

ALASKA LEGISLATURE SPECIAL COMMITTEE / SUBJECT FILES 86/2

2278 SCOMM 94: SENATE SPECIAL COMMITTEE ON OIL & GAS, 1993-94

348

01/22/93

Complete Listing of Financial Responsibility Records

Financial Responsibility Company	Subject	Notes	frid	File Number	Proof Type
Saupe Enterprises Inc. dba Chevron Dist.	Terminal	+Conditional approval: Chevron Bulk Plant (Fairbanks), cap. 39,300 bbls. x \$25. = \$982,500., Insurance not approved. Quarterly reports not needed.	0109	4.01.072	INSR
Seacor Marine, Inc.	Vessel, tanker, self-propelled	=Pending approval: Insurance expired M/V Mustang, cap. 1,119 bbls. x \$100. operating in Cook Inlet as supply vessel, in emergency may transport fuel as cargo. Ins. does not meet requirements.	0288	4.01.163	INSR
Sitka Fuels, Inc.	Terminal	+Conditional approval: terminal cap. 12,857 bbls. x \$25. = \$321,425. Insurance does not have endorsement. received copy of ins. policy 12/24/92.	0062	4.01.045	INSR
Smith Lighterage Co., Inc.	Vessel, barge	+Conditional approved: barges Ray'sons, cap. 3023.81 bbls X \$100 = \$302,381 and Skip I, cap. 1309.52 bbls. Insurance not approved. vessels operate only from May through October.	0099	4.01.065	INSR
St. Michael Fuel Company	Terminal	*Approved: St. Michael oil terminal cap. 34,190 bbls. x \$25, Exempt: Mt. Village Tank Farm cap. 4,285 bbls., St. Mary's Tank Farm cap. 7,952 bbls., Galena cap. 9,524, Nenana cap. 7,619 Insurance coverage shoreside is Lloyds & ILU, nil ded., see Yutana Barge lines policy see .035a for vessels & let. of credit.	0047	4.01.035b	INSR
Terminal Oil Sales, Inc.	Terminal	+Conditional approved: Fuel terminal in Homer, cap. 26,296 bbls. x \$25. No ins. endorsement.	0104	4.01.070	INSR

01/22/93

Complete Listing of Financial Responsibility Records

Financial Responsibility Company	Subject	Notes	frid	File Number	Proof Type
Tesoro Alaska Petroleum Co.	Vessel, tanker, NC spot charter	*Approved: non-crude Spot Charters, Contact Ms.Hilde Baldwin 512-828-8484 - vessels this fiscal year: Cathay Spirit 6/24/92, Sukhe Bator 6/25/92. Lion of California 7/5/92, Lielupe 6/25/92, Yamato Spirit 7/11/92, Cathay Spirit 7/25/92, Lion of California 7/31/92, Flying Clipper 8/5/92, Tasman Spirit 9/4/92, Lielupe 9/12/92, Tavi 9/20/92, Cathay Spirit 10/4/92, Tasman Spirit 10/17/92, Emma Maersk 10/28/92, Cloudesdale 11/10/92, Tasman Spirit 11/17/92, Rossi 11/22/92, Asiatic Spirit 12/4/92, Golden Gate Sun 1/2/93, Yamato Spirit 1/12/93, Baltimore Trader 1/25/93,	0064	4.01.046b	INSR
Tesoro Petroleum Corporation	Terminal, onshore production, pipeline	*Approved: Kenai Refinery & Terminal cap.950,000 crude & 2,550,000 NC, Anchorage Terminal cap.220,000, Valdez Terminal Old cap. 41,000, Valdez Terminal New cap. 160,000, Fairbanks Terminal cap. 60,000, 10-inch Pipeline 37,000.	0063	4.01.046a	OTHR
Texaco Refining & Marketing, Inc.	Terminal	*Approved: Anchorage Sales Terminal, non-crude terminal cap. 652,000 bbls.x \$100.	0065	4.01.047a	BOND
Tidewater Pacific Inc.	Vessel	*Approved: Vessels ATLANTIC SEAHORSE cap.3380 bbls., LAFAYETTE cap. 2005 . Tender type vessels but in emergency may transport fuel.	0290	4.01.164	GRTY
Trident Seafoods Corporation	Terminal	*Approved: fuel storage facilities at Akutan Island cap. 30,238 bbls.x \$25. & Sand Point cap. 15,238.	0140	4.01.101a	LETR

01/22/93

Complete Listing of Financial Responsibility Records

Financial Responsibility Company	Subject	Notes	frid	File Number	Proof Type
Trident Seafoods Corporation	Vessel, barge	*Approved: barges NC-S-1 cap. 1,250 bbls. x \$100., J-S-1 cap. 1,250 Received notice of cancellation of Surety Bond 11/2/92	0141	4.01.101	LETR
U.S. Air Force	Terminal	*Approved Exempt: Barter Island -LRRS cap. 45,270 BBLs., Cape Lisburne -LRRS cap. 24,644 BBLs., Tin City -LRRS cap. 24,127 BBLs., King Salmon Air port cap. 105,476 bbls., Galena AFS cap. 442,988 bbls., Shemya AFB cap. 295,174 bbls.	0005	4.01.003a	EXPT
U.S. Air Force	Terminal	*Approved exempt: Eielson AFB fuel storage facilities: E-2 cap. 97,200, E-3 cap. 5,360, E-6 cap. 200,000, E-7 cap. 4,166, E-8 cap. 4,166, E-9 cap. 4,166, E-10 cap. 10,000, E-11 cap. 275,000.	0204	4.01.003b2	EXPT
U.S. Air Force	Terminal	*Approved exempt: Elmendorf AFB fuel storage facilities: cap. 250,600 bbls.	0205	4.01.003b3	EXPT
U.S. Army	Terminal	-Not approved: Terminal facility, storage capacity 39,500 bbls., facility has never provided application form.	0313	4.01.171	EXPT
U.S. Defense Fuel Supply Center	Pipeline, terminal, NC	*Approved exempt: Anchorage Army Terminal, cap. 324,000 bbls., Fairbanks Army Terminal, cap. 195,000 bbls., Whittier Army Terminal cap. 630,000 bbls., Whittier to Anch. Pipeline 8 inch x 61 in., Fbks. to Eilson Pipeline 8 inch x 27 in.	0021	4.01.010a	EXPT
U.S. Navy	Terminal	*Approved exempt: Amchitka Island facility cap. 79,023 bbls.	0071	4.01.049	EXPT
U.S. Navy	Terminal	*Approved exempt: Fuel storage at Adak Island, cap. 652,068 bbls.	0070	4.01.049a	EXPT

01/22/93

Complete Listing of Financial Responsibility Records

Financial Responsibility Company	Subject	Notes	frid	File Number	Proof Type
UIC Construction, Inc.	Terminal	+Conditional approval: UICC/WARL Tank Farm, cap. 11,824 bbls.x \$25 no insurance endorsement, Quarterly financial reports not needed. Self-insurance by parent company Ukpeagvik Inupiat Corp.	0149	4.01.109	INSR
Unalakleet Native Corp.	Terminal	-Not Approved: fuel storage facility at Unalakleet, storage capacity over 10,000 bbls., (Jerry Reichlin, Attorney 277-5955) NOV & COBC require compliance by Nov. 15, 1992.	0297	4.01.166	
Union Oil Co. of Cal.	Terminal	*Approved: Ketchikan Terminal cap. 112,147 bbls. X \$25 bbl.	0074	4.01.051a1	SELF
Union Oil Co. of Cal.	Terminal	*Approved: Juneau Bulk Plant, cap. 61,500 bbls. x \$25.	0291	4.01.051a2	SELF
Western Geophysical	Vessel, terminal	-Not Approved: The vessel M/V Northern Lighter (594351), classified as a terminal, under 10,000 bbls. storage capacity.	0257	4.01.156	EXPT
Western Hemisphere Corp. (TOSCO)	Vessel, tanker	*Approved: LION OF CALIFORNIA -cap. 133,320 bbls., Riverhead Spirit - cap. 273,795 bbls x \$100.	0186	4.01.012	GRTY
Western Pioneer Inc. (Delta Western)	Terminal	*Approved: Juneau Plant 56515 bbl, Kenai Plant 14482 bbl, Yakutat Plant 17436, Dillingham 53904 bbl, Wood River Cherrier Plant 55952 bbl, Dutch Harbor 372113 bbl x \$25 = \$9,302,825., Naknek 37978 bbl, Captain's Bay 28000 bbl, St. George Island cap.28,500 bbls.	0026	4.01.024b	SELF
Western Pioneer Inc. (Delta Western)	Vessel barge	*Approved: Barges 180-2, cap.13,690bbls, DW-280 cap.47619, DW-282 (cap.47609 bbls.x\$100= \$4,761,900.) need quarterly affidavits only.	0027	4.01.024a	SELF

01/22/93

Complete Listing of Financial Responsibility Records

Financial Responsibility Company	Subject	Notes	Grid	File Number	Proof Type
Yukon Fuel Company	Terminal	*Approved: Yukon Fuel Company terminal cap. 17,550 Operated by Yutana Barge Lines, Inc. See file 35b for ins. policy info. shoreside, 35a for vessel ins. info.	0304	4.01.035c	INSR
Yutana Barge Lines, Inc.	Vessel, barge	+Conditional approved: barges; RW12 cap. 850 bbls., RW11 cap. 4675, RW10 cap. 6591, RW9 cap. 4000, RW8 cap. 4168, RW7 cap. 1358, OB2 cap. 3349, OB3 cap. 7369, OB4 cap. 7369, OB5 cap. 7369, OB6 cap. 7369, Frank Turner #1 cap. 1131, Polaris #6 cap. 818 and Stewart cap. 2602. P&I coverage not approved,	0221	4.01.035a	INSR

SCOMM

94:4

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 more 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.

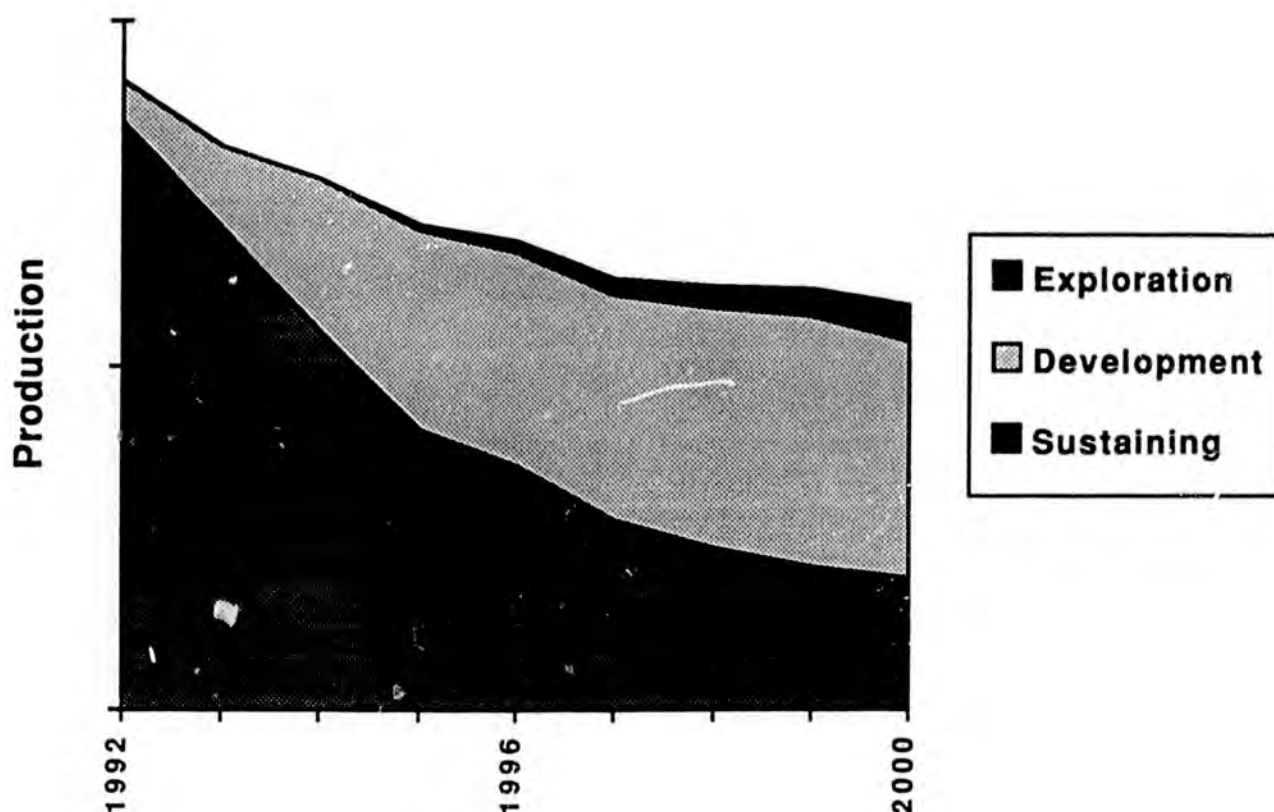


Figure 1. Production Potential from New Investments

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.

----- • -----

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

94:5

Alaska State Legislature

3111 C Street, Suite 150
Anchorage, Alaska 99503
(907) 561-2038



During Session:
P.O. Box V
Juneau, Alaska 99811
(907) 465-4993

Senator Drue Pearce
District G

Sponsor Statement for Senate Bill 75

Mr. Chairman and members of the committee ... Senate Bill 75 would require the operator of a vessel carrying petroleum products to notify the Coast Guard and proper state authorities whenever they experience a significant malfunction lasting more than 60 minutes. The malfunctions covered under this bill would affect the steering, power, or seaworthiness of the vessel if they occurred within 200 miles of Alaska's shoreline. The penalty for failure to report such an incident would be a class A misdemeanor.

I decided to introduce this bill after reading a preliminary report about the sequence of events that led to the wreck of the Braer off the Shetland Islands coast last month. Currently, Alaska has the most stringent oil spill prevention regulations in the world. However, we should learn from the experience of others whenever we can.

In the case of the Braer, the ship's captain apparently waited a considerable amount of time before issuing an SOS distress signal. The British Coast Guard had little time in which to respond. Because maritime insurance law is structured to give salvage companies such a large percentage of the cargo value, cargo owners and ship captains are often unwilling to call for assistance until the last possible moment. The Braer disaster was quite possibly preventable. Had the crew called for help sooner or not abandoned ship before a tug arrived there would likely have been sufficient time to get a line on the Braer and tow her away from danger.

DIVISION OF LEGAL SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

FEB 15 1993

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101

130 Seward Street, Suite 409
Juneau, Alaska 99801-2105

MEMORANDUM

February 4, 1993

SUBJECT: Sectional Summary of SB 75 (Work Order No. 8-LS0338\A)

TO: Senator Drue Pearce

FROM: Jerry Luckhaupt *JL*
Legislative Counsel

You have requested a sectional summary of the above described bill. As a preliminary matter, note that a sectional summary of a bill should not be considered an authoritative interpretation of the bill - the bill itself is the best statement of its contents.

Section 1 of the bill creates AS 46.03.741, with the following subsections:

(a) requires a person in charge of an oil tank vessel that is within the waters of the state and that is experiencing a steering malfunction, loss of power, or other situation that significantly affects the seaworthiness of the vessel, to immediately notify the Coast Guard and appropriate state authorities if the malfunction, loss, or other situation is not repaired within 60 minutes;

(b) requires a person in charge of an oil tank vessel that docks or lands within the state to certify that the vessel has not, from the time of its last docking or landing, suffered a steering malfunction, loss of power, or other situation that significantly affected the seaworthiness of the vessel that was not repaired within 60 minutes, while within 200 miles of the baseline from which the territorial sea of the state is measured, and that was not reported to the Coast Guard and appropriate state authorities;

(c) clarifies that a person in charge of a oil tank vessel may notify the Coast Guard and appropriate state authorities within the first 60 minutes of a malfunction, loss, or other situation.

Section 2 of the bill amends AS 46.03.744 to apply the definition of tank vessel to AS 46.03.741.

Section 3 of the bill provides an immediate effective date.

GPL:gc
93-104.glc

FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

BILL NO. SB 75

Revision Date: _____
Title: Reporting of certain steering
malfunctions
Sponsor: Sen. Pearce
Requestor: Senate Oil & Gas Committee

Department Affected: Environmental
Conservation
BRU: Spill Prevention & Response
Component: Spill Response Office

COMPONENT SERIAL NO. 1429

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

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/MHTIA	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	0.0	0.0	0.0	0.0	0.0	0.0
PART-TIME	0.0	0.0	0.0	0.0	0.0	0.0
TEMPORARY	0.0	0.0	0.0	0.0	0.0	0.0

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): Legis _____ impacted Agency(ies).

FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

BILL NO: SB 75

Revision Date: _____ Dept. Affected: Public Safety
Title: "An Act relating to the reporting of certain steering malfunctions." BRU: Alaska State Troopers
Sponsor: Senator Pearce Component: Detachments
Requestor: Senator Pearce COMPONENT SERIAL NO. 799

EXPENDITURES/REVENUES: (Thousands of Dollars) (inflation not included)

OPERATING	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
REVENUE FUND SOURCE:	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

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

Estimate of current year (FY 93) impact: \$ _____

ANALYSIS: (Attach a separate page if necessary.)

No significant impact upon the Alaska State Troopers is anticipated.

Prepared By: C.E. Swackhammer Phone: 465-4322
Division: Office of the Commissioner Date: 2/8/93
Approved by Commissioner: *[Signature]* Date: 2/8/93
Agency: Richard L. Burton, Dept. of Public Safety

PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE

For further distribution information call the Governor's Legislative Office

SENATE BILL 75

DEPARTMENT OF ENVIRONMENTAL CONSERVATION

POSITION PAPER

Department Position:

The Department supports the intent of the bill to require immediate notification to the State in the event the seaworthiness of a tank vessel carrying a hazardous substance is threatened due to loss of steering, power, or other situation. However, the Department recommends consideration of the amendments suggested below.

Suggested Amendments:

1. To be consistent with the U.S. Coast Guard's current regulations, replace the "immediate" notification requirement with the requirement to notify the State "as soon as possible."
2. Define "appropriate state authorities" to mean the Department of Environmental Conservation. As the State's lead agency for the prevention and response to hazardous substance spills, the Department should be explicitly identified as the appropriate state authority to notify in the event of a potential spill occurrence.
3. Include the requirement that advance notification to the State shall be provided in a manner and form provided by the Department of Environmental Conservation. The manner in which a person in charge of a tank vessel should notify the state should be described by the Department.
4. Define the "person in charge of a tank vessel" as the vessel owner, operator, agent, or master of the vessel. Who is responsible for notifying the State should be explicitly defined to avoid any confusion when communicating a potential spill situation.
5. Delete the current bill language that requires immediate notification to the State following a 60 minute time period to repair or correct the situation. Waiting 60 minutes to notify the State of a situation that may result in a hazardous substance spill may needlessly delay appropriate response actions. In some locations in State waters, vessels could run aground long before a 60 minute period if they experience a loss of power or steering. The State should be notified immediately of a situation affecting the seaworthiness of a tank vessel regardless of action taken to correct or repair the situation.

SCOMM

94:6

SENATE COMMITTEE REPORT
FIRST COMMITTEE OF REFERRAL

DATE: 2/1/93

FURTHER: JUDICIARY

Date of 5-Day Notice: 1/28/93
(in accordance with Uniform Rule 23)

DATE TURNED
INTO OFFICE: 2-16-93

Senate Special Committee on Oil & Gas considered SB 81

"An Act repealing the 65-day time limit for approval or disapproval of a proposed oil discharge contingency plan by the Department of Environmental Conservation; and providing for an effective date."

and recommends:

☐ replace with _____ CS _____ ()

☐ attaches amendment(s)

☐ same title
☐ new title
☐ technical
title change
(HB only)

☐ adopts _____ Letter of Intent

☐ further referral to the _____

☐ do pass

☐ do not pass

☐ no recommendation

☐ individual recommendations

FISCAL NOTE INFORMATION

Department	Date	Zero	Fiscal
DEC	2/3/93	V	

Department	Date	Zero	Fiscal

☐ Appropriation No Fiscal Note

☐ Governor's Bill with Previous Fiscal Notes (enter information above)

DO PASS:

OTHER RECOMMENDATIONS:

Rick Halford
Scott Sharp

Loren A. Luman DO PASS
Chair: Signature and Recommendation

FISCAL NOTE

No. 1STATE OF ALASKA
1993 LEGISLATIVE SESSIONBILL Bill Version: 3B81
(S) Publish Date: 2-17-93Revision Date:
Title: Repeal of 65 day limit to approve or
disapprove contingency plans
Sponsor: Senate Resources
Requestor: Senate Oil & GasDepartment Affected: Environmental
Conservation
BRU: Spill Prevention & Response
Component: Prevention & Planning ManagementCOMPONENT 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

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 OfficePhone: 465-5010
Date: 2/3/93Approved by Commissioner: Janice Adair
Agency: Department of Environmental ConservationDate: 2/3/93

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

Rev. 12/92

Page of

BACKGROUND

Companion bill in the Senate -SB 81- heard in Senate Oil and Gas Committee.

Majority recommended do pass.

Supported by: Alaska Oil and Gas Association, Alaska Environmental Lobby, Municipalities, Native Corporations, Coastal Management Districts and the National Wildlife Federation among other support.

WHAT IT DOES

Repeals AS 46.04.030(p):

Currently this statute requires the Department of Environmental Conservation to "...approve or disapprove a proposed contingency plan within 65 days after it receives a complete application for approval...".

This 65-day requirement conflicts with the Alaska Coastal Management Plan regulations carried out by the Division of Governmental Coordination.

Coastal Management regulations call for a decision in 55 days. This has been cumbersome for applicants, the departments and the public wishing to participate in the review process.

Removing the 65-day statutory requirement would align the review process and allow efficient public review.

DRAFT

SENATE BILL NO. ____

IN THE LEGISLATURE OF THE STATE OF ALASKA
EIGHTEENTH LEGISLATURE - FIRST SESSION

BY

Introduced:
Referred:

A BILL

FOR AN ACT ENTITLED

"An Act relating to the time period for approval or disapproval of oil discharge prevention and contingency plans; and providing for an effective date."

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

- * Section 1. AS 46.04.030(p) is repealed.
- * Sec. 2. This Act takes effect immediately under AS 01.10.070(c).

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;

The original purpose for the 65-day provision of the statute was to give certainty to applicants. This certainty did not occur for two reasons:

- 1) If the agency was not ready to approve or disapprove the oil spill plan within the timeframe required, the applicants weren't at liberty to demand compliance with the statute because the agency could just disapprove the plan and require the applicant to start the 65-day process all over again.
- 2) Once the new oil spill regulations were approved the 65-day requirement became academic because of when the agency started the 65-day clock. The 65-day clock started when all possible times to stop the ACMP review had passed. The 65-day review clock would be started when there was only 15 days left on the ACMP review clock.

Oil Spill Plans are subject to two review schedules: 1) 6 AAC 50 (ACMP), and 2) 18 AAC 75.455 (ADEC). These schedules are in conflict and cannot be reconciled without deleting the 65-day requirement from the statute. Even if the majority of the conflicts could be reconciled, there would still be two review processes to follow when only one is necessary. The following are a few areas of conflict:

The ADEC regulations require the agency to determine if an application is sufficient for public review within 7 days (18 AAC 75.455(a)). The ACMP regulations require that the coordinating agency make that determination immediately (6 AAC 50.070 (e)).

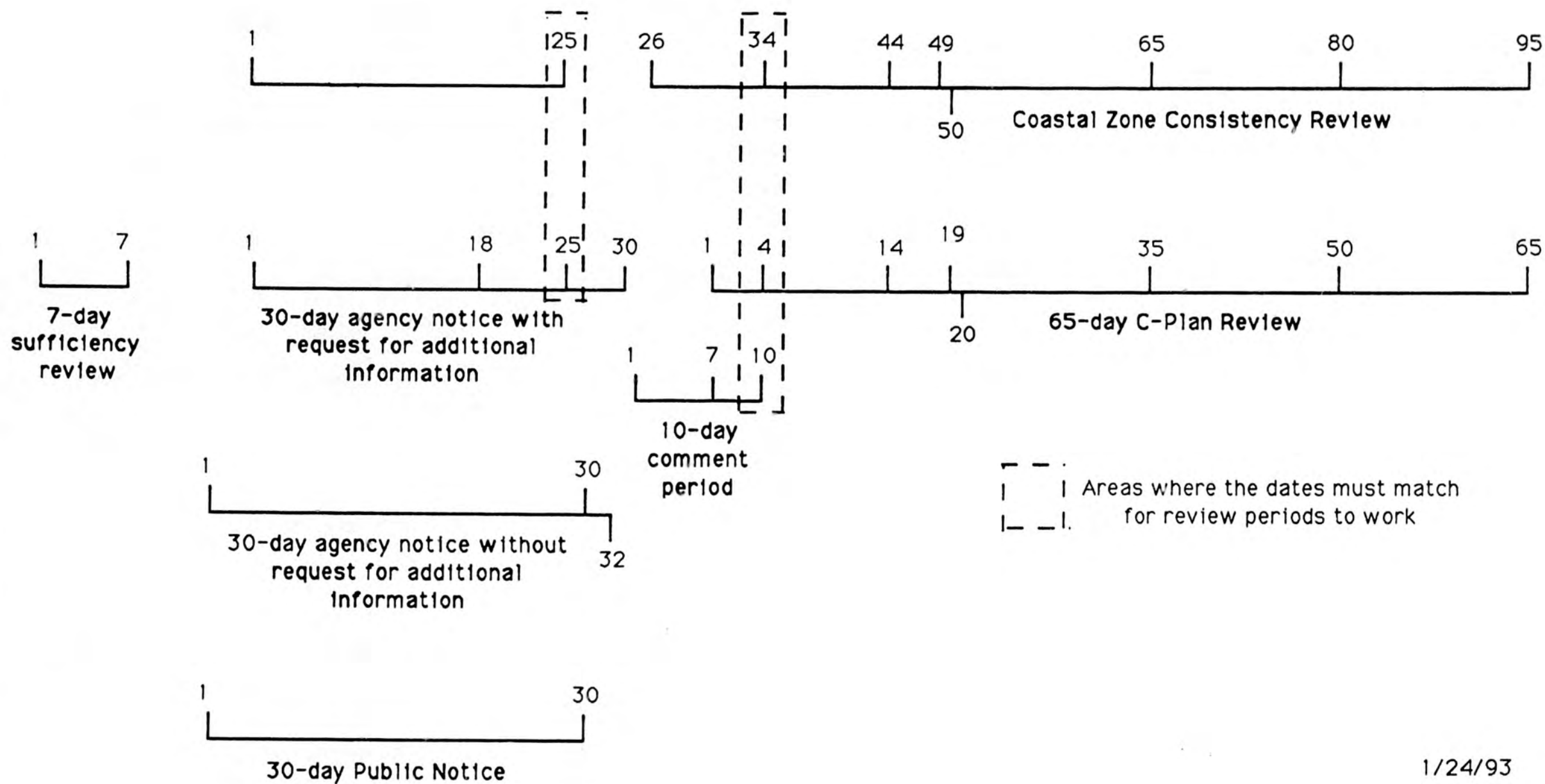
The ADEC regulations allow for requests for additional information up to a date to be determined by the department within the 18th to 25th day of a 30-day review (18 AAC 75.455(b)(3)). The ACMP regulations allow for requests for additional information up to the 25th day of a 50-day review. (6 AAC 50.070(g))

The ADEC regulations allow for a 10-day review period for information obtained during the request for additional information. Within that 10-day review period the department has 7 days to determine if additional information is necessary and 3 additional days (total 10 days) to make comments on the oil spill plan and the additional information. (18 AAC 75.455(d)(2), 18 AAC 75.455(e)). The ACMP regulations allow an indefinite time to review the additional information received and 9 days after the determination that no additional information is necessary to comment on the oil spill plan and the additional information (6 AAC 50.070(e)).

The ADEC 65-day review process starts at day 7 of the 10-day review process when there is only 15 days left in the ACMP review process (18 AAC 75.455(i). (ACMP review calculated based on a 50-day review).

A complex review process has been created to accomodate one provision of the statute, the 65-day review requirement in AS 46.04.030(p). Our recommendation is to delete the 65-day provision from the statute and reconcile the two review processes.

A graph is attached which depicts the above regulatory processes.



1/24/93



Official Business

Alaska State Legislature

SENATE

State Capitol
Juneau, AK 99801-1182

RESOURCES COMMITTEE

SUMMARY OF SENATE BILL 81

REPEAL OF 65 DAY LIMIT ON OIL SPILL CONTINGENCY PLANS

Senate Bill 81 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. 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 align their time lines for approving contingency plans.



A HARBOR ENTERPRISES COMPANY

1600 A Street, Suite 307 • Anchorage, Alaska 99503 • (907) 278-7586

Seward
224-3190

January 26, 1993

The Honorable Rick Halford
President, Alaska State Senate
Alaska State Capitol
Juneau, AK 99811-1182

Nikiski
776-8000

Dear Senator Halford:

Petro Marine Services supports the attached draft 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 65 days. This deletion will result in the improved efficiency of the review process identified in the implementing regulations in 18AAC75 which we support. 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.

Kodiak
486-3421

Sincerely,

W.B. Schoephoester
Manager Projects and Planning

WBS:hg

Dutch Harbor
581-1350

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) 452-4755 Fax: (907) 458-8785
Toll Free in Alaska: 1-800-478-4755

January 28, 1993

To Members of the Alaska State Legislature:

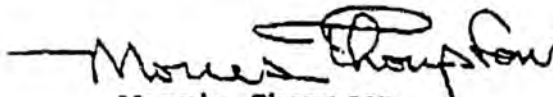
Doyon, Limited, the Regional Native Corporation for Alaska's Interior, is pleased to join with a wide range of organizations, including the Alaska Oil and Gas Association and the Alaska Environmental Lobby, Inc., in asking your support to expeditiously adopt the enclosed draft legislation which repeals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



Working for the Nature of Tomorrow.

NATIONAL WILDLIFE FEDERATION

750 W. Second Ave., Suite 200, Anchorage, AK 99501 (907) 258-4800

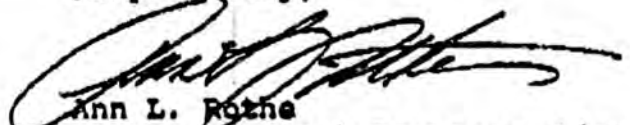
January 26, 1993

Members of the Alaska State Legislature:

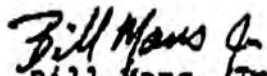
The National Wildlife Federation and the Wildlife Federation of Alaska urge prompt passage of House Bill 99. This bill repeals AS 46.04.030(p) which requires the Alaska Department of Environmental Conservation to approve or disapprove a proposed oil spill contingency plan within 65 days of receipt. Repeal of this statutory requirement would eliminate the conflict that presently exists between this requirement and the review process mandated under the Alaska Coastal Management Program (18 AAC 75 and 6 AAC 50.)

Please be aware that we support passage of this bill only so long as no substantive changes or amendments are made.

Respectfully,



Ann L. Rothe
Alaska Regional Representative
National Wildlife Federation



Bill Mans, Jr.
President
Wildlife Federation of Alaska



Senate Special Committee On Oil and Gas

GOLDEN VALLEY ELECTRIC: Vayla Colonel calling on behalf of Mr. Kelly

DEC has been unable to respond in the 65-day time period.

Submitted their plan 8/12/92 along with everyone else;

8/13 they got a letter saying... letter attached.

She didn't have any idea what is an "acceptable" time limit for DEC turn-around.

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

How will DEC amend reg?



SB
SBS

"The mission of the Council is to ensure the safe operation of the oil terminals, tankers, and facilities in Cook Inlet so that environmental impacts associated with the oil industry are minimized."

FEB 16 1993

February 8, 1993

The Honorable Rick Halford
Senate President
Alaska State Senate
P.O. Box V
Juneau, Alaska 99811

Dear Senator Halford:

Cook Inlet Regional Citizens' Advisory Council (Cook Inlet RCAC) recommends the legislature seriously consider enactment of HB99, Repealing 65 Day Time Limit Approval/Disapproval of Contingency Plans, which 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 a proposed contingency plan within 65 days. This deletion will result in the improved efficiency of the review process identified in the implementing regulations (18AAC75).

Cook Inlet RCAC would recommend prompt passage of this legislation. If the Alaska State Legislature feels there is a need for substantive modifications to the proposed legislation then Cook Inlet RCAC would withdraw the recommendation for adoption of this legislation.

Should you have any questions please feel free to contact me or Lisa Parker, Executive Director, at 907-283-7222.

Sincerely yours,

Jack Brown
President

cc: ✓ Senator Loren Leman, Chair, Senate Special Committee on Oil & Gas
Cook Inlet RCAC Board of Directors
Charter Funding Companies
Mr. Larry Smith

Cook Inlet Regional Citizens Advisory Council

11355 Frontage Rd. • Suite 228 • Kenai, Alaska 99611 • (907) 283-7222 • FAX (907) 283-6102



Alaska Environmental Lobby, Inc.

P.O. Box 22151 Juneau, Alaska 99802

907-463-3366

January 25, 1993

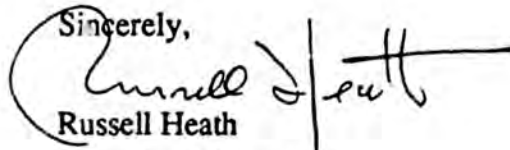
To the Members of the Alaska State Legislature:

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

LETTERS OF SUPPORT

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

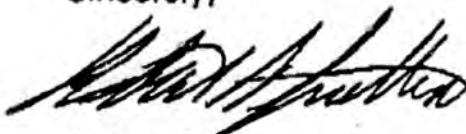
Representative Carl Moses
P.O. Box V
Juneau, AK 99803

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:amn

CLERK/PLANNER
P.O. BOX 349
SAND POINT, ALASKA 99661
(907) 383-2699
(907) 383-3488 FAX

BOROUGH ADMINISTRATOR
1800 A STREET, SUITE 103
ANCHORAGE, ALASKA 99501-5148
(907) 274-7555
(907) 276-7569 FAX

FINANCE DIRECTOR
P.O. BOX 49
KING COVE, ALASKA 99812
(907) 497-2588
(907) 497-2388 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) 383-2699
(907) 383-3496 FAX

BOROUGH ADMINISTRATOR
1800 A STREET, SUITE 103
ANCHORAGE, ALASKA 99501-5146
(907) 274-7555
(907) 276-7569 FAX

FINANCE DIRECTOR
P.O. BOX 49
KING COVE, ALASKA 99612
(907) 497-2588
(907) 497-2386 FAX

ALEUTIANS WEST

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 AWCERSA 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.

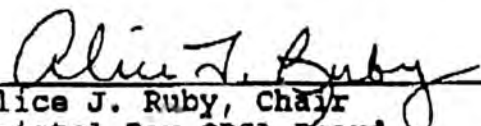
The effect of the draft legislation would be to delete the requirement for the Department of Environmental Conservation to approve or disapprove a proposed oil spill contingency plan within 65 days. Repealing this statutory provision will enable DEC to revise the implementing regulations in 18 AAC 75 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

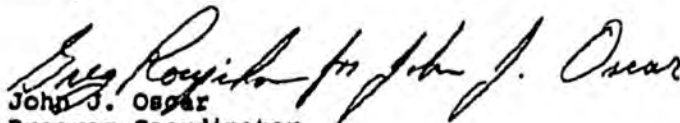
Dear Member of the Legislature:

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. Oscar
Program Coordinator

CC

CIRI PRODUCTION COMPANY

January 22, 1993

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

Dear Mr. Porter:

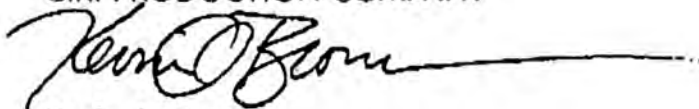
CIRI Production Company (CPC) is aware of the effort being made by of a number of organizations to repeal AS 46.04.030(p). Such legislation, if adopted, would delete the requirement for the Alaska Department of Environmental Conservation to approve or disapprove proposed oil discharge prevention and 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) 262-4441

DON GILMAN
MAYOR

January 19, 1993

Mr. Steven B. Porter
ARCO Alaska, Inc.
PO Box 100360
Anchorage, AK. 99510-0360

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

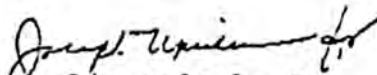
Re: Proposed Legislation on Oil Spill Contingency Plan Review

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 Fireweed Lane, Suite 250, Anchorage, Alaska 99503-2035
Phone 907/276-0700 Fax 276-3887

EXECUTIVE DIRECTOR

Becky L. Gay

EXECUTIVE COMMITTEE

Paul S. Glavinovich, President, (1992-93)

Kelly M. Campbell, Sr. Vice Pres.

James L. Cloud, Vice Pres.

Scott L. Thomson, Secretary

Kyle Sandoz, Treasurer

Rex I. Blahopp

James M. Davis

John Forcaskie

Mario Frey

Uwe L. Gross

Roger O. Herrera

Dan M. Keck

John C. Miller

Dave Pansh

Elizabeth Rensch

John A. L. Rense

William E. Schneider

Jerome Selby

R. D. Stock

William Thomas

Lyle Von Bergen

DIRECTORS

Will Abbott

Jacob Adams

Larry G. Anderson

Sharon E. Anderson

Ray Barnds

Richard B. Barnes

Mark Begich

William C. Bivin

Jerry Booth

Gene Burden

Lynn C. Chrystal

Thomas Cook

Larry Daniels

James C. Dore

James V. Driscoll

Paula P. Easley

Donald S. Folows

Richard Foster

Scott Goldsmith

Lisa Haas

John L. Hall

Alan E. Hastings

Robert S. Hatfield, Jr.

Joseph R. Henri

Karen J. Horstad

William L. Hopper

Lowell A. Humphrey

Norman Ingram

Dorothy A. Jones

John T. Kelsey

R. Marc Langland

Pete Leathard

Wayne Lewis

Robert Loesch

A. Roy Lyons

Carl H. Mays

Howard McWilliams

Clarence "Rocky" Miller

E. H. "Pete" Nelson

William Noll

John K. Norman

Wilbur O'Brien

Jamie Parsons

K. E. "Ken" Peeryhouse

Carl Phillips

Barbara Post

Stephen M. Rehnberg

Jeff Ripley

Dan Rowley

George R. Schmidt

William R. Snell

Heinrich "Henry" Springer

John Sturgeon

Berry Thomson

Mich Uebell

George P. Wuerch

HONORARY DIRECTORS

Phil R. Holdsworth

William R. Wood

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.

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

January 20, 1993

Steven B. Porter
ARCO Alaska, Inc.
P.O. Box 100380
Anchorage, AK 99516-0380

Dear Mr. Porter,

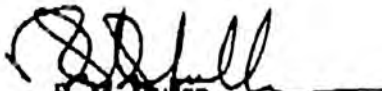
Pursuant to our conversation, and the proposed legislation which you faxed this afternoon, I have polled my Board of Directors and established that SEAPRO supports this legislative proposal as offered.

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

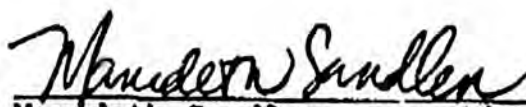
WHEREAS, proposed oil discharge prevention and contingency plans must also be reviewed under the Alaska Coastal Management Program (ACMP) regulations; and

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



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

FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

BILL NO. SB 81

Revision Date: _____
Title: Repeal of 65 day limit to approve or
disapprove contingency plans
Sponsor: Senate Resources
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						
---------	--	--	--	--	--	--

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/MHTIA	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).

Rev. 12/92

**DIVISION OF LEGAL SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA**

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101

130 Seward Street, Suite 409
Juneau, Alaska 99801-2105

MEMORANDUM

February 2, 1993

FEB - 2 1993

SUBJECT: Oil Discharge Contingency Plans (SB 81)

TO: Senator Loren Leman
ATTN: Annette

FROM: Terri Lauterbach *TL*
Legislative Counsel

You have asked two questions about SB 81, an Act that would repeal a statute that currently sets a 65-day deadline on DEC's consideration of a complete application for approval of an oil discharge contingency plan:

(1) How would this repeal affect 6 AAC 50.070(g), a regulation that sets some time limits related to consistency determinations by the division of governmental coordination under its Coastal Zone Management program responsibilities, and 18 AAC 75.455, a regulation that sets a 65-day time limit for DEC's action on a complete contingency plan application?

(2) Whose plans are affected by the current 65-day time limit in AS 46.04.030(p)?

Question (1). Repealing AS 46.04.030(p) would have no direct effect on either regulation you have asked about. AS 46.04.030(p) is a time limit imposed by statute. However, either agency would be free to impose the same deadlines it already has in its regulations even if the statutory deadline is repealed. That's because each agency has the power to adopt regulations to implement their respective programs. To the extent that the statutory deadline may have affected the deadlines that have been set by the agencies in their regulations, then its repeal would allow the agencies to choose other deadlines. However, the repeal of AS 46.04.030(p) would not force a change in the regulations you have asked about.

Question (2). The persons whose plans are affected by AS 46.04.030 are the persons who are required to have oil discharge contingency plans under (a) - (c) of that section: operators of oil terminal facilities, pipelines, exploration facilities, production

facilities, tank vessels, and oil barges. These terms are defined in AS 46.04.900 as follows:

(8) "exploration facility" means a platform, vessel, or other facility used to explore for hydrocarbons in or on the waters of the state or in or on land in the state; the term does not include platforms or vessels used for stratigraphic drilling or other operations that are not authorized or intended to drill to a producing formation;

* * *

(10) "oil" means oil of any kind and in any form, whether crude, refined, or a petroleum by-product, including but not limited to petroleum, fuel oil, gasoline, lubricating oils, oily sludge, oil refuse, oil mixed with other wastes, crude oils, liquefied natural gas, propane, butane, or other liquid hydrocarbons regardless of specific gravity;

(11) "oil barge" means a vessel which is not self-propelled and which is constructed or converted to carry oil as cargo in bulk;

(12) "oil terminal facility" means an onshore or offshore facility of any kind, and related appurtenances, including but not limited to a deepwater port, bulk storage facility or marina, located in, on, or under the surface of the land or waters of the state, including tide and submerged land, which is used for the purpose of transferring, processing, refining, or storing oil; a vessel is considered an oil terminal facility only when it is used to make a ship-to-ship transfer of oil, and when it is traveling between the place of the ship-to-ship transfer of oil and an oil terminal facility;

(13) "operator" means the person who, through contract, lease, sublease, or otherwise, exerts general supervision and control of activities at the facility; the term includes, by way of example and not limitation, a prime or general contractor, the master of a vessel and the master's employer, or any other person who, personally or through an agent or contractor, undertakes the general functioning of the facility;

(14) "person" means an individual, public or private corporation, political subdivision, government agency, municipality, industry, partnership, association, firm, trust, estate, or any other entity;

(15) "pipeline" means the facilities, including piping, compressors, pump stations, and storage tanks, used to transport crude oil and associated hydrocarbons between production facilities or from one or more production facilities to marine vessels;

(16) "production facility" means a drilling rig, drill site, flow station, gathering center, pump station, storage tank, well, and related appurtenances on other facilities to produce, gather, clean, dehydrate, condition, or store crude oil and associated hydrocarbons in or on the

water of the state or on land in the state, and gathering and flow lines used to transport crude oil and associated hydrocarbons to the inlet of a pipeline system for delivery to a marine facility, refinery, or other production facility;

* * *

(18) "self-propelled" means propelled either by machinery aboard the vessel, or by a tug or other vessel secured into the cargo-carrying vessel through special hull design;

* * *

(20) "tank vessel" means a self-propelled waterborne vessel that is constructed or converted to carry liquid bulk cargo in tanks and includes tankers, tankships, and combination carriers when carrying oil; the term does not include vessels carrying oil in drums, barrels, or other packages, or vessels carrying oil as fuel or stores for that vessel;

(21) "vessel" includes tank vessels and oil barges;

- - - - -

I hope you find this information helpful. Please let me know if I can be of further assistance.

TML:pl
93-056.plm

(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;

(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, if, 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.

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;

SCOMM

94:7

Alaska State Legislature

Legislative Research Agency



P.O. Box Y
Juneau, AK 99811-3100
Phone: (907) 465-3991
Fax: (907) 463-3351

February 7, 1990

MEMORANDUM

TO: Senator Mike Szymanski

FROM: Gordon S. Harrison, Director 

RE: Policy Options for Legislation Dealing With Claims Against Royalty Oil Purchasers
Research Request 90.201

You asked for a discussion of policy options for legislation dealing with claims by the state of Alaska against purchasers of the state's royalty oil arising out of the *Amerada Hess et. al.* litigation. In particular, you were interested in possible approaches to legislation that would mitigate the financial burden of these claims on the royalty oil purchasers.

I described in general terms the pricing dispute in the *Amerada Hess* case in my memorandum to you on royalty oil of November 9, 1989, so I will not do so here.

The point of departure for considering legislative involvement in this matter is a series of background facts and observations about the *Amerada Hess* case and its implications for purchasers of royalty oil.

Background Observations

1. The *Amerada Hess* case is years away from a judicial settlement.

While the state's attorneys hope that the case will get to court in 1990, there is a possibility of delay into 1991. When it does get to court, the jury trial will doubtless be a long and tedious affair, given the technical complexity of the issues and the money at stake. Whoever loses at trial will have the opportunity to appeal, thereby prolonging further a final judgment.

2. The state's claim against the royalty oil purchasers (also referred to as in-kind purchasers) for \$379 million is only a claim.

The actual debt, which may not exceed \$379 million, will depend on the outcome of the *Amerada Hess* case. A final figure has not been set by a court or by negotiated settlement. Indeed, the state's calculation of its claim is the heart of the dispute in the *Amerada Hess* litigation. Although the state

believes its case is very strong, a final determination of money actually owed the state by the in-kind purchasers has yet to be made.

3. The state's claim against the producers is for something over \$900 million.

This amount, too, is only a claim at this point. However, the state's case against the producers is clearly of more financial importance to the treasury than that against the in-kind purchasers. It should be noted that the claims of \$379 million and \$900 million cover the period July 1977 through the end of 1986. The state will assert additional claims from 1987 to the current period. These amounts include interest on the back payments. The state is also seeking damages from Chevron, British Petroleum and Arco for breach of the fiduciary responsibility these companies have with the state. Damages are not included in the \$900 million figure.

4. Settlements negotiated out of court with the producers may obviate the need for a jury trial.

Attorneys for the state of Alaska and the major producers are discussing possible terms of settlement. A settlement has already been reached with Amerada Hess, a comparatively minor company in the litigation.

5. ~~Claims against the producers and the in-kind purchasers are interwoven, and the disposition of one set of claims may affect the disposition of the other.~~

Indeed, the claims against the royalty purchasers are derived from the claims against the producers (the in-kind purchasers are obligated to pay the true in-value price, which is set by the producers; under-reporting by the producers caused under-payment by the in-kind purchasers). Thus, the logical sequence of events is to settle the claims against the producers, either by negotiation or litigation, and then deal with the claims against the royalty purchasers. If this sequence is reversed because of legislative intervention, it is possible that the legislative settlement with the in-kind purchasers would undercut the legal case against the producers.

6. ~~Negotiated settlements with the producers may recognize the plight of the in-kind purchasers.~~

~~Attorneys for the state of Alaska are mindful of the situation created for the purchasers of royalty oil by the inaccurate reporting of the producers. It is conceivable that they will seek to include some measure of redress for the in-kind purchasers in settlements they negotiate.~~

7. Although the in-state purchasers may now complain that they face unknown and potentially substantial liabilities, they knowingly and voluntarily (indeed, eagerly) entered into contractual agreements with the state that created these liabilities.

The potential consequences of the *Amerada Hess* litigation were well-known to the purchasers of the state's royalty oil. Sales contracts explicitly commit the purchasers to make good on the full in-value price as it may be determined by the outcome of the case.

8. The unwavering policy of the state has been to obtain the full in-value price for oil taken in-kind and sold to local refiners.

The state's policy of obtaining the full in-value price has been supported by several administrations and affirmed by several legislatures. A policy of subsidizing in-state refiners and other purchasers of the state's royalty oil through sales at less than the full in-value price has been repeatedly rejected.

Implications for Legislative Policy

The foregoing information raises three key questions about legislative intervention in the administration's pursuit of claims against the in-kind purchasers of royalty oil.

1. Is legislation that diminishes the financial return to the state's general fund from its royalty oil sales good and justifiable public policy?

Should the state reverse its long-standing policy in this matter, particularly for the benefit of businesses that freely entered into contracts with the state? A related question, of course, concerns the political feasibility of legislation that proposes to reverse the state's policy.

2. Is legislative intervention at this point timely?

Is it premature for the legislature to address the issue of financial burden to the in-kind purchasers when this burden is unknown, and may be substantially less than feared by the companies? Judicial or negotiated out-of-court settlements may reject or reduce the state's claims; negotiated settlements may contain some element of relief for the royalty oil purchasers. Therefore it may be more appropriate to deal with the problem after its true dimensions are known.

Senator Szymanski
February 7, 1990
Page 4

3. Does the legislation impose a settlement, directly or indirectly, on the state's claims against in-kind purchasers, or does it merely establish terms or conditions for repayment of a settlement arrived at by litigation or negotiation.

This distinction is a critical one that the bill should address in burnished language.

Draft Legislation

The contents of a bill, should you decide to introduce one, will depend on whether its purpose is to settle the claims or merely authorize specific terms of repayment when the size of the debt is established in the normal course of events.

If the bill amounts to a settlement, it should be carefully crafted to avoid undermining the state's continuing case against the producers. Even a blanket waiver of all back-payments from the in-kind purchasers might give the producers a new line of argument in court. I strongly urge you to discuss the language of any such bill with the Department of Law to avoid inadvertently putting the state's \$900 million claim at risk.

A bill that authorizes terms of repayment would presumably be less difficult to draft. It might forgive a certain percentage of the final settlement, or a certain portion of it (the accrued interest, for example). It might authorize amortization of the debt over a substantial period of time at a specific interest rate. Repayment might take the form of a surcharge on each future barrel of royalty oil purchased. Noncash goods might be acceptable for part of the repayment, such as preferred stock or refined products, if one or more of the companies claimed financial hardship.

I hope this discussion has been informative for you. If you would like me to pursue the matter further, please contact this agency.

FISCAL NOTE

STATE OF ALASKA 1993 LEGISLATIVE SESSION

Revision Date <u>Original</u>	BILL NO. <u>SB134</u>
Title: <u>"An Act establishing credits for purchasers of state royalty oil..."</u>	Department Affected: <u>Natural Resources</u>
Sponsor: <u>Senators Miller and Pearce</u>	BRU: <u>Resource Development</u>
Requestor: <u>O&G, JUD, FIN</u>	Components: <u>Oil & Gas Development</u>
	Component Serial No. <u>439</u>

EXPENDITURES/REVENUES:

(Thousands of Dollars)

OPERATING	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND&STRUCTURES						
GRANTS,CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	*****See attached fiscal note analysis*****					

CAPITAL	0.0	0.0	0.0	0.0	0.0	0.0
---------	-----	-----	-----	-----	-----	-----

REVENUE fund source:	0.0	0.0	0.0	0.0	0.0	0.0
----------------------	-----	-----	-----	-----	-----	-----

FUNDING:

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	*****See attached fiscal note analysis*****					

POSITIONS:

FULL-TIME	0	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: \$ (333,300.0)

ANALYSIS:

(Attach a separate page if necessary)

See Attached

Prepared by: <u>Jim Eason, Director</u>	Phone: <u>762-2547</u>
Division: <u>Oil & Gas Development</u>	Date: <u>16-Mar-93</u>
Approved by Commissioner: <u>Glenn A. Oles</u>	Date: <u>16-Mar-93</u>
Agency: <u>Department of Natural Resources</u>	

PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE

For full XXXXXXXXXX Office

Fiscal Note Analysis
SB134
March 16, 1993

The full financial impact of this bill is difficult to quantify because, in addition to allowing "credits" for past liabilities, it would essentially present each of the in-state refiners with blank checks for "new" credits against any future royalty disputes that might arise. However, it is possible to estimate the minimum fiscal impacts based upon the current value of the principal and interest attributable to each debt related to past liabilities. As of March 31, 1993, that amount would equal slightly more than \$333.3 million, including the liquidated debt of Petro Star and the settled debt of Tesoro, which each would presumably prefer to avoid through reallocating those amounts to investments in their respective in-state operations under the provisions of the legislation.

In addition to these past liabilities, the purchasers would be able to "create" new credits at any time simply by withholding payment for their royalty in kind crude oil purchases, having the court certify their liability and then simply making new investments in their facilities to "repay" their obligations to the state. As royalty oil volumes decline over time, the volume of in-kind oil from which the state could conceivably receive no revenues under such circumstances would grow in relative terms.

DIVISION OF LEGAL SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101

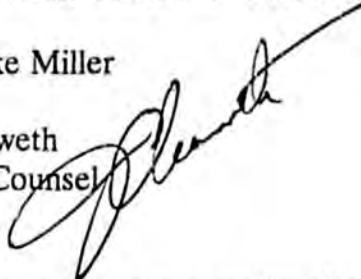
130 Seward Street, Suite 409
Juneau, Alaska 99801-2105

MEMORANDUM

March 9, 1993

SUBJECT: Senate Bill 134, establishing a credit for purchasers of state royalty oil for certain capital investment expenditures which they may make (Work Order No. 8-LS0691E)

TO: Senator Mike Miller

FROM: Jack Chenoweth
Legislative Counsel 

Through staff, you have asked me to prepare a sectional analysis of this measure.

Senate Bill 134 would put into place a credit against certain payments due the state on purchased state royalty oil. The credit would be claimable by certain purchasers of state royalty oil who, as a result of collateral negotiations that culminated in adjustment of the price or value of the royalty oil paid by producers, now find themselves indebted to the state. The royalty oil purchasers would be allowed to take as a credit against the payment due the state on that indebtedness the expenditures that the purchasers make on qualifying capital investments in the state.

Bill section 1: This bill section adds a new subsection, subsection (i), to AS 38.05.-183. AS 38.05.183 is the section that sets out the procedures applicable to sale of state royalty oil. Specifically,

Paragraph (i)(1) authorizes a claim of a credit by a purchaser of state royalty oil. The credit is claimable against "any liquidated purchase arrearage"--the term is later defined--of the purchaser, and is based on the "gross value" of the purchaser's investment in a capital project. The commissioner of commerce and economic development is to establish procedures under which a purchaser may claim the credit, and the purchaser may file with the commissioner for the credit using those procedures. Under this paragraph, a credit that qualifies "shall be allowed" unless, on application of a clear and convincing evidence standard, the commissioner disallows or denies the credit because the purchaser's investment for which the credit is claimed "will not yield benefits to the economy of the state that are commensurate with the amount of the credit."

Paragraph (i)(2) explains the manner in which the credit may be taken and sets a limit on the amount of credit that may be claimed. If investment exceeds liquidated purchase arrearage, the purchaser may claim the overage or surplus as a credit "against any other obligation that the purchaser may owe the state."

Paragraph (i)(3) authorizes the purchaser seeking to claim the credit based on anticipated or expected investment in a capital project to obtain from the commissioner an advance determination as to whether or not the investment qualifies, and directs the commissioner to respond to that request for determination within 60 days. The paragraph also sets out circumstances that must be met before the credit is claimed and sets limits on the duration in which the credit may be claimed.

If a purchaser claims a credit and the commissioner does not disallow it, paragraph (i)(4) directs that any payment on the revised royalty that is due the state by the purchaser is suspended for the duration of the period under the preceding paragraph during which the credit may be claimed. The balance payable, less any credit allowed, plus interest becomes due and payable to the state 60 days after the last day on which the credit may be claimed.

Paragraph (i)(5) supplies definitions for the terms "commissioner" and "liquidated purchase arrearage."

Bill section 2: This section gives the bill an immediate effective date.

JBC:pl
93-172.plm

B.J. Moon - Heese Note

Post-It™ brand fax transmittal memo 7671

of pages >

4

To: Buki Wright	From: Greg Burden
Co: Tesoro	Co: Tesoro
Dept:	Phone: 561-3521
Fax: 563-4749	Fax: 561-8218

**A Response to Two Questions Regarding Capital Credit Legislation for
Royalty Oil Purchasers**

Legislation has been discussed that would allow purchasers of royalty oil who find themselves faced with delinquency assessments from the state (as a result of pricing or valuation controversies) to credit against those retroactive assessments the value of qualifying capital investments that the purchaser may make in Alaska in the future. The legislation, which would include a number of safeguards to ensure that the public receives benefits commensurate with the credit, is intended to further these public policy goals:

1.

Encourage job creation, increased tax revenues and economic stimulus by inducing Alaska's in-state refiners to expand their Alaska operations. The legislation proceeds on the premise that the stimulation of specific, long-term capital growth is a prudent investment for the one-time, extraordinary claims that the state has asserted against its in-state royalty oil purchasers. Indeed, a recent study prepared for Tesoro Alaska Petroleum by ECO Northwest indicates that a particular \$46.5 million refinery expansion would return to the state, in 1993 dollars, \$51.3 million in new tax revenues; \$126 million in new employee compensation; \$1.2 billion in increased industrial output; and \$632 million in property income increases. In addition, that investment would create 2,787 new person/years of employment. The report thus suggests that Alaska's return on investment from this legislation would be extraordinary;

2.

Assure the continued provision of reasonably priced refined products to the majority of Alaskans now served by those refiners. For nearly 20 years, the state has successfully pursued a policy of using royalty oil sales to generate

new in-state refining capacity, recognizing that stable and reasonably priced crude supplies were critical to providing Alaskans with reasonably priced refined products. To underscore that linkage between crude supplies and refined product prices, a recent Mapco study found a high correlation (approximately 80%) between crude prices and fluctuations in costs of gasoline and other fuels.

3.

Bring balance to the state's settlement of the Amerada Hess controversy. That litigation involved a dispute over the "value" of North Slope oil. That litigation was settled as a result of negotiations between the state and North Slope producers. The amount of that settlement was financially acceptable to those producers, and represented only 6 percent of the assessed value of their North Slope property. On the other hand, the state is now attempting to apply that settlement to its royalty oil purchasers, even though: (1) the State consistently maintained that these purchasers were precluded from participating in *Amerada Hess* negotiations; and therefore could not protect their interests through that process; and (2) the state's demands represent up to 100% of the assessed valuation of these purchasers' property in **the entire state**. Moreover, the amount the state would seek to claim from these purchasers--about \$300 million--is nearly half the \$700 million that the state accepted from North Slope producers. This despite the fact that in-state refineries have taken only about 4% of all crude oil from the North Slope since Prudhoe Bay came into production.

* * *

Particularly in light of the ECO Northwest report, it appears that the direct returns to the public from this proposal will substantially exceed any reduction in state revenues. And as an investment in the economy, it is consistent with a number of other state programs designed to stimulate the private economy through government activism. Two questions that have been asked about the

proposed legislation focus on private benefits that could accrue from the legislation; however, there are significant public benefits of the proposals.

1. Isn't this Legislation Just A Subsidy for In-State Refiners?

No. It is, in fact, a firmly engrained concept in both federal and state revenue policy. The federal government long ago enacted the investment tax credit, which foregoes tax revenues when taxpayers devote resources to new capital investment. Not only has Alaska followed suit with a general investment tax credit ^{1/}, it has also enacted a special, more generous tax credit for new gas processing facilities and new mineral exploration. AS 43.20.042. Over the past six years, Alaska has also granted a tax credit from the fisheries tax--for new fisheries investment. AS 43.75.032.

The capital credit legislation now being discussed has a number of safeguards not present in other private-sector investment initiatives: (1) the credit cannot be granted if the particular investment will not yield benefits justifying the credit; (2) the time period for taking these credits is limited; and (3) credits cannot be taken for investments that pre-date passage of the law, or which are already compelled by law (such as mandatory pollution control equipment).

Whenever government proposes to invest in its economy, the issue can't be "is it a subsidy," because every government entry into the private sector will yield direct benefits to some identifiable businesses. The issue, rather, must be "*is it a good investment in terms of public benefits that will result.*" The ECO Northwest report prepared for Tesoro strongly suggests that, more so than in many cases, the capital credit legislation is a very good investment indeed.

^{1/} AS 43.20.021(d).

II. Why Should Only Purchasers of Royalty Oil Have This Program, Rather than All Taxpayers?

No other "taxpayer" has purchased royalty oil, and then been asked to retroactively pay more than they were originally charged. The amount sought from the royalty purchasers covered over ten (10) years of purchases with the oil processed and sold many years ago with the benefits of the lower crude oil prices enjoyed by the Alaska Consumer.

- As we have seen, the royalty oil purchasers are being asked to bear a disproportionate share of the *Amerada Hess* controversy--with demands against them approaching 100% of the assessed value of their Alaska property. And, even though in-state refiners have received only 4% of the North Slope crude oil they are being asked to pay approximately 30% of the total that the state hopes to receive from its *Amerada Hess* claims. The legislation, in part, is therefore aimed not at creating disparity, but curing it.

The issue isn't whether one industrial sector might benefit from a particular legislation program, but whether the public benefits from that program outweigh the costs to the government. Every economic incentive program brought to the legislature must be judged under that yardstick, and we're confident that the capital recovery legislation will pass it.

SB134

WALTER J. HICKEL, GOVERNOR

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

REPLY TO:

☐ 1031 W 4th AVENUE SUITE 200
ANCHORAGE, ALASKA 99501-1994
PHONE: (907) 276-3550
FAX: (907) 276-3697

☐ KEY BANK BUILDING
100 CUSHMAN ST. SUITE 400
FAIRBANKS, ALASKA 99701-4679
PHONE: (907) 452-1568
FAX: (907) 456-1317

☒ P.O. BOX K— STATE CAPITOL
JUNEAU, ALASKA 99811-0300
PHONE: (907) 465-3600
FAX: (907) 463-5295

February 26, 1993

FEB 26 1993

The Honorable Loren Leman
Alaska Senator
Room 113
State Capitol
Juneau, AK 99801-1182

Re: SB 134 and HB 185

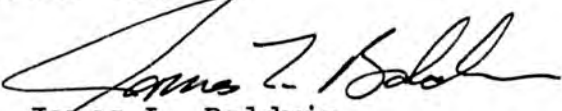
Dear Senator Leman:

Attached please find arguments and analysis of points in opposition to SB 134 and HB 185 (credits for capital investments of RIK purchasers). The arguments raised in the attachment form the basis for the attorney general's opposition to these bills.

Sincerely,

CHARLES E. COLE
ATTORNEY GENERAL

By:


James L. Baldwin
Assistant Attorney General

JLB:tg

Rationale for Opposing Capital Credits Legislation (SB 134)

I. Capital credits are anti-competitive and not necessary for the refiners' economic expansion.

- A. Capital credits are anti-competitive. Tesoro and MAPCO are expanding primarily into the super convenience store business (featuring the sale of alcohol), not the refining and distribution business. The state is being asked to finance competition with locally-owned grocery stores, fuel companies, fast food outlets, and other businesses. If the state pays for that expansion with capital credits, it makes all competing stores less competitive and dramatically discourages entry of new competitors. Moreover, MAPCO presently ships refined crude to Anchorage on the Alaska railroad, but is considering building a pipeline. If the state in effect pays for the pipeline with capital credits, it will be harming the railroad, as well as further exacerbating Tesoro's economic disadvantage vis a vis MAPCO.

The effect is worse on the oil side of the business. There is very limited competition now. If the state pays for expansion of the existing industry, no one will be able to afford to enter the market. Further, the greater the former underpayment (i.e., the bigger the RIK bill), the greater the subsidy. Capital credits use public funds to destroy private capital and tend to create monopolies.

- B. Capital credits would increase refining margins (profits). They would not decrease consumer costs and would probably increase consumer costs by limiting competition. If the legislature's goal is to reduce consumer energy costs, it could better ~~achieve~~ that goal by issuing checks to consumers when they purchase fuel. The consumers would then decide whether to keep the check for themselves, or return it to MAPCO or Tesoro.
- C. Payment of the purchasers' debts with public funds has nothing to do with their economic decisions to expand. Facilities that make economic sense will be built without this bill. This bill puts the state in the business of financing non-economic construction. At best, the bill will create low paying jobs that could not exist without a subsidy and those jobs will displace skilled jobs such as railway workers and truckers. Furthermore, payment of accrued obligations does not affect refining margins (profits); it simply increases the purchasers' stockholders' equity.
- D. Capital credits to the oil refiners would harm the development of other alternative fuels by making it possible to sell refined products cheaper. This, in turn, may depress economic development by limiting the competitiveness of alternative fuels.

II. Capital credits violate the spirit, if not the letter, of the constitution requiring the legislature to manage its resources to obtain the maximum benefit for all of the state's citizens.

The Alaska Constitution requires that the legislature must provide for the "maximum benefit" of all citizens of the state. An Alaska court has already ruled that this provision prohibits the state from selling its oil for less than it would receive if it allowed the producers to sell the oil for the state. This bill would result in that effect because the state would receive less than if it had let the producers sell the oil. Thus, the bill would violate the constitution.

Moreover, it would benefit some citizens of the state more than others. Capital credits are a form of appropriation. The debt is owed to the general fund (and Permanent Fund). Capital credits, however, only "benefit" a small portion of the state, presuming that any benefit from having had their valid debts forgiven through capital credits were in turn passed through to purchasers of Tesoro's and MAPCO's refined products.

Finally, the Permanent Fund is entitled to 25% of the debts currently owed. If this bill is enacted, the state treasury is exposed to a claim by the Permanent Fund for the value of any credits attributable to the Permanent Fund.