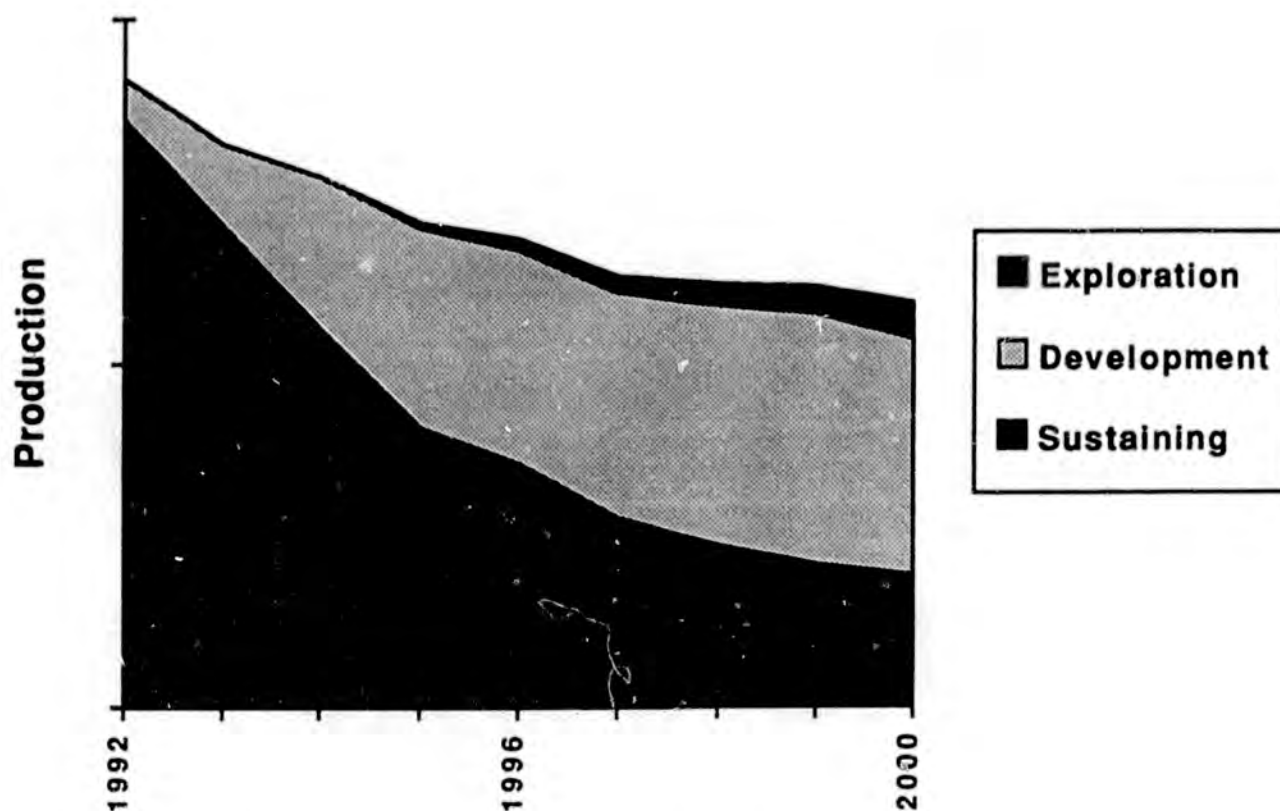


Figure 1. Production Potential from New Investments

This graph is from Brian Davies' testimony last year, but the basic outlook he presented has changed very little since then.

The bottom, or green, area of the graph shows how much production we expect from simply operating and maintaining the existing investments on the Slope. As you can see, it falls off very rapidly -- something like 18 percent a year.

The middle, or yellow, area of the graph shows how much additional production we could have from continuing to make new investments in fields already producing, and in fields such as Niakuk that have been discovered but are not yet in production.

The narrow red band at the top of the graph shows the risk-adjusted expectation of how much production we hope to add as the result of our exploration program. We believe this is a conservative expectation. But, obviously, the actual production could be significantly larger or smaller, depending on what we find. The point I wish to emphasize is that 60% of the production in 2000 will be from investments not yet made and in place. More than there will be from all the investments we currently have on the North Slope.

This graph represents our best guess now about how the future will unfold over the rest of the decade. It is an exciting prospect based on the attractive opportunities we have found, and it presumes an environment in which continuous new investment makes good business sense.

So we are not done looking. This forecast of the future is still very much a "work in progress." As we build upon success, I would hope that more opportunities will come to light that are simply impossible to see today.

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Nevertheless, despite all our efforts and despite the successes we and others have had and expect to continue having, there *will* be a decline in Alaskan oil production through the rest of this decade.

Even if ANWR were opened this year -- an unlikely prospect, at best -- we would not see production before 2000 from any discovery that might be found there. If the Sunfish field in Cook Inlet turns out to be as large as the largest field ever found there, its peak production would probably offset only a year's decline in Prudhoe Bay. If the Kuvlum and Badami discoveries prove to be commercial, they won't come into production before the very end of the decade at the earliest. In other words, there is nothing to alter the fact that oil production at the end of the decade will be significantly below today's level, although it will still be handsome!

And this fact means that all of us here in Alaska face a challenge together -- namely, how to get state and local government spending into balance with the revenue that will be available over the long term.

There are two ways we can get from where we are today, to where we will be, even under the best of plausible assumptions, in the year 2000. One is to get there using a plan that gets the budget into balance in an orderly fashion with a minimum of disruption. The other is to stay as we are, and simply hope for the best.

I submit the latter course is most unwise. I note that State spending this year is already almost \$500 million over unrestricted revenues -- \$2.755 billion versus \$2.272 billion. The Department of Revenue has set out forecasts of future revenues; none understand better the patterns of spending than the State Legislature and Administration. There has been much discussion of the fiscal gap: the ISER report was a good starting point for discussions.

There are those who will say (as some have already said) that oil prices are going to rise enough during the remainder of this decade to offset most, if not all, of the effects of declining production. And who knows? They could turn out to be right. I just wouldn't bet the ranch on it. And I say that from experience, not to be flippant. For a while BP was planning its business on the assumption that world oil prices would rise during the early 1990s to the mid \$20s range. Except for a brief blip during the Kuwait crisis, prices never got that high. This miscalculation

created quite a strain on our company. We have learned not to let ourselves get into a situation where an acceptable fiscal outcome depends on oil price increases.

I applaud Governor Hickel for recognizing the seriousness of the fiscal gap that Alaska faces, and for holding the "Economic Summit" earlier this year to examine ways for dealing with that gap. I am pleased to have been a participant in that summit. The most important lesson I learned at the summit is that there is still time for Alaska to choose from a number of options that get to fiscal stability, without a great deal of pain and dislocation.

But the choices need to be made and acted upon. Deferral of decisions won't make the choices easier. Next year is an election year, and that means it will be even tougher to make "tough" decisions. Even the \$630 million that we'll be paying on June 30 won't buy Alaska much time, in relation to the deficits in prospect. Now I am not here to sell you on one plan or another. It really is not appropriate for me, for BP, or any other company to try to tell Alaskans which options to use, and when, in dealing with the State's fiscal dilemma: unless measures the State proposes to take would affect our business here.

"Aha," you are thinking, "now we get to the crux of the matter." And I suppose that's right, in a sense. I would be less than honest with you if I did not admit our real concern about the possibility that Alaska may choose to raise oil taxes instead of taking other measures to balance its budget.

Raising oil taxes would hurt our business and be counterproductive for the State. The oil industry is already paying its way. For those of you who invest in stocks, you will have noticed that the oil industry, for years now, has not been rated well by Wall Street in relation to other business sectors. This is not the rich industry it once was. Those days are past. The early eighties are no more.

Specifically in Alaska, I have illustrated how we have been working very difficult issues -- painful for us in BP as we downsize by 30%, and for our suppliers and their employees -- to reconstruct a successful long-term business out of looming business failure. All this is not done for fun. This is an on-going process: we have to keep ahead of the production decline curve. That's a continuing challenge -- we are climbing up a treadmill.

I have illustrated how our future success in oil production -- for BP and for the State -- also depends on on-going investments not just in exploration, but particularly in the existing producing fields. All this benefits the State.

All my business projections are based on stability in oil taxation. The attractiveness of new investments, which must compete with other opportunities in BP throughout the world, depend critically on the tax regime.

With our track record of successful change over the last three years, BP Exploration Alaska has restored the confidence of Corporate BP in the long term

future of our business here. An increase in oil taxes will shake that confidence fundamentally.

It is the nature of most oil investments that millions of dollars must be committed and spent before a single cent of cash begins flowing back from the investment. Not infrequently, it is years between the first major expenditure and the first cash returns. All through that time, and afterwards, our return on investment is exposed and at risk to changes in technical performance of the project (that's our risk) and to changes in the economic environment, such as oil prices and taxes, that could cripple, or even destroy, the profitability of the project. We take the risk on the oil price -- that's our business.

The State is concerned about what the price of oil will be tomorrow and the next day, because those prices will determine how much revenue the State gets. We share that concern, because oil prices affect the health of our business too, and also affect our capacity to spend and invest. However, in evaluating investment opportunities, we also focus on the long-term trend of prices through the life of a potential investment. Of course, we may reset our long-term expectations as current price movements suggest change may be occurring in long-term trends.

Let me offer the GHX-2 project for Prudhoe Bay as an example. We and the other Prudhoe owners sanctioned GHX-2 to go forward in 1990. We had already spent millions of dollars in designing the project; now we were committing hundreds of millions more to order the materials and build it. After we made that decision to go forward, we have seen oil prices soar to \$40 a barrel during the crisis over Kuwait. We have also seen them fall to \$15. And what has been the effect on the profits we expect to get from GHX-2 by all this soaring and falling in oil prices? Not one cent. GHX-2 is still under construction. There hasn't been any money coming back to us from GHX-2, and there won't be until later this year. In other words, we have gone through one of the most volatile periods of oil prices in history, and it hasn't made a difference to the economics of our investment in GHX-2.

Before moving on, let me address the notion that somehow it would be okay for Alaska to raise oil taxes because the oil companies are still making money from North Slope production. The flaw in this reasoning is in its assumption that sub-standard new investments can be justified by the success of past investments. This is simply not true.

Suppose, for example, you invested money a number of years ago in a 30-year U.S. Treasury bond bearing interest at 10 percent. Today, new 30-year Treasury bonds are paying only seven percent. Does the fact that you are making 10 percent on the bond you already have, mean that you would offer to buy a second bond from the Treasury today at something less than seven percent? Of course not. Your decision to buy a second bond is not affected by the success you are having with your investment in the first bond. Instead, you will buy a second bond only if you will be satisfied with a seven percent return on that money - and you might perhaps not be satisfied that, at seven percent, the market is offering an adequate return.

For us, our past investments in the North Slope are like the first bond. We have already made them. They do not affect our decision to buy a second bond -- that is, to make new investments in the Slope. Each new investment must stand or fall on its own merits; it must compete with other BP investment opportunities world-wide.

So changing the tax rules in the middle of the game, which undermines the long-term returns from our investments, is one of the most destabilizing things Alaska could do. Furthermore, once the State starts to increase the burden of oil taxes as a means of dealing with the fiscal gap, there will doubtless be repeat calls, as fiscal pressures continue to mount. If ever you wanted to chill our renewed and hard-won enthusiasm for Alaska, you could not find a better way to do it than by raising oil taxes.

That's enough about oil taxes! Fortunately, Alaska has a range of options for coping with its fiscal gap. Earlier I commended Governor Hickel for recognizing the seriousness of this situation and for holding the Economic Summit to discuss how to address it. Many proposals were offered at that event.

I cannot let this occasion pass without also acknowledging the sincerity and commitment of the many legislators grappling with this problem. I applaud your work and your dedication. And I respectfully but most urgently ask you and the Governor to agree, *this session*, on a formal plan -- together with some early measures -- for getting Alaska through the transition to a sustainable, balanced budget.

People will, I believe, be much more receptive to the tough decisions you will make regarding the budget, if they see them as part of a greater strategy. In closing, let me repeat that BP has a rejuvenated confidence about the future of Alaska and our business here. We shall continue to strive for ways to work smarter and more effectively, to maintain a successful business in a changing and tough industry, for the long term.

- We intend to explore here.
- We intend to invest here.
- We intend to operate here, both that which we already operate and, we hope, new fields as well.

And if all works out as we plan and intend, we shall produce a great deal more oil for the benefit of the State and all Alaskans, as well as ourselves. There's a bright future out there for all of us. Let us seize it together.

Thank you again for this opportunity to address you.

SCOMM

93:6

FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

BILL NO. HB 99

Revision Date: _____
Title: Repeal of 65 day limit to approve or
disapprove contingency plans
Sponsor: House Oil & Gas
Requestor: Senate Oil & Gas

Department Affected: Environmental
Conservation
BRU: Spill Prevention & Response
Component: Prevention & Planning Management

COMPONENT SERIAL NO. 1430

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
PERSONAL SERVICES	0.0	0.0	0.0	0.0	0.0	0.0
TRAVEL	0.0	0.0	0.0	0.0	0.0	0.0
CONTRACTUAL	0.0	0.0	0.0	0.0	0.0	0.0
SUPPLIES	0.0	0.0	0.0	0.0	0.0	0.0
EQUIPMENT	0.0	0.0	0.0	0.0	0.0	0.0
LAND&STRUCTURES	0.0	0.0	0.0	0.0	0.0	0.0
GRANTS,CLAIMS	0.0	0.0	0.0	0.0	0.0	0.0
MISCELLANEOUS	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL						
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REVENUE						
FUND SOURCE:						

FUNDING:

1002 FEDERAL RECEIPTS	0.0	0.0	0.0	0.0	0.0	0.0
1003 GF MATCH	0.0	0.0	0.0	0.0	0.0	0.0
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/PROGRAM RECPT	0.0	0.0	0.0	0.0	0.0	0.0
1006 GF/MHTLA	0.0	0.0	0.0	0.0	0.0	0.0
OTHER	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS: NONE

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year (FY93) impact: \$ NONE

ANALYSIS: (Attach a separate page if necessary.)

Prepared by: Janice Adair
Division: Commissioner's Office

Phone: 465-5010
Date: 2/3/93

Approved by Commissioner: *Janice Adair*
Agency: Department of Environmental Conservation

Date: 2/3/93

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

Sponsor Summary

HB 99

House Special Committee on Oil & Gas

House Bill 99 is an attempt to clarify the time-line requirements for approving oil discharge prevention and contingency plans.

Currently, AS 46.04.030(p) requires the Department of Environmental Conservation to "...approve or disapprove a proposed contingency plan within 65 days after it receives a complete application...". However, the time-line necessitated by the 65-day statutory requirement conflicts with the time-line set out in the Alaska Coastal Management Plan (ACMP) regulations carried out by the Division of Governmental Coordination (DGC).

While DEC is limited to 65-days to make a decision on a plan, DGC follows a 55-day time-line. In order to meet their current statutory requirement, the DEC time-line does not begin until well into the DGC process. The conflicts between the two time-lines make the process cumbersome for both the applicant and members of the public wishing to participate in the review process.

Removal of the 65-day statutory requirement allows DEC and DGC to coordinate their time-lines for approving contingency plans.

(h) A charge, contract term, or financial responsibility requirement imposed by the holders and lessees of the right-of-way agreement for the Trans Alaska Pipeline System, the holders and lessees' common operating agent, or the agent or representative of either the holders and lessees, or their common operating agent, on or for a vessel traveling from a marine terminal and related to containing and cleaning up a discharge or threatened discharge of oil or the obligations imposed under (g) of this section

(1) must be fair, reasonable, and nondiscriminatory; and

(2) with respect to a financial responsibility requirement in excess of \$10,000,000, must

(A) not exceed the potential cost of containment and cleanup as provided in the applicable contingency plan under AS 46.04.030 that the agent may reasonably be expected to incur from a discharge or threatened discharge of oil from that vessel before the transfer of cleanup and containment management and control to the responsible party; in establishing the financial responsibility requirement, the common operating agent shall assume that transfer of management and control will occur at the earliest practicable time following the discharge or threat of discharge; and

(B) vary among each vessel in proportion to the volume of oil carried by each vessel per voyage from a marine terminal; for purposes of this subparagraph, the volume of oil carried by the vessel must be reduced by the percentage of spill reduction credits granted that vessel under regulations adopted by the department.

(i) The superior court and, with respect to intrastate voyages, the Alaska Public Utilities Commission, under AS 42.05.361 — 42.05.431, have concurrent jurisdiction to review and enjoin a charge, contract term, or financial responsibility requirement described under (h) of this section at the request of a vessel owner, operator, or charterer. Except as provided in this subsection, nothing in this section affects the jurisdiction of the Alaska Public Utilities Commission. (§ 2 ch 116 SLA 1980; am § 8 ch 191 SLA 1990; am § 12 ch 83 SLA 1991; am § 10 ch 83 SLA 1992)

Cross references. — For legislative purpose in connection with the 1992 amendments to this section, see § 1, ch. 83, SLA 1992 in the Temporary and Special Acts.

Effect of amendments. — The 1992 amendment, effective June 18, 1992, added subsections (g)-(i).

Sec. 46.04.030. Oil discharge prevention and contingency plans. (a) A person may not cause or permit the operation of an oil terminal facility in the state unless an oil discharge prevention and contingency plan for the facility has been approved by the department and the person is in compliance with the plan.

(b) A person may not cause or permit the operation of an oil terminal facility in the state unless an oil discharge prevention and contingency plan for the facility has been approved by the department and the person is in compliance with the plan.

(c) Except as provided in this section, a person may not cause or permit the operation of an oil terminal facility in the state unless an oil discharge prevention and contingency plan for the facility has been approved by the department and the person is in compliance with the plan.

(d) Upon the request of a person, the department may, at its discretion, require the person to submit a plan to the department for approval. The plan shall be submitted to the department within the time specified by the department.

(e) [Effective] Upon the request of a person, the department may, at its discretion, require the person to submit a plan to the department for approval. The plan shall be submitted to the department within the time specified by the department. The plan shall be submitted to the department within the time specified by the department. The plan shall be submitted to the department within the time specified by the department.

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(f) Upon the request of a person, the department may, at its discretion, require the person to submit a plan to the department for approval. The plan shall be submitted to the department within the time specified by the department.

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(b) A person may not cause or permit the operation of a pipeline or an exploration or production facility in the state unless an oil discharge prevention and contingency plan for the pipeline or facility has been approved by the department and the person is in compliance with the plan.

(c) Except as provided in (n) of this section, 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 an oil discharge prevention and contingency plan for the tank vessel or oil barge has been approved by the department and the person is in compliance with the plan.

(d) Upon approval of a contingency plan, the department shall issue to the plan holder a certificate stating that the contingency plan has been approved by the department. The certificate must include the name of the facility, pipeline, tank vessel, or oil barge for which it is issued, the effective date of the contingency plan, and the date by which the contingency plan must be submitted for renewal. A contingency plan must be submitted for renewal every three years.

(e) [Effective January 1, 1994] The department may attach reasonable terms and conditions to its approval or modification of a contingency plan that the department determines are necessary to ensure that the applicant for a contingency plan has access to sufficient resources to protect environmentally sensitive areas and to contain, clean up, and mitigate potential oil discharges from the facility or vessel as provided in (k) of this section, and to ensure that the applicant complies with the contingency plan. If a contingency plan submitted to the department for approval relies on the services of an oil spill primary response action contractor, the department may not approve the contingency plan unless the primary response action contractor is registered and approved under AS 46.04.035. The contingency plan must provide for the use by the applicant of the best technology that was available at the time the contingency plan was submitted or renewed. The department may require an applicant or holder of an approved contingency plan to take steps necessary to demonstrate its ability to carry out the contingency plan, including

- (1) periodic training;
- (2) response team exercises; and
- (3) verifying access to inventories of equipment, supplies, and personnel identified as available in the approved contingency plan.

(f) Upon request of a plan holder or on the department's own initiative, the department, after notice and opportunity for hearing, may modify its approval of a contingency plan if the department determines that a change has occurred in the operation of a facility or vessel necessitating an amended or supplemented plan, or the operator's discharge experience demonstrates a necessity for modification.

The department, after notice and opportunity for hearing, may revoke its approval of a contingency plan if the department determines that

- (1) approval was obtained by fraud or misrepresentation;
- (2) the operator does not have access to the quality or quantity of resources identified in the plan;
- (3) a term or condition of approval or modification has been violated; or
- (4) the person is not in compliance with the contingency plan and the deficiency materially affects the plan holder's response capability.

(g) Failure of a holder of an approved or modified contingency plan to comply with the plan, or to have access to the quality or quantity of resources identified in the plan or to respond with those resources within the shortest possible time in the event of a spill is a violation of this chapter for purposes of AS 46.03.760(a), 46.03.765, 46.03.790, and any other applicable law. If the holder of an approved or modified contingency plan fails to respond to and conduct cleanup operations of an unpermitted discharge of crude oil with the quality and quantity of resources identified in the plan and in a manner required under the plan, the holder is strictly liable, jointly and severally, for the civil penalty assessed under AS 46.03.758, 46.03.759, or 46.03.760 against any other person for that discharge.

(h) The department is the only state agency that has the power to approve, modify, or revoke a contingency plan for the purposes of this section. The department shall exercise its power under this section in a timely manner. Except as provided in (i) of this section, it is not a defense to an action brought for a violation of (a) — (c) of this section that the person charged believed that a current contingency plan had been approved by the department.

(i) It is a defense to an action brought for a violation of (a) — (c) of this section that the person charged relied on a certificate of approval issued by the department under (d) of this section unless the person knew or had reason to know at the time of the alleged violation that approval of the plan had been revoked or that the holder of the plan was not capable of carrying out the plan.

(j) Before the department approves or modifies a contingency plan under this section, the department shall provide a copy of the contingency plan to the Department of Fish and Game and to the Department of Natural Resources for their review. The department shall by regulation establish the procedures and time limits applicable to agency review of contingency plans.

(k) Except as provided in (m) and (o) of this section, the holder of an approved contingency plan required under this section shall maintain, or have available under contract, in its region of operation or in another region of operation approved by the department, singly or in conjunction with other operators, sufficient oil discharge containment,

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storage, transfer, and cleanup equipment, personnel, and resources to meet the following response planning standards:

(1) for a discharge from an oil terminal facility, the plan holder shall plan to be able to contain or control, and clean up a discharge equal to the capacity of the largest oil storage tank at the facility within 72 hours, except that if the department determines that the facility is located in an area of high risk because of natural or man-made conditions outside of the facility, it may increase the volume requirement under this paragraph so that the contingency plan must be designed for a response that is greater in amount than the capacity of the largest oil storage tank at the facility;

(2) for a discharge from an exploration or production facility or a pipeline, the plan holder shall plan to be able to contain or control, and clean up the realistic maximum oil discharge within 72 hours;

(3) for a discharge of crude oil from a tank vessel or oil barge, the plan holder shall plan to be able to contain or control, and clean up a realistic maximum oil discharge as provided in (A), (B), and (C) of this paragraph:

(A) for tank vessels and oil barges having a cargo volume of less than 500,000 barrels, the plan holder shall maintain at a minimum in the region of operation, equipment, personnel, and other resources sufficient to contain or control, and clean up a 50,000 barrel discharge within 72 hours;

(B) for tank vessels and oil barges having a cargo volume of 500,000 barrels or more, the plan holder shall maintain at a minimum in its region of operation, equipment, personnel, and other resources sufficient to contain or control, and clean up a 300,000 barrel discharge within 72 hours;

(C) in addition to the minimum equipment, personnel, and other resources required to be maintained within the region of operation by (A) or (B) of this paragraph, a plan holder shall maintain, either within or outside of the plan holder's region of operation, additional equipment, personnel, and other resources sufficient to contain or control, and clean up a realistic maximum discharge within the shortest possible time; the plan holder must demonstrate that the equipment, personnel, and other resources maintained outside the plan holder's region of operation are accessible to the plan holder and will be deployed and operating at the discharge site within 72 hours;

(4) for a discharge from a tank vessel or oil barge carrying noncrude oil in bulk as cargo, the plan holder shall plan to be able to contain or control 15 percent of the maximum capacity of the vessel or barge or the realistic maximum oil discharge, whichever is greater, within 48 hours and clean up the discharge within the shortest possible time consistent with minimizing damage to the environment;

(5) for a discharge subject to the provisions of (1) — (3) of this subsection that enters a receiving environment other than open

water, the time requirement for clean up of the portion of the discharge that enters the receiving environment may, in the department's discretion, be within the shortest possible time consistent with minimizing damage to the environment.

(l) The provisions of (k) of this section do not constitute cleanup standards that must be met by the holder of a contingency plan. Notwithstanding (k) of this section, failure to remove a discharge within the time periods set out in (k) of this section does not constitute failure to comply with a contingency plan for purposes of (g) of this section or for the purpose of imposing administrative, civil, or criminal penalties under any other law.

(m) When considering whether to approve or modify a contingency plan, the department may consider evidence that oil discharge prevention measures such as double hulls or double bottoms on vessels or barges, secondary containment systems, hydrostatic testing, enhanced vessel traffic systems, or enhanced crew or staffing levels have been implemented, and, in its discretion, may make exceptions to the requirements of (k) of this section to reflect the reduced risk of oil discharges from the facility, pipeline, vessel, or barge for which the plan is submitted or being modified.

(n) A tank vessel or oil barge that is conducting, or is available only for conducting, oil discharge response operations is exempt from the requirements of (c) of this section if the tank vessel or oil barge has received prior approval of the department. The department may approve exemptions under this subsection upon application and presentation of information required by the department.

(o) A holder of an approved contingency plan does not violate the terms of the contingency plan by furnishing to another plan holder, with the approval of the department, equipment, materials, or personnel to assist the other plan holder in a response to an oil discharge. The plan holder shall replace or return the transferred equipment, materials, and personnel as soon as feasible. The department shall by regulation determine the maximum amount of equipment, materials, or personnel and the maximum amount of time for which it will approve a transfer.

(p) The department shall approve or disapprove a proposed contingency plan within 65 days after it receives a complete application for approval under this section.

(q) In this section,

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

(2) "in compliance with the plan" means, with respect to a contingency plan, to

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

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

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

(D) comply with terms and conditions attached to the plan by the department under the authority of (e) of this section; and

(E) successfully demonstrate the ability to carry out the plan when required by the department under (e) of this section;

(3) "realistic maximum oil discharge" means the maximum and most damaging oil discharge that the department estimates could occur during the lifetime of the tank vessel, oil barge, facility, or pipeline based on the size, location, and capacity of the tank vessel, oil barge, facility, or pipeline; on the department's knowledge and experience with the tank vessel, oil barge, facility, or pipeline or with similar tank vessels, oil barges, facilities, or pipelines; and on the department's analysis of possible mishaps to the tank vessel or oil barge or at the facility or pipeline or to similar tank vessels or oil barges or at similar facilities or pipelines;

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

(r) Except as provided in (n) of this section and in order to receive approval from the department for an oil discharge prevention and contingency plan submitted under this section, the owner, operator, or charterer of a vessel that intends to carry oil that has been transported by the Trans Alaska Pipeline System shall obtain by contract the services required in a response action from the common operating agent for the holders and lessees of the right-of-way agreement for the Trans Alaska Pipeline System. The contract must contain the following provisions: (1) the common operating agent, as a primary response action contractor shall, unless services required in a response action are transferred as provided in (3) of this subsection, provide services required in a response action for a discharge or a threatened discharge of oil to the owner, operator, or charterer of the vessel while the vessel is berthed at, en route to, or transiting from the Trans Alaska Pipeline System marine terminal or traveling on waters within Prince William Sound; (2) that its coverage for any particular vessel may not be terminated by the common operating agent while that vessel is within Prince William Sound; this provision may not be interpreted to limit the department's authority to revoke approval under this section for an oil discharge prevention and contingency plan submitted by the owner, operator, or charterer of a vessel; and (3) the owner, operator, or charterer of the vessel shall accept a transfer of the services re-

quired in a response action to a discharge or threatened discharge, after receiving not less than 72 hours of advance notice and after the transfer has been approved by the federal and state on-scene coordinators. In addition to the requirements of this subsection, the department may require individual vessels to submit additional contingency plans to cover specific vessel response, prevention equipment, and procedures. Nothing in this subsection is intended to preclude the federal or state government from assuming management and control of an oil spill response to a discharge or threatened discharge from a vessel under appropriate circumstances. In this subsection, "Prince William Sound" means all marine waters within the boundary line established at Cape Puget, southeasterly to Cape Cleare, along Montigue Island to Zaikof Point, easterly to Cape Hinchinbrook, along Hinchinbrook Island to Point Bintinck, and easterly to Point Whitshed. (§ 2 ch 116 SLA 1980; am §§ 1, 2 ch 140 SLA 1988; am § 6 ch 41 SLA 1989; am §§ 9, 10 ch 191 SLA 1990; am § 59 ch 21 SLA 1991; am §§ 11, 12 ch 83 SLA 1992)

Cross references. — For legislative purpose in connection with the 1992 amendments to this section, see § 1, ch. 83, SLA 1992 in the Temporary and Special Acts.

Effect of amendments. — The 1992 amendment, effective January 1, 1994, added the second sentence in subsection (e) and, effective June 18, 1992, added subsection (r).

Sec. 46.04.035. Registration of oil spill response action contractors. (a) A person may apply to the department for registration as an oil spill primary response action contractor. The department shall adopt regulations governing the registration and approval of oil spill primary response action contractors. Regulations adopted by the department under this section must include

- (1) minimum training standards for personnel;
- (2) verification requirements that ensure the existence of resources, including personnel, equipment, services, and an adequate deployment plan necessary to a response action or as required by a contingency plan in which the contractor has agreed in writing to be listed and is listed;
- (3) minimum professional response action standards and practices; and
- (4) minimum planning standards for oil spill primary response action contractors listed in an oil spill contingency plan approved under AS 46.04.030.

(b) Notwithstanding (a) of this section, the department may substitute a primary response action contractor approval program, and a subsequent process to approve primary response action contractors who agree to be listed in a contingency plan approved under AS 46.04.030, for regulations required under (a)(1) — (3) of this section if

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amending these lists, DGC will distribute the proposed lists or amendments for comment in the manner provided in 6 AAC 50.070 for a project consistency review. (Eff. 3/11/84, Register 89)

Authority: AS 44.19.145(a) Art. III, sec. 16, Ak. Art. III, sec. 24, Ak.
Art. III, sec. 1, Ak. Const. Const.
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6 AAC 50.060. SCOPE OF PROJECT TO BE REVIEWED. The scope of activities which are to be reviewed for consistency with the ACMP as part of a project will be determined based on statements of the applicant, the information provided in the coastal project questionnaire, and any additional information which DGC or a resource agency finds necessary to request. If there is disagreement among the agencies, DGC will make the final decision. If DGC determines that a project under review by a resource agency is one requiring a federal permit, or the permits of two or more state agencies, DGC will immediately notify the applicant and the resource agency that the consistency review will be coordinated by DGC, and will commence as provided in 6 AAC 50.070 when DGC has received completed applications for all necessary permits and a completed coastal-project questionnaire. (Eff. 3/11/84, Register 89; em am 5/1/90 — 8/9/90, Register 114)

Authority: AS 44.19.145(a) Art. III, sec. 16, Ak. Art. III, sec. 24, Ak.
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6 AAC 50.070. CONSISTENCY REVIEW PROCESS. (a) Except as provided in 6 AAC 50.050(e) or in (b) of this section, DGC on request, or a resource agency which receives an application for a permit for a coastal project, shall give the applicant a project questionnaire provided by DGC. Based on the information provided by the applicant in response to the questionnaire, the agency shall identify all state resource agencies which the applicant must contact regarding the project before submitting an application for a permit.

(b) A project questionnaire is not required for placer mining activity which is authorized by an annual application known as the "tri-agency placer mining application." These applications must be submitted to the Department of Natural Resources (DNR). DNR will distribute these applications to initiate the consistency review of the projects as provided in this chapter.

(c) For a project requiring a federal permit or the permits of two or more state agencies, the applicant shall submit a packet including all necessary state permit applications, copies of all necessary federal permit applications, and the project questionnaire to DGC, ex-

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cept that confidential information or fees must be handled as provided in 6 AAC 50.080. The coordinating agency may require the applicant to provide additional copies of maps or other documents which may not be conveniently duplicated.

(d) For a project requiring only the permits of a single state agency, the applicant shall submit a packet including all necessary applications and the project questionnaire to the agency.

(e) Immediately upon receipt, the coordinating agency shall review the packet and shall inform the applicant if it appears to be incomplete. If the packet appears to be complete, and the project does not include a disposal of interest in state land, the coordinating agency shall immediately assign a project number, and note the date as Day 1 of the consistency review process. For a project which includes a disposal of interest in state land, the consistency review will begin at a date which DGC and DNR agree will most effectively allow for both the consistency review and DNR's own statutory responsibilities. Acceptance of the packet does not preclude an agency from requesting additional information or applications from the applicant as necessary for its consistency review or its own statutory responsibilities. On or before Day 2, the coordinating agency will distribute copies of the packet to all resource agencies, other state agencies on request, all affected coastal resource districts, and other interested parties. For a 30-day review, the distribution may be limited in the discretion of the coordinating agency but must, if requested in writing, include any affected coastal district with an approved program. Along with the packet, the coordinating agency will distribute a notice establishing a comment deadline at Day 34, or at Day 17 in a 30-day review period, or later if the review period is extended as provided in 6 AAC 50.100. The notice will also state the applicable time limit, if any, imposed by the federal law or regulation.

(f) If the coordinating agency determines that the public notice, if any, provided by the resource agencies as part of their review of a permit is not adequate to inform the public about the project and the consistency review process, the coordinating agency shall, as soon as possible, publish a public notice in a newspaper or on radio or television in the affected areas, describing the project and the consistency review process. In evaluating the need for public notice of a project, the coordinating agency shall consider the magnitude of likely impacts, including cumulative impacts on the affected area, but may not unreasonably require public notice for a project for which notice is not statutorily required. DGC will encourage the joint public notice of project reviews when a permit from more than one agency is required.

(g) The coordinating agency, on its own initiative or at the request of a resource agency or of an affected coastal district with an approved program, may request from the applicant by Day 25, or Day 15 of a 30-day review period, additional information relevant to the proposed project, which is necessary for its consistency review or its own statutory responsibilities.

(h) Comments must be received by the coordinating agency on or before the comment deadline established by the coordinating agency. Each commenter shall also send copies of its comments to the resource agencies. Verbal comments must be confirmed by written comments postmarked within five working days after the verbal comments. If the commenter recommends stipulations on the consistency determination, a brief written justification must be provided by the commenter for each stipulation. Upon request, the coordinating agency shall send copies of comments to other interested parties.

(i) The coordinating agency shall encourage and facilitate consideration of comments received and discussion among the resource agencies. The coordinating agency shall determine whether there is a consensus among the resource agencies regarding a proposed consistency determination. The coordinating agency shall notify the affected coastal resource district with an approved program and the applicant on or before Day 44, or Day 24 in a 30-day review period, of the proposed determination or the issues to be resolved.

(j) If a resource agency, an affected coastal resource district with an approved program, or the applicant does not concur with the proposed consistency determination, it may request elevation of the review by submitting a written statement which describes its concerns and includes a proposed alternative consistency determination which would meet its concerns. That party shall distribute this statement so that all resource agencies, affected coastal resource districts, the applicant, and DGC will receive a copy on or before Day 49, or Day 29 in a 30-day review period, or within five days after receiving notice of the proposed determination, whichever is later. This requirement may be satisfied by transmitting the substance of the statement to the coordinating agency by telephone or other telecommunication device and sending written confirmation to all parties by mail or courier on or before the deadline under this subsection.

(k) The coordinating agency shall issue a conclusive consistency determination on or before Day 50, or Day 30 in a 30-day review period, if it has not received a request to elevate the review. If the coordinating agency receives a request, the agency shall elevate the review as necessary to the division directors, and then commissioners of the resource agencies, and may extend the decision deadline in accordance with 6 AAC 50.110(b)(7). If the review is elevated, the coordinating agency, or DGC on request, shall arrange meetings

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and shall mediate among the resource agencies, the affected coastal resource districts with approved programs, and the applicant, for the purpose of attempting to resolve any disputed issues and to formulate a mutually acceptable consistency determination. If no consensus is reached, the coordinating agency shall render a determination consistent with any policy direction given by the commissioners or the governor. (Eff. 3/11/84, Register 89; em am 5/1/90 — 8/29/90, Register 114)

Authority: AS 44.19.145(a) Art. III, sec. 16, Ak. Art. III, sec. 24, Ak.
Art. III, sec. 1, Ak. Const. Const.
Const.

6 AAC 50.080. CONFIDENTIAL INFORMATION AND FEES.

An application for a state permit requiring information which must by law be held in confidence, and any fee associated with a state permit, must be submitted by the applicant directly to the agency with responsibility for issuing the permit. The agency shall delete the confidential information from any copy of the application which is distributed for a consistency review under this chapter. (Eff. 3/11/84, Register 89)

Authority: AS 44.19.145(a) Art. III, sec. 16, Ak. Art. III, sec. 24, Ak.
Art. III, sec. 1, Ak. Const. Const.
Const.

6 AAC 50.090. EMERGENCY EXPEDITED REVIEW. If, due to an emergency as described in AS 26.23 or AS 46.04.080 or other applicable law, an applicant needs an expedited agency permit or consistency review, or if the head of the coordinating agency finds that an expedited review is necessary for the preservation of the public peace, health, safety, or general welfare, the head of the coordinating agency may modify the review process established in this chapter as necessary to meet the emergency. Any modifications in the review process made under this section must be made in writing by the head of the coordinating agency, based upon clear and convincing evidence of a need for the modification. (Eff. 3/11/84, Register 89)

Authority: AS 44.19.145(a) Art. III, sec. 16, Ak. Art. III, sec. 24, Ak.
Art. III, sec. 1, Ak. Const. Const.
Const.

6 AAC 50.100. PUBLIC PARTICIPATION. (a) Any person may comment on a proposed project by submitting written comments to the coordinating agency on or before the comment deadline. The coordinating agency shall provide a copy of the project packet to any person on request.

(i) response contractor information. If a plan holder proposes to use the services of a response action contractor to meet a requirement of AS 46.04.030 or of 18 AAC 75.400 — 18 AAC 75.495, the plan holder shall include a true, correct, and complete list of all contractors, with names, addresses, telephone numbers, and affiliation by company, and a copy of the contract or a summary which clearly demonstrates

(1) the contractor's obligation to respond if a discharge occurs and the contractor's liability to the plan holder for the contractor's failure to respond or for an inadequate response;

(2) the contractor's availability to respond to a department-conducted discharge exercise as well as an actual discharge; and

(3) that equipment and other spill response resources to be provided by the contractor are maintained in a state of readiness and are compatible with the type of facility or operation and the oil product handled by the plan holder.

(j) training. In addition to maintaining continuous compliance with other applicable state and federal training requirements, the plan holder shall demonstrate that designated oil spill response personnel are trained and kept current in the specifics of plan implementation, including deployment of containment boom, operation of skimmers and lightering equipment, and organization and mobilization of personnel and resources. The plan holder shall ensure that proof of training is maintained for three years and is made available to the department upon request. (Eff. 5/14/92, Register 122)

Authority: AS 46.03.020

AS 46.04.030

AS 46.04.070

18 AAC 75.455. DEPARTMENT REVIEW PROCEDURES. (a) Within seven days after receipt of an application and plan, the department will determine if the application and plan are sufficient for public review. If the application or plan is not sufficient for public review, the department will request the necessary additional information from the applicant.

(b) When the department determines that an application and plan are sufficient for public review, the department will

(1) send a notice setting a 30-day comment period to the Department of Natural Resources, the Department of Fish and Game, affected coastal districts and regional citizens advisory councils, and persons who have made a written request for information regarding submission subject to review under this section;

(2) direct the applicant to provide a copy of the application and the plan to the Department of Natural Resources, the Department of Fish and Game, affected coastal districts and regional citizens advisory councils, and other persons designated by the department;

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(3) set a date, within the 18th to 25th day of the 30-day comment period, by which the department will convey to the applicant any request from the department or a person reviewing the application that the department finds necessary to make a determination that the application or plan is complete; and

(4) publish one 30-day notice of the application, in the manner described in 18 AAC 15.050(b), stating the deadline for comments established under (1) of this subsection and the date established under (3) of this subsection for conveying requests for additional information; the applicant is responsible for paying the cost of the notice under this paragraph.

(c) The notice published under (b) of this section will state that a copy of the application and plan are available for review at the district and regional offices of the department nearest to the affected area of the state. It is the applicant's responsibility to provide a copy of the application and plan if the department receives a request for a copy.

(d) If, by the date set under (b)(3) of this section, the department determines that additional information is necessary to evaluate the application or plan, the department will

(1) notify the applicant of the information needed; and

(2) extend the 30-day comment period established under (b)(1) of this section until the information is received, plus 10 days.

(e) If the department determines that additional information is necessary under (d) of this section and requests the information from the applicant, the applicant shall send a copy of any additional information requested to the department and to the Department of Natural Resources, the Department of Fish and Game, affected coastal districts and regional citizens advisory councils, and other persons designated by the department.

(f) Upon receipt by the department of the additional information requested under (d) of this section, the department will provide to the parties described in (e) of this section notice of (1) receipt of the information and (2) the final comment deadline, as extended.

(g) The department will make a determination as to whether an application and plan are complete within seven days after the receipt of any additional information under (e) of this section or, if no additional information was requested under (d) of this section, within two days after the end of the 30-day comment period established under (b)(1) of this section.

(h) Notwithstanding the review procedures set out in this section, at any time after receipt of an application and plan, and after consultation with the Department of Natural Resources, the Department of Fish and Game, and affected coastal districts and regional citizens advisory councils, the department determines that all infor-

mation necessary to evaluate the application and plan has been received, the department will, in its discretion, find the application and plan complete. However, no decision will be made under (i) of this section until after the comment deadline established under (b)(1) of this section.

(i) Following the comment deadline established under (b)(1) of this section, including any extension under (d)(2) of this section, and within 65 days after the department determines that an application and plan are complete, the department will approve, approve with conditions, or disapprove a plan.

(j) The department will, if it determines good cause exists, hold a public hearing on an application and plan in the manner provided under 18 AAC 15.060.

(k) To assist the department in its review of contingency plans under this chapter, the department will enter into an annual agreement with the Department of Natural Resources and the Department of Fish and Game to provide expertise regarding protection of fish and game, state land, areas of public concern, and environmentally sensitive areas. (Eff. 5/14/92, Register 122)

Authority: AS 46.03.020

AS 46.04.030

AS 46.04.070

18 AAC 75.457. EMERGENCY MODIFICATION OF REVIEW PROCESS. If, due to an emergency as described in AS 26.23 or AS 46.04.080 or other applicable law, an applicant needs an expedited review, or if the commissioner or the commissioner's designee finds that an expedited review is necessary for the preservation of the public peace, health, safety, or general welfare, the commissioner or the commissioner's designee will, in that person's discretion, and consistent with the requirements of AS 46.04.030(j) that a copy of the applicant's plan be provided to the Department of Fish and Game and the Department of Natural Resources, modify the review process established in 18 AAC 75.455 as necessary to meet the emergency. Any modifications in the review process made under this section will be made in writing by the commissioner or the commissioner's designee based upon clear and convincing evidence of a need for the modification. (Eff. 5/14/92, Register 122)

Authority: AS 46.03.020

AS 46.04.030

AS 46.04.070

18 AAC 75.459. PREISSUANCE CONFERENCE. (a) At any time before the department's decision under 18 AAC 75.460, the applicant may request a preissuance conference from the appropriate regional office of the department. The request may be made orally, and will be granted if the applicant demonstrates that holding a conference will materially aid the department in reaching its decision.



Alaska Environmental Lobby, Inc.

P.O. Box 22151 Juneau, Alaska 99802

907-463-3366

January 25, 1993

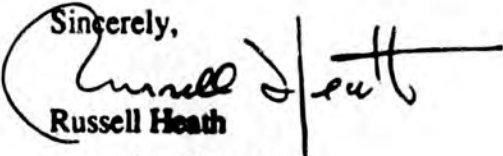
To the Members of the Alaska State Legislature:

The Alaska Environmental Lobby (AEL) represents the environmental concerns of 19 Alaskan environmental groups in the Alaska state legislature.

The Alaska Environmental Lobby supports the draft legislation repealing AS 46.04.030(p), which requires the Alaska Department of Environmental Conservation to approve or disapprove a proposed contingency plan within 65 days. Deletion of this requirement will allow necessary regulatory changes to be made to eliminate the conflicting review processes which presently exist in 18AAC75 and 6AAC50. AEL requests that a representative of the environmental community be involved in the revisions to these regulations.

AEL will withdraw our support of this draft legislation if any substantive changes or amendments are made to it. We urge prompt passage of this legislation as worded.

Sincerely,


Russell Heath

Executive Director

ALASKA CENTER FOR THE ENVIRONMENT • ALASKA CHAPTER, SIERRA CLUB • ALASKA FRIENDS OF THE EARTH
ANCHORAGE AUDUBON SOCIETY • ARCTIC AUDUBON SOCIETY • CLEAN AIR COALITION • DENALI CITIZENS' COUNCIL
DENALI GROUP, SIERRA CLUB • JUNEAU AUDUBON SOCIETY • JUNEAU, GROUP, SIERRA CLUB
KACHEMAK BAY CONSERVATION SOCIETY • KENAI PENINSULA AUDUBON SOCIETY • KNIK CANOERS AND KAYAKERS
KNIK GROUP, SIERRA CLUB • KODIAK AUDUBON SOCIETY • LYNN CANAL CONSERVATION • NORTHERN ALASKA ENVIRONMENTAL CENTER
PRINCE WILLIAM SOUND CONSERVATION ALLIANCE • SITKA CONSERVATION SOCIETY • SOUTHEAST ALASKA CONSERVATION COUNCIL



Alaska Oil and Gas Association



121 West Fireweed Lane, Suite 207
Anchorage, Alaska 99503-2035
Phone: (907) 272-1481 Fax: (907) 279-8114

January 22, 1993

To the Members of the Alaska State Legislature:

The Alaska Oil and Gas Association (AOGA) is a trade association whose member companies account for the majority of oil and gas exploration, production, transportation and marketing activities in Alaska.

AOGA supports the attached draft legislation repealing AS 46.04.030(p), which requires the Alaska Department of Environmental Conservation to approve or disapprove a proposed contingency plan within 65 days. Deletion of this requirement will allow necessary regulatory changes to be made to eliminate the conflicting review processes which presently exist in 18AAC75 and 6AAC50.

AOGA's support of this draft legislation is contingent upon no substantives changes or amendments being made. We urge prompt passage of this legislation as worded.

Sincerely,

WILLIAM W. HOPKINS
Executive Director

Attachment

ALEUTIANS EAST BOROUGH

SERVING THE COMMUNITIES OF

■ KING COVE ■ SAND POINT ■ AKUTAN ■ COLD BAY ■ FALSE PASS ■ NELSON LAGOON

January 21, 1993

Representative Carl Moses
P.O. Box V
Juneau, AK 99803

Dear Representative Moses:

The Aleutians East Borough supports the repeal of AS 46.04.030(p). The attached draft legislation would delete the requirement for the Alaska Department of Environmental Conservation to approve or disapprove a proposed oil spill contingency plan within 65 days. Deleting this statutory provision would result in the improved efficiency of the review process identified in the implementing regulations in 18 AAC 75, which we support.

We urge introduction and prompt passage of this draft legislation. Because of the sensitive nature of the legislation, we request that no substantive changes or amendments be made. If changes are made we will withdraw our support.

Sincerely,



Robert S. Juettner
Borough Administrator

RSJ:emn

CLERK/PLANNER
P.O. BOX 348
SAND POINT, ALASKA 99661
(907) 383-2899
(907) 383-3496 FAX

BOROUGH ADMINISTRATOR
1600 A STREET, SUITE 103
ANCHORAGE, ALASKA 99501-5148
(907) 274-7555
(907) 276-7569 FAX

FINANCE DIRECTOR
P.O. BOX 40
KING COVE, ALASKA 99812
(907) 487-2588
(907) 487-2586 FAX

ALEUTIANS EAST BOROUGH

SERVING THE COMMUNITIES OF

■ KING COVE ■ SAND POINT ■ AKUTAN ■ COLD BAY ■ FALSE PASS ■ NELSON LAGOON

January 21, 1993

Senator George Jacko
P.O. Box V
Juneau, AK 99803

Dear Senator Jacko:

The Aleutians East Borough supports the repeal of AS 46.04.030(p). The attached draft legislation would delete the requirement for the Alaska Department of Environmental Conservation to approve or disapprove a proposed oil spill contingency plan within 65 days. Deleting this statutory provision would result in the improved efficiency of the review process identified in the implementing regulations in 18 AAC 75, which we support.

We urge introduction and prompt passage of this draft legislation. Because of the sensitive nature of the legislation, we request that no substantive changes or amendments be made. If changes are made we will withdraw our support.

Sincerely,



Robert S. Juettner
Borough Administrator

RSJ:emn

CLERK/PLANNER
P.O. BOX 349
SAND POINT, ALASKA 99681
(907) 383-2599
(907) 383-3496 FAX

BOROUGH ADMINISTRATOR
1600 A STREET, SUITE 103
ANCHORAGE, ALASKA 99501-5148
(907) 274-7555
(907) 276-7569 FAX

FINANCE DIRECTOR
P.O. BOX 48
KING COVE, ALASKA 99812
(907) 497-2586
(907) 497-2386 FAX

A LEUTIANS WEST T

COASTAL RESOURCE SERVICE AREA

January 21, 1993

Dear Member of the 1993 Legislature:

The Aleutians West CRSA supports the attached draft legislation to repeal AS 46.04.030(p). This draft legislation would delete the requirement for the Alaska Department of Environmental Conservation to approve or disapprove a proposed contingency plan within 65 days. This time frame has proved to be problematic and its deletion will result in the improved efficiency of the review process identified in the implementing regulations in 18 AAC 75 which the AWCRSA supports. We strongly urge the introduction and prompt passage of this legislation. Because of the sensitive nature of the legislation, we request that no substantive changes or amendments be made. If changes are made we will withdraw our support for the legislation.

Sincerely,



Darcy Richards
Program Director

cc: AWCRSA Board of Directors

January 22, 1993

Dear Member of the Legislature:

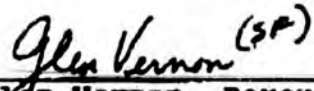
The Lake and Peninsula Borough and the Bristol Bay Coastal Resource Service Area (CRSA) understand that draft legislation has been prepared which would repeal AS 46.04.030(p), and want you to know that we fully support this proposal.

The effect of the draft legislation would be to delete the requirement for the Department of Environmental Conservation to approve or disapprove a proposed oil spill contingency plan within 65 days. Repealing this statutory provision will enable DEC to revise the implementing regulations in 18 AAC 75 to address problems with the review process for contingency plans that have been identified by coastal districts, industry, and other organizations.

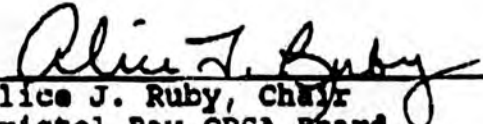
We hope the draft legislation is introduced and passed this session provided that no substantive changes or amendments are made. If changes are made we will withdraw our support.

Thank you for consideration of our letter.

Sincerely,



Glen Vernon, Borough Manager
Lake and Peninsula Borough



Alice J. Ruby, Chair
Bristol Bay CRSA Board



Cenaliulriit

Coastal
Management
District

For the Yukon-Kuskokwim Coastal Resource Service Area
P.O. Box 1169 • Bethel, Alaska 99559 • 907/543-2243

January 21, 1993

Alaska State Legislature
State Capitol
Juneau, Ak. 99801-1182

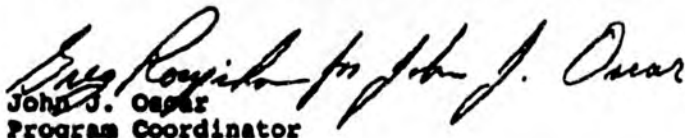
Dear Member of the Legislature:

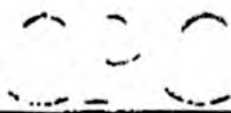
The Cenaliulriit Coastal Management District supports amendment of HB 567 in the attached draft legislation which would repeal AS 46.04.030(p). This draft legislation would delete the requirement for the Alaska Department of Environmental Conservation to approve or disapprove a proposed oil spill contingency plan within 65 days. Deleting this statutory provision would result in improved efficiency of the review process identified in the implementing regulations of 18 AAC 75, which we support.

We urge introduction and prompt passage of this draft legislation. Because of its sensitive nature, we request that no substantive changes or amendments be made to this legislation. If such changes are made we will withdraw our support.

Sincerely,

MOSES PAUKAN/CHAIRMAN, CENALIULRIIT COASTAL ZONE MANAGEMENT DISTRICT


John J. Oger
Program Coordinator



CIRI PRODUCTION COMPANY

January 22, 1993

Mr. Steve Porter
Arco Alaska, Inc.
P.O. Box 100360
Anchorage, AK 99519-0360

Dear Mr. Porter:

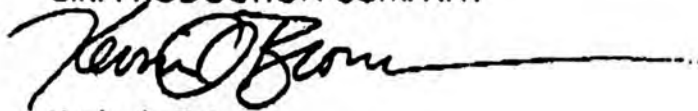
CIRI Production Company (CPC) is aware of the effort being made by a number of organizations to repeal AS 46.04.030(p). Such legislation, if adopted, would delete the requirement for the Alaska Department of Environmental Conservation to approve or disapprove proposed oil discharge prevention and contingency plans within sixty five days. CPC supports the repeal of the sixty five day requirement.

While CPC is not currently a holder of a contingency plan, CPC has held contingency plans in the past for certain exploratory drilling activities. Moreover, both CPC and Cook Inlet Region, Inc. are active participants in the oil and gas industry on the Kenai Peninsula and the North Slope.

Contingency plans are required to undergo review through the Alaska coastal management program. The sixty five day requirement in AS 46.04.030(p) does not mesh with this process and is unnecessarily burdensome. We understand this view is shared by regional citizens advisory councils, environmental interests, state agencies and industry. CPC, therefore, supports a simple, targeted repeal of AS 46.04.030(p).

Sincerely,

CIRI PRODUCTION COMPANY



Kevin A. Brown
Vice President

KAB:CD:lsg:3001
File: 061,001



Office of Community Development

January 20, 1993

Dear Member of the Legislature:

I support the attached draft legislation which would repeal as 46.04.030(p). This draft legislation would delete the requirement for the Alaska Department of Environmental Conservation to approve or disapprove a proposed oil spill contingency plan within 65 days.

Deleting this statutory provision would result in the improved efficiency of the review process identified in implementing regulations in 18 AAC 75, which I support.

I urge introduction and prompt passage of this draft legislation. Because of the sensitive nature of the legislation, I request that no substantive changes or amendments be made. If changes are made we will withdraw my support.

Thank you for your consideration of this matter.

Sincerely,

David Dengel
Director of Community Development



KENAI PENINSULA BOROUGH

144 N. BINKLEY • SOLDOTNA, ALASKA 99669
PHONE (907) 282-4441

DON GILMAN
MAYOR

January 19, 1993

Mr. Steven B. Porter
ARCO Alaska, Inc.
PO Box 100360
Anchorage, AK. 99519-0360

Subject: Repeal of AS 46.04-030(p)

Dear Mr. Porter:

The Kenai Peninsula Borough Coastal Management Program supports the attached legislation which repeals AS 46.04.030(p). This legislation, if passed, would delete the requirement for the Alaska Department of Environmental Conservation to approve or disapprove a proposed contingency plan within sixty-five days. This deletion will result in the improved efficiency of the review process identified in the implementing regulations in 18 AAC 75 which we support.

The oil and gas industry encompass a large portion of resource development activities which are located within the Kenai Peninsula Borough. We encourage passage of this legislation.

Sincerely,

Richard P. Troeger
Planning Director

RPT/nj

c: Don Gilman, Mayor
Mary Pearsall, KPB Planner

NORTH SLOPE BOROUGH

OFFICE OF THE MAYOR

P.O. Box 69
Barrow, Alaska 99723

Phone: 907-852-2611

Jeslie Kaleak, Sr., Mayor



January 20, 1993

Steve Porter
ARCO Alaska, Inc.
P.O. Box 100360
Anchorage, Alaska 99519-0360

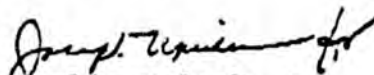
Re: Proposed Legislation on Oil Spill Contingency Plan Review

You have asked for our comments on the attached proposed bill. This proposed bill is the result of a statewide committee of coastal zone management representatives, including the North Slope Borough Planning Department. It is my understanding that if enacted the proposed bill would result in more efficient review and approval of oil spill contingency plans by correcting a current oversight in state law [AS 46.04.030(p)] which sets a different review time line than the regulations of the Department of Environmental Conservation and the Division of Governmental Coordination.

More efficient review and approval of oil spill contingency plans would not only be beneficial to operators involved in the exploration, production, transportation and distribution of hydrocarbons, but would also streamline administrative efforts of federal, state and local government regulators. As a distributor and regulator, the North Slope Borough fits into both categories.

We would support the repeal of AS 46.04.030(p) if the attached bill is introduced.

Sincerely,


Jeslie Kaleak, Sr.
Mayor

cc: Rena Bukovich, Representative Eileen MacLean's Office
Rebecca Brower, Eskimos, Inc.
Dennis Alt, UIC Construction
Forrest D. Olemaun, NSB Fuel Manager



Resource Development Council

for Alaska, Inc.

121 West Firwood Lane, Suite 250, Anchorage, Alaska 99503-2035
Phone 907/270-0700 Fax 276-3887

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EX-OFFICIO MEMBERS

Senator Ted Stevens

Senator Frank Murkowski

Congressman Don Young

January 22, 1993

Dear Members of the Alaska Legislature:

The Resource Development Council for Alaska, Inc. (RDC) supports the attached draft legislation that would repeal AS 46.04.030(p). This legislation relates to the time period for approval or disapproval of oil discharge prevention and contingency plans. Specifically, it would delete the requirement for the Alaska Department of Environmental Conservation to approve or disapprove a proposed contingency plan within 65 days.

The deletion would allow necessary regulatory changes to be made to resolve the conflicting review requirements which now exist in 18 AAC 75 and 6 AAC 50. This action would result in the improved efficiency of the review process.

RDC urges prompt passage of this legislation as worded. Because of the sensitive nature of the legislation, RDC requests that no substantive changes or amendments be made.

Sincerely,

RESOURCE DEVELOPMENT COUNCIL
for Alaska, Inc.

Becky Gay
Executive Director

**Southeast Alaska Petroleum Resource Organization, Inc.**

544 Water Street Suite 202 • Kodiak, Alaska 99901
(907) 225-7002 • fax (907) 247-1117

January 20, 1993

Steven B. Porter
ARCO Alaska, Inc.
P.O. Box 100360
Anchorage, AK 99516-0360

Dear Mr. Porter,

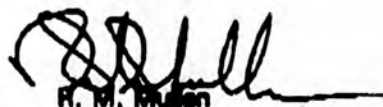
Pursuant to our conversation, and the proposed legislation which you faxed this afternoon, I have polled my Board of Directors and established that SEAPRO supports this legislative proposal as offered.

Many of our member companies have serious concerns regarding ACMP review, especially the extraordinary costs associated with document submission to the numerous coastal jurisdictions where our transient operations may take us. However, the inefficiency of the current plan review process, or lack of process, being utilized by ADEC has been clearly demonstrated to many of our members since August 1992. Clearly, adoption of a more efficient and reasonable review process is necessary.

As offered, the proposed legislation would repeal AS 46.04.030(p). This legislation, if passed, would delete the requirement for the Alaska Department of Environmental Conservation to approve or disapprove oil spill prevention and response contingency plans within 65 days. This deletion will result in the improved efficiency of the implementing regulations in 18AAC75. We urge prompt passage of this legislation. Because of the sensitive nature of the legislation, we request that no substantive changes or amendments be made. If changes are made we will withdraw our support for the legislation.

Please contact me if I can provide any further assistance.

Respectfully,


R. M. Mullen
Manager



Southwest Alaska Municipal Conference

Putting Resources to Work For People

3300 Arctic Blvd., Suite 203 • Anchorage, Alaska 99503 • (907) 562-7380 • FAX (907) 562-0438

RESOLUTION 93 - 01

A RESOLUTION OF THE SOUTHWEST ALASKA MUNICIPAL CONFERENCE IN SUPPORT OF DELETING THE TIME PERIOD FOR APPROVAL OR DISAPPROVAL OF OIL DISCHARGE PREVENTION AND CONTINGENCY PLANS FROM THE OIL AND HAZARDOUS POLLUTION CONTROL STATUTE

WHEREAS, in 1990 the Alaska State Legislature enacted House Bill 567 relating to Oil and Hazardous Pollution Control; and

WHEREAS, one of the provisions of HB 567, AS 46.04.030(p), requires that the Department of Environmental Conservation approve or disapprove a proposed oil discharge prevention and contingency plan within 65 days after it receives a complete application for approval; and

WHEREAS, the Department of Environmental Conservation (DEC) promulgated regulatory revisions pursuant to HB 567; and

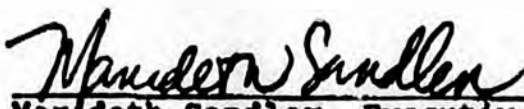
WHEREAS, proposed oil discharge prevention and contingency plans must also be reviewed under the Alaska Coastal Management Program (ACMP) regulations; and

WHEREAS, the review provisions of the ACMP regulations and the review provisions of the DEC regulations are in conflict and cannot be reconciled without deleting the 65-day statutory review provision.

NOW, THEREFORE, BE IT RESOLVED, that the Southwest Alaska Municipal Conference supports repealing the 65-day review provision found at AS 46.04.030(p) in order to allow the DEC the opportunity to resolve its regulatory conflicts with the ACMP.

PASSED AND APPROVED BY THE SOUTHWEST ALASKA MUNICIPAL CONFERENCE THIS 24th DAY OF JANUARY, 1993.


Richard G. Wilson, President


Marjeth Sandler, Executive Director

JAN-28-93 THU 16:44

DOYON LTD

FAX NO. 4566785

P. 02

**Doyon, Limited**

Doyon Building
201 First Avenue
Fairbanks, Alaska 99701
Tel: (907) 452-4785 Fax: (907) 456-8785
Toll Free in Alaska: 1-800-478-4785

January 28, 1993

To Members of the Alaska State Legislature:

Doyon, Limited, the Regional Native Corporation for Alaska's Interior, is pleased to join with a wide range of organizations, including the Alaska Oil and Gas Association and the Alaska Environmental Lobby, Inc., in asking your support to expeditiously adopt the enclosed draft legislation which repeals Alaska Statutes 46.04.030(p).

The proposed legislation repeals a provision of Alaska Statutes which require the Alaska Department of Environmental Conservation to approve or disapprove a proposed contingency plan within 65 days. Deletion of this requirement will allow necessary regulatory changes to be made to eliminate the conflicting review processes mandated by 18 Alaska Admin. Code 75 and 6 Alaska Admin. Code 50.

Doyon urges that the proposed legislation be adopted in its present form without further amendment.

We appreciate your consideration of Doyon's position.

Sincerely,

Morris Thompson,
President & CEO

099 P02

JAN 29 '93 15:50



Northern Alaska Environmental Center

218 DRIVEWAY
FAIRBANKS, ALASKA 99701
(907) 452-5021

January 29, 1993

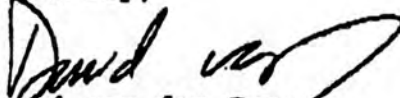
Alaska State Legislature
State Capitol
Juneau, Alaska 99801-1182

Dear Member of the Legislature:

The Northern Alaska Environmental Center supports the proposed amendment to HB 567 which would repeal AS 46.04.030(p). This draft legislation would delete the requirement for the Alaska Department of Environmental Conservation to approve or disapprove a proposed oil spill contingency plan within 65 days. Deleting this statutory provision would result in improved efficiency of the review process identified in the implementing regulations of 18 AAC 75, and would extend the public comment if needed.

Because of the sensitive nature of this legislation, our support is conditional: if substantive changes or amendments are made to this legislation, we will withdraw our support.

Sincerely,


David van den Berg
Arctic Issues Director



printed on recycled paper

SCOMM

93:7

SPONSOR STATEMENT
HB 197

"An Act making an appropriation to the Alyeska Settlement Fund and making appropriations from the Alyeska Settlement Fund; and providing for an effective date."

House Bill 197 appropriates \$28,200,00 from the Alyeska Settlement Fund as stipulated under the Agreement and Consent Decree dated November 25, 1992.

The blackmail clauses on page 11 and page 12 necessitates that action be taken this session.

This is a very simple bill that merely appropriates, as defined, the funds.

It should be noted that the original agreement totaled \$31,700,000. Of that amount, HB 197 appropriates \$28,200,000. Upon the Funding Date, Alyeska paid the federal government \$2,000,000 for expenses incurred and paid the State \$1,500,000 for 1989 tax revenues under AS 43.75 (Fisheries Business Tax), which would be refunded to local governments under AS 43.75.130. (SLA 92, Ch. 111).

STATE OF ALASKA
1993 LEGISLATIVE SESSION

BILL NUMBER: HB 197

FISCAL NOTE

Revision Date:
Title: Approp: Alyeska Settlement

Department Affected: DOT&PF
BRU:

Sponsor: Olberg
Requestor:

Component:
Component Serial Number:

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY94	FY95	FY96	FY97	FY98	FY99
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING:	0	0	0	0	0	0

CAPITAL	20,500.0	0	0	0	0	0
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REVENUE FUND SOURCE	0	0	0	0	0	0
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FUNDING: (Thousands of Dollars)

1002 FEDERAL RECEIPTS	0	0	0	0	0	0
1003 GF MATCH	0	0	0	0	0	0
1004 GF	0	0	0	0	0	0
1005 GF/PROGRAM RECEIPTS	0	0	0	0	0	0
1006 GF/MHTIA	0	0	0	0	0	0
OTHER	20,500.0	0	0	0	0	0
TOTAL FUNDING:	20,500.0	0	0	0	0	0

POSITIONS

FULL-TIME	1	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

Estimate of current year (FY93) impact: \$0

ANALYSIS: (Attach a separate page if necessary)

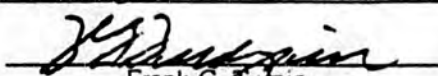
Prepared by: Norm Piispanen

Phone: 451-2385

Division: Northern Region Planning

Date: March 15, 1993

Approved by Commissioner:


Frank G. Turpin

Phone: 465-3901

Agency: Department of Transportation and Public Facilities

Date: March 15, 1993

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*Department of Transportation
and Public Facilities*

POSITION PAPER

BILL NO: HB 197

APPROVED:

A handwritten signature in black ink, likely of a department official, written over a horizontal line.

TITLE: Approp: Alyeska Settlement

DATE: March 15, 1993

DOT&PF supports appropriation for construction of a road from Cordova to Shepard Point. The proposed road to Shepard Point would serve the additional purposes of access to community expansion land and access to a future port. The port, when developed, would enhance marine access to Cordova, as well as to eastern Prince William Sound. Ultimately the road and port would serve the tourist industry, the fishing industry, the timber industry, and the general Cordova Community. DOT&PF is neutral on the construction of storage facilities, acquisition of equipment, and the purchase of inholdings.

For Further Information contact Katy McHugh at 465-3904.

Ulysses

Sandy

NOV 25 1992

UNITED STATES DISTRICT COURT
DISTRICT OF ALASKA

By _____ Deputy

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the EXXON VALDEZ

AGREEMENT AND
CONSENT DECREE

100

AGREEMENT AND CONSENT DECREE
[57946.1]

UNITED STATES OF AMERICA,

Plaintiff,

v.

EXXON CORPORATION, EXXON SHIPPING
COMPANY, EXXON PIPELINE COMPANY,
ALYESKA PIPELINE SERVICE
COMPANY, AMERADA HESS PIPELINE
CORPORATION, ARCO PIPE LINE COMPANY,
MOBIL ALASKA PIPELINE COMPANY,
PHILLIPS ALASKA PIPELINE CORPORATION,
BP ALASKA PIPELINES, INC., and
UNOCAL ALASKA PIPELINE
COMPANY, in personam, and the
T/V EXXON VALDEZ, in rem,

Defendants.

Case No. A91-082 CIV

AGREEMENT AND
CONSENT DECREE

AGREEMENT AND CONSENT DECREE

This Agreement and Consent Decree (this "Agreement") is made and entered into by the State of Alaska (the "State") and the United States of America (the "United States") (collectively referred to as the "Governments"), on the one hand, and Alyeska Pipeline Service Company ("Alyeska"), Amerada Hess Pipeline Corporation, ARCO Transportation Alaska, Inc., formerly known as ARCO Pipe Line Company, BP Pipelines (Alaska), Inc., Exxon Pipeline Company, Mobil Alaska Pipeline Company, Phillips Alaska Pipeline Corporation, and Unocal Pipeline Company (collectively, except for Alyeska, referred to as the "Alyeska Owner Companies"), on the other hand.

Introduction

Late in the evening of March 23 or early in the morning of March 24, 1989, the T/V EXXON VALDEZ, owned by Exxon Shipping

2Company, went aground on Bligh Reef in Prince William Sound, Alaska. As a result of the grounding, several of the vessel's cargo tanks ruptured and approximately 11 million gallons of crude oil owned by Exxon Corporation spilled into Prince William Sound (hereinafter as further defined in Paragraph 6(g), the "Oil Spill").

Alyeska responded to the Oil Spill pursuant to its 1987 Contingency Plan. Prior to the Oil Spill, Alyeska's 1987 Contingency Plan had been submitted to and approved by the State as being in compliance at the time of approval with all applicable statutes and regulations, including without limitation AS 46.04, and the Right-Of-Way Lease for Trans-Alaska Pipeline with the State, including all Stipulations thereto. In addition, prior to the Oil Spill, Alyeska's 1987 Contingency Plan had been submitted to and approved by the United States as being in compliance at the time of approval with all applicable federal statutes and regulations, including without limitation 43 U.S.C. §§ 1651 et seq., and the Grant and Agreement of Right-of-Way for Trans-Alaska Pipeline with the United States, including the Stipulations thereto.

In August 1989, the State filed an action in the Superior Court for the State of Alaska, Third Judicial District, identified as State of Alaska v. Exxon Corporation, et al., Civil No. 3AN-89-6852, against, inter alia, Alyeska and the Alyeska Owner Companies, asserting claims arising from the Oil Spill. Alyeska and the Alyeska Owner Companies asserted counterclaims

against the State in that action. Exxon Pipeline Company subsequently stipulated to the dismissal with prejudice of its counterclaim. In February 1992, that action was removed to the United States District Court for the District of Alaska, and in August 1992, the State's motion to remand was denied except with regard to the remaining counterclaim filed against the State, which was remanded to the Superior Court. Thus, with the exception of the counterclaim filed against the State (hereinafter the "Alyeska Counterclaim"), the action now is pending in the United States District Court for the District of Alaska, where it has been assigned Case No. A92-175 CIV (hereinafter the "State Action").

On March 13, 1991, the United States filed a complaint in the United States District Court for the District of Alaska against, inter alia, Alyeska and the Alyeska Owner Companies, asserting civil claims relating to or arising from the Oil Spill (hereinafter the "U.S. Action"). Exxon Pipeline Company asserted counterclaims against the United States in its response to the United States' complaint in the U.S. Action. The counterclaim of Exxon Pipeline Company was dismissed with prejudice on January 15, 1992. The U.S. Action remains pending against Alyeska and the Alyeska Owner Companies.

The parties to this Agreement recognize and acknowledge (1) that the payments called for in this Agreement are compensatory and remedial in nature and do not include any payment for or in consideration of claims for punitive damages, the Governments

having concluded, based on consideration of their claims, that an award to the Governments of punitive damages would not be sought, (2) that the payments are made to the Governments in response to their pending civil claims for compensatory damages and other civil relief against Alyeska and the Alyeska Owner Companies arising from the Oil Spill, (3) that the monies paid by Alyeska pursuant to this Agreement are to compensate the State for damages suffered as the result of the Oil Spill, and (4) that the projects to be funded with these monies are not undertaken to fulfill requirements of state law.

NOW, THEREFORE, the parties hereto agree and stipulate, and it is hereby ORDERED, ADJUDGED, AND DECREED, as follows:

Jurisdiction

1. The Court has jurisdiction over the subject matter of the claims set forth in the State Action and the U.S. Action and over the parties to this Agreement pursuant to, among other authorities, 28 U.S.C. §§ 1331, 1333 and 1345. This Court has personal jurisdiction over the State of Alaska, which solely for the purposes of this Agreement, waives all objections and defenses that it may have to the jurisdiction of this Court, including all objections and defenses to the jurisdiction of this Court it may have asserted previously.

Parties

2. "United States" means the United States of America, in all its capacities, including as public trustee and parens patriae, and including all departments, divisions, independent

boards, administrations, natural resource trustees, and agencies of the federal government.

3. "State" means the State of Alaska, in all its capacities, including as public trustee and parens patriae, and including all departments, divisions, independent boards, administrations, natural resource trustees, and agencies of the state government.

4. "Alyeska" means Alyeska Pipeline Service Company.

5. "Alyeska Owner Companies" means Amerada Hess Pipeline Corporation, ARCO Transportation Alaska, Inc., formerly known as ARCO Pipe Line Company, BP Pipelines (Alaska), Inc., Exxon Pipeline Company, Mobil Alaska Pipeline Company, Phillips Alaska Pipeline Corporation, and Unocal Pipeline Company.

Definitions

6. Whenever the following capitalized terms are used in this Agreement, they shall have the following meanings:

(a) "TAPL Fund" means the Trans-Alaska Pipeline Liability Fund, a federally chartered corporation, organized and existing under the laws of the State of Alaska.

(b) "Joint Trust Fund" means the trust fund established by the Memorandum of Agreement and Consent Decree between the State and the United States entered in August 1991 in United States of America v. State of Alaska, Civil Action No. A91-081 CIV.

(c) "Natural Resources" means land, fish, wildlife, biota, air, water, ground water, drinking water supplies, and

other such resources belonging to, managed by, held in trust by, appertaining to, or otherwise controlled by the United States (including the resources of the fishery conservation zone established by the Magnuson Fishery Conservation and Management Act of 1976, 16 U.S.C. §§ 1801 et seq.), the State, or both the United States and the State.

(d) "Natural Resource Damages" means compensatory and remedial relief recoverable by the Governments in their capacity as trustees of Natural Resources on behalf of the public for injury to, destruction of, or loss of any and all Natural Resources resulting from the Oil Spill, whether under the Clean Water Act, 33 U.S.C. §§ 1251, et seq., the Trans-Alaska Pipeline Authorization Act, 43 U.S.C. §§ 1651, et seq., or any federal or state statute or maritime or common law relating to the environment, including (1) costs of damage assessment, (2) compensation for loss, injury, impairment, damage or destruction of Natural Resources, whether temporary or permanent, or for loss of use value, non-use value, option value, amenity value, bequest value, existence value, consumer surplus, economic rent, or any similar value of Natural Resources, and (3) costs of restoration, rehabilitation or replacement of injured Natural Resources or the acquisition of equivalent resources.

(e) "Party" or "Parties" means Alyeska, the Alyeska Owner Companies and each of them, the United States, and the State, or any of them.

R. PEASE
KURTZ
TIONAL CORPORATION
O N STREET
AGE, AK 99501
') 276-6100

(f) "Exxon Consent Decree" means the Agreement and Consent Decree entered in State of Alaska v. Exxon Corporation, et al., Case No. A91-083 CIV, and in United States of America v. Exxon Corporation, et al., Case No. A91-082 CIV, and approved by this Court on October 8, 1991.

(g) "Oil Spill" means the occurrence described in the first paragraph of the Introduction above, and all consequences caused by or arising from that occurrence, including, without limitation, response, cleanup, damage assessment and restoration activities.

(h) "Effective Date" shall mean the earliest date on which all Parties have signed this Agreement.

(i) "Final Approval" shall mean the earliest date on which all of the following have occurred: (1) the Court has approved and entered this Agreement as a judgment, without modification materially adverse to any Party prior to or at the time of approval; and (2) the time for appeal from that judgment has expired without the filing of an appeal, or the judgment has been upheld on appeal and either the time for further appeal has expired without the filing of a further appeal or no further appeal is allowed.

(j) "Funding Date" means the later of (1) 10 days after Final Approval, or (2) 10 days after the receipt by Alyeska of both (i) written instructions as to payment consistent with Paragraphs 11 - 14 of this Agreement signed jointly by the Attorney General of the State of Alaska and the Assistant

Attorney General, Civil Division, of the United States Department of Justice, and (ii) written certification by the Attorney General of the State of Alaska of the establishment of a separate expendable trust fund within the State's Treasury ("Alyeska Settlement Fund") to receive and hold those settlement proceeds designated by Paragraphs 11 and 12 of this Agreement to be paid into this separate fund pending disbursement pursuant to the terms of this Agreement.

Effect of Entry of Decree

7. Upon approval and entry of this Agreement by this Court, this Agreement and Consent Decree constitutes a final judgment between the Governments, on the one hand, and Alyeska and the Alyeska Owner Companies, on the other hand, in accordance with its terms.

Description of Projects and Establishment of Separate Fund

8. The State shall establish the Alyeska Settlement Fund for the purpose of receiving, holding and disbursing certain of the settlement proceeds to be paid hereunder. The monies shall be deposited into the Alyeska Settlement Fund pursuant to the terms of this Agreement and shall be disbursed solely for the following purposes and subject to the following allocations:

~~██████████~~ \$14,500,000 for the construction of response storage ~~facilities~~ and docks at Tatitlek and Chenega and the pre-positioning of oil spill response equipment at both locations, as described in more detail in Appendix A hereto;

(b) \$6,000,000 for the construction of a road from Cordova to Shepard Point and, when appropriate, for work related to the construction of a response storage facility and the pre-positioning of oil spill response equipment at that location, as described in more detail in Appendix B hereto;

(c) \$7,500,000 for the acquisition of land to be included in and made a part of the Kachemak Bay State Park, as described in more detail in Appendix C hereto; and

(d) \$200,000 for the acquisition and installation by the State of communications equipment to be owned by the State, and to be used by the United States Coast Guard and the State and to be installed at the Valdez Emergency Operations Center ("VEOC") when it is constructed, with \$120,000 of the \$200,000 allocated for equipment to be selected and used by the United States Coast Guard and \$80,000 of the \$200,000 allocated for equipment to be selected and used by the State, as described in more detail in Appendix D hereto.

9. (a) The projects described in subparagraphs (a) and (b) of the preceding paragraph ("response projects") are intended to enhance the capability to respond in the event of future oil spills or other catastrophic events in Prince William Sound, as is the project described in subparagraph (d) of the preceding paragraph.

Final → (b) The allocations of settlement proceeds to the response projects as described in the preceding paragraph are based on good faith estimates and are preliminary only. If the

actual costs of a specific response project are less than the allocated sum, together with interest, if any, earned on the allocated sum after monies are received by the State, the excess funds may be used to pay for any of the other response projects whose actual cost may exceed the initial estimate. If the actual costs of the response projects are less than the combined allocation of \$20,500,000, then the excess funds will be paid into the Joint Trust Fund.

(c). The response projects will require further detailed planning and are subject to various land acquisition issues and state and federal permitting requirements that have yet to be resolved. Subject to an appropriation by the Alaska State Legislature, the State will make a good faith effort to design, construct and complete the response projects. If the Attorney General of the State of Alaska determines that either of the response projects is impossible or impracticable for any reason, including the fact that the revised estimated cost would exceed the allocation (and other identified sources of funding, if any) or that the State is unable to obtain appropriate permits or acquire appropriate sites, the funds allocated for that particular response project will be treated as excess funds under subparagraph (b) above. If either of the response projects is ~~rendered impossible~~ because appropriations from the Alyeska Settlement Fund for the purposes specified are not enacted on or before September 15, 1993, then the monies not appropriated will ~~be treated as excess funds under subparagraph (b) above.~~

(d) If the acquisition of land described in subparagraph (c) of the preceding paragraph is rendered impossible either because of the inability of the interested parties to finalize a purchase and sale, the lack of sufficient additional sources of funding, or otherwise, the funds allocated for this project will be paid into the Joint Trust Fund. If the acquisition is rendered impossible because these funds have not been appropriated for the purpose specified by December 31, 1993, the funds allocated for this project will be paid into the Joint Trust Fund.

(e) If the acquisition and installation of communications equipment described in subparagraph (d) of the preceding paragraph costs less than the money allocated for that project, the balance remaining shall be paid into the Joint Trust Fund. If the acquisition and installation is rendered impossible because these funds have not been appropriated for the purpose specified by December 31, 1995, the funds allocated for this project will be paid into the Joint Trust Fund.

(f) The State will have final authority and responsibility for the design, specification and implementation of the response projects. The State will have final authority to utilize the funds allocated to the acquisition project described in subparagraph (c) of the preceding paragraph. The United States will have final authority to select communications equipment for use by the United States Coast Guard, as described in subparagraph (d) of the preceding paragraph, up to \$120,000;

and the State will have final authority to select communications equipment for use by the State, as described in subparagraph (d) of the preceding paragraph, up to \$80,000.

Payment Terms

10. The payments to be made by Alyeska pursuant to the terms of this Agreement total \$31,700,000. The payments shall be made in accordance with the provisions and schedules set forth below.

11. Payments with respect to the projects described in Paragraphs 8(a), 8(b) and 8(c) above shall be made in accordance with the following provisions:

(a) Alyeska shall pay \$28,000,000 into the Alyeska Settlement Fund in accordance with the following schedule:

- (1) \$4,500,000 shall be paid on the Funding Date;
- (2) \$10,500,000 shall be paid on the first anniversary of the Funding Date; and
- (3) \$13,000,000 shall be paid on the second anniversary of the Funding Date.

(b) If, at any time prior to the second anniversary of the Funding Date, there should be insufficient funds in the Alyeska Settlement Fund to enable payments to be made which are necessary in order for these projects to proceed, the State may give written notice to Alyeska of the amount of the shortfall and Alyeska shall, within 30 days of its receipt of that notice, deposit in the Alyeska Settlement Fund the amount of that

shortfall; provided, however, that in no event shall Alyeska be required to contribute more than \$28,000,000 to the Alyeska Settlement Fund with respect to these particular projects. In the event any accelerated payments are requested and made pursuant to the provisions of this subparagraph, Alyeska shall be entitled to deduct the amount of each accelerated payment from the next payment due under the payment schedule set forth in subparagraph (a) above.

12. Upon the Funding Date, Alyeska shall pay into the Alyeska Settlement Fund the sum of \$200,000 to be used as described in Paragraph 8(d) above.

13. Upon the Funding Date, Alyeska shall pay to the State the sum of \$1,500,000 for 1989 tax revenues under AS 43.75 (Fisheries Business Tax), which would be refunded to local governments under AS 43.75.130. This sum shall be in addition to any amount which has been or will be allowed to any party by the TAPL Fund and shall not be used by the TAPL Fund as an offset against claims by any party for such tax revenues.

14. Upon the Funding Date, Alyeska shall pay to the United States, or to such other person or persons as the United States may direct, the sum of \$2,000,000 for expenses incurred by the United States in response to the Oil Spill which would have been subject to reimbursement from the Joint Trust Fund.

Other Consideration

15. Alyeska and the Alyeska Owner Companies previously have committed to build the VEOC either within the City of Valdez at

the Valdez Port or at the Alyeska Terminal. Alyeska and the Alyeska Owner Companies hereby reaffirm that commitment. In addition to that undertaking, Alyeska and the Alyeska Owner Companies commit as follows:

(a) Subject to Alyeska obtaining the necessary permits, approvals and leases, and subject to Alyeska being able to obtain a suitable parcel of real property, the VEOC will be constructed in the City of Valdez, at a presently estimated approximate cost of \$14,000,000, and not at the Alyeska Terminal;

(b) The VEOC will include a reasonable amount of space for the United States Coast Guard and State of Alaska communications center in which the equipment to be purchased by the Governments as contemplated by Paragraph 8(d) will be located;

(c) The VEOC will be designed to support the Ship Escort Response Vessel System ("SERVS"), which will remain based in Valdez;

(d) The VEOC will be designed so that it can be used to provide oil spill response training; and

(e) Subject to Alyeska obtaining the necessary permits, approvals and leases, and subject to Alyeska being able to obtain a suitable parcel of real property, the construction of the VEOC will begin no later than June 1, 1994.

Releases and Covenants Not to Sue by the Governments

16. Effective upon Final Approval, the Governments, in addition to the releases contained in Paragraphs 15 and 23 of the

Exxon Consent Decree, release and covenant not to sue or to file any administrative claim against Alyeska, the Alyeska Owner Companies, or their parents or affiliates with respect to any and all civil claims relating to or arising from the Oil Spill, including claims for any civil relief of a compensatory and remedial nature which have been or may be asserted by the Governments, or either of them, including without limitation any and all civil claims under all federal or state statutes and implementing regulations, common law or maritime law, that arise from, relate to, or are based on, or could in the future arise from, relate to, or be based on: (1) any of the civil claims asserted in the State Action, including a claim for tax revenues which would have been or would be collected under existing AS 43.75 but for the Oil Spill, (2) any of the civil claims asserted in the U.S. Action, or (3) any other civil claims that could be asserted by either or both of the Governments against Alyeska, the Alyeska Owner Companies, or their parents or affiliates relating to or arising from the Oil Spill; provided, however, that nothing in this Agreement shall affect or impair the following:

(a) claims by either Government to enforce this Agreement;

(b) claims by the State against the TAPL Fund for tax revenues which would have been or would be collected under existing AS 43.75 (Fisheries Business Tax) but for the Oil Spill;

(c) exclusively private claims, if any, by Alaska Native Villages and individual Alaska Natives, other than claims for Natural Resource Damages, seeking damages for private harms to Native subsistence well being, community, culture, tradition and way of life resulting from the Oil Spill, including private claims for private harms to Alaska Native Villages and individual Alaska Natives resulting from the impairment, destruction, injury or loss of Natural Resources caused by the Oil Spill and any other exclusively private claims that are available to Alaska Native Villages and individual Alaska Natives; and

(d) exclusively private claims, if any, by Alaska Native Corporations, other than claims for Natural Resource Damages, seeking damages for private harms resulting from injuries caused by the Oil Spill to lands in which a Native Corporation holds any present right, title, or interest, including private claims for lost or diminished land values, for preservation, protection and restoration of archaeological or cultural resources and archaeological sites found on the lands described in this subparagraph, for private harms resulting from injuries to Natural Resources found on lands described in this subparagraph for impairment of riparian or littoral rights, if any, and any other claims that are available to Alaska Native Corporations as private landowners; provided, however, that such claims shall not include any claims based upon injuries to tidelands or submerged lands.

17. The State acknowledges that certain entities in addition to the State have asserted a right to recover tax revenues which would have been or would be collected under existing AS 43.75. However, it is the State's legal position that it is the only entity which possesses any claim under existing AS 43.75 and that it is the only entity which is authorized or entitled to pursue a claim under existing AS 43.75.

18. Effective upon Final Approval, each of the Governments covenants not to sue any present or former director, officer, or employee of Alyeska or the Alyeska Owner Companies with respect to any and all civil claims or other civil remedies of a compensatory or remedial nature which have been or may be asserted by the Governments, including without limitation any and all civil claims under all federal or state statutes and implementing regulations, common law or maritime law, that arise from, relate to, or are based on, or could in the future arise from, relate to, or be based on the Oil Spill, including, without limitation, claims arising from any of the subject matter underlying the civil claims asserted in the State Action or the U.S. Action; provided, however, that if any such present or former director, officer, or employee brings any action against the Governments, or either of them, for any claim whatsoever arising from or relating to the Oil Spill (or if an action against the Governments is pending at the time of Final Approval, and the director, officer, or employee fails to dismiss the action within 15 days of Final Approval), this covenant not to

sue shall be null and void with respect to the director, officer, or employee bringing such action. In the event either Government obtains a judgment against any present or former director, officer, or employee of Alyeska or the Alyeska Owner Companies for liability relating to or arising from the Oil Spill, the Governments shall enforce the judgment only to the extent that the individual or individuals against whom the judgment was obtained are able to satisfy the judgment, without indemnification by Alyeska or the Alyeska Owner Companies, personally or through insurance policies purchased by the individual or individuals.

Releases and Covenants Not To Sue

by Alyeska and Alyeska Owner Companies

19. Effective upon Final Approval, Alyeska and the Alyeska Owner Companies release and covenant not to sue or to file any administrative claim against each of the Governments and their current or former employees with respect to any and all claims relating to or arising from the Oil Spill, including without limitation, claims for Natural Resource Damages and cleanup costs, under federal or state statutes and implementing regulations, common law or maritime law, that arise from, relate to, or are based on: (a) the Alyeska Counterclaim; or (b) any other civil claims that have been or could be asserted by Alyeska or the Alyeska Owner Companies against either of the Governments relating to or arising from the Oil Spill, except that nothing in

this Agreement shall affect or impair the rights of Alyeska or the Alyeska Owner Companies to enforce this Agreement.

Dismissal of Actions and Claims

20. Not later than 15 days after Final Approval, each of the claims relating to or arising from the Oil Spill and asserted by the State and/or the United States against Alyeska, the Alyeska Owner Companies, Exxon Corporation or Exxon Shipping Company, including the claims asserted in the State Action, the U.S. Action and as third-party claims in various other lawsuits, and all claims relating to or arising from the Oil Spill and asserted by Alyeska and the Alyeska Owner Companies against the State, including the Alyeska Counterclaim, shall be dismissed with prejudice and without an award of costs or attorneys fees to any Party. Alyeska, the Alyeska Owner Companies, the United States, and the State shall enter into and execute all Stipulations of Dismissal, with prejudice, necessary to implement the provisions of this paragraph.

Trans-Alaska Pipeline Liability Fund

21. The release in Paragraph 19 shall not be construed to bar any claim by Alyeska or the Alyeska Owner Companies against the TAPL Fund relating to or arising from the Oil Spill. If the TAPL Fund asserts any claims against the Governments that are based upon subrogation rights arising from any monies paid to Alyeska or the Alyeska Owner Companies by the TAPL Fund, Alyeska and the Alyeska Owner Companies agree to indemnify and hold the Governments harmless from any liability that they have to the

TAPL Fund based on such claims. However, the foregoing indemnity (a) shall not be enforceable with respect to any amount in excess of value actually received by Alyeska or the Alyeska Owner Companies from the TAPL Fund, and (b) shall be enforceable only if the Governments assert in good faith all defenses they may have to such claims.

Third Party Litigation

22. (a) Except as provided in subparagraph (b) of this paragraph, if any person or entity not a party to this Agreement ("Third Party") asserts a claim relating to or arising from the Oil Spill in any present or future litigation against Alyeska or the Alyeska Owner Companies and the Governments, or against Alyeska or the Alyeska Owner Companies and either the United States or the State, each of these sued Parties ("Sued Parties") shall be responsible for and will pay its share of liability, if any, as determined by the proportional allocation of liability contained in any final judgment in favor of such Third Party, and no Sued Party shall assert a right of contribution or indemnity against any other Sued Party. However, notwithstanding any other provision of this Agreement, the Sued Parties may assert any claim or defense against each other necessary as a matter of law to obtain an allocation of liability among the Sued Parties in a case under this paragraph. Any such actions between or among the Sued Parties shall be solely for the purpose of allocating liability, if any. The Sued Parties shall not enforce any judgment against each other in such cases. Further,

notwithstanding any other provision of this Agreement, the Sued Parties may seek indemnification or contribution from any other party to the action or from any third party (including Exxon Corporation and Exxon Shipping Company), other than one of the Sued Parties, and the rights of the Alyeska Owner Companies to reallocate costs among themselves or to seek indemnification or contribution from each other shall not be affected in any way by this Agreement.

(b) If any person or entity, other than the TAPL Fund, asserts claims against the Governments, or either of them, that are based upon contribution or indemnity or any other theory of recovery over against the Governments arising from any liability of or payment by said person or entity to Alyeska or the Alyeska Owner Companies relating to or arising from the Oil Spill, or based upon subrogation rights arising from any monies paid to Alyeska or the Alyeska Owner Companies, Alyeska shall indemnify and hold the Governments harmless from any liability that the Governments have to such person or entity based on such claims. The foregoing indemnity (i) shall not be enforceable with respect to any amount in excess of value actually received by Alyeska or the Alyeska Owner Companies, and (ii) shall be enforceable only if the Governments assert in good faith all defenses they may have to such claims.

23. Neither Alyeska nor the Alyeska Owner Companies shall assert any right of contribution or indemnity against either Government in any action relating to or arising from the Oil

Spill where that respective Government is not a party. Neither Government shall assert any right of contribution or indemnity against Alyeska or the Alyeska Owner Companies in any action relating to or arising from the Oil Spill where Alyeska or the Alyeska Owner Companies are not parties, except that either Government may assert against Alyeska and the Alyeska Owner Companies the rights to indemnification as expressly provided in Paragraph 21.

24. Any liability which Alyeska or the Alyeska Owner Companies incur as a result of a suit by a Third Party, as described in Paragraphs 22 or 23, shall not be attributable to or serve to reduce the payments required to be paid by Alyeska pursuant to Paragraphs 11 - 14.

25. The Parties agree that they will not tender each other to any Third Party as direct defendants in any action relating to or arising from the Oil Spill pursuant to Rule 14(c) of the Federal Rules of Civil Procedure.

26. If a Third Party, which previously has reached or hereafter reaches a settlement with Alyeska or the Alyeska Owner Companies, brings an action against the Governments, or either of them, the sued Government(s) shall undertake to apportion liability, if any, according to principles of comparative fault without the joinder of Alyeska or the Alyeska Owner Companies, and shall assert that joinder of Alyeska or the Alyeska Owner Companies is unnecessary to obtain the benefits of allocation of fault. Notwithstanding any other provision of this Agreement, if

the court rejects the sued Government(s)' efforts to obtain a proportional allocation of fault without Alyeska or the Alyeska Owner Companies' joinder, the sued Government(s) may institute third-party actions against Alyeska or the Alyeska Owner Companies solely for the purpose of obtaining allocation of fault. The Governments in such third-party actions shall not enforce any judgment against Alyeska or the Alyeska Defendants.

27. If a Third Party, which previously has reached or hereafter reaches a settlement with the Governments, or either of them, brings or pursues an action against Alyeska or the Alyeska Owner Companies, or any of them (collectively, the "Alyeska Defendants"), the Alyeska Defendants shall undertake to apportion liability, if any, according to principles of comparative fault without the joinder of either of the Governments, and shall assert that joinder of the Governments, or either of them, is unnecessary to obtain the benefits of allocation of fault. Notwithstanding any other provision of this Agreement, if the court rejects the Alyeska Defendants' efforts to obtain a proportional allocation of fault without joinder of the Governments, or either of them, the Alyeska Defendants may institute third-party actions against the Governments, or either of them, solely for the purpose of obtaining allocation of fault. The Alyeska Defendants in such third-party actions shall not enforce any judgment against the Governments.

Effect on TAPS Tariff

28. Solely for the purpose of resolving the issues in dispute in this litigation over the Oil Spill and without in any way conceding that the monies paid pursuant to this Agreement are not properly included in the tariff rates charged for the use of the Trans-Alaska Pipeline System, the Alyeska Owner Companies agree that the payments made under the terms of this Agreement shall not be included, directly or indirectly, in the tariff rates charged by the Alyeska Owner Companies for the use of the Trans-Alaska Pipeline System. Notwithstanding the foregoing, the Alyeska Owner Companies reaffirm that it is their belief that such amounts would properly be included in the tariff rates charged and that they are agreeing not to include such amounts only as part of the compromise and settlement reflected in this Agreement. The State acknowledges that the compromise and agreement set forth in this paragraph will not be used in any other action or proceeding or otherwise urged as precedent that monies paid in settlement of litigation are not properly included in the tariff rates charged for the use of the Trans-Alaska Pipeline System.

Interest for Late Payments

29. If the payments required by Paragraphs 11 - 14 of this Agreement are not made by the dates specified, Alyeska shall be liable to the Governments for interest on the overdue amount, from the time payment was due until full payment is made, at the rate established by the Department of the Treasury under 31