

ALASKA LEGISLATURE COMMITTEE FILES 1985-1986 86/2

3571 HRES HB 470

447

Position Title Environmental Field Officer III			No. of Positions One	Range/Step 18 A	Barg. Unit GGU	Gov.	Apprv.	Disapp.																																							
Time Status Perm. Part Time	Staff Months 6	RP Number	Location Anchorage		Election District	Leg.																																									
<table border="1"> <thead> <tr> <th>Type of Expenditure</th> <th>2</th> <th>Amount</th> </tr> <tr> <th>1</th> <th></th> <th>3</th> </tr> </thead> <tbody> <tr> <td>Salary</td> <td>18.7</td> <td></td> </tr> <tr> <td>Benefits</td> <td>5.6</td> <td></td> </tr> <tr> <td>Premium Pay</td> <td></td> <td></td> </tr> <tr> <td>Other</td> <td></td> <td></td> </tr> <tr> <td>Total Personal Services</td> <td></td> <td>24.3</td> </tr> <tr> <td>Travel</td> <td></td> <td>5.0</td> </tr> <tr> <td>Contractual</td> <td></td> <td>5.0</td> </tr> <tr> <td>Commodities</td> <td></td> <td>3.5</td> </tr> <tr> <td>Equipment</td> <td></td> <td>2.0</td> </tr> <tr> <td>Other</td> <td></td> <td></td> </tr> <tr> <td>Total Cost</td> <td></td> <td>39.8</td> </tr> </tbody> </table>			Type of Expenditure	2	Amount	1		3	Salary	18.7		Benefits	5.6		Premium Pay			Other			Total Personal Services		24.3	Travel		5.0	Contractual		5.0	Commodities		3.5	Equipment		2.0	Other			Total Cost		39.8	Justification This new field officer will augment the existing oil spill position to investigate reports of spilled hazardous materials, monitor cleanup activities, and work with community government and local safety agencies on plans for responding to emergencies due to spills or fires involving chemicals. This person will require safety training and equipment to minimize exposure to hazardous chemicals. This person will work with existing staff as a team of two for safety purposes when investigating incidents involving spills of hazardous materials especially in confined areas. This person will obtain samples and other information necessary to take enforcement actions under federal or State laws.					
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Request For New Position

Agency Environmental Conservation
BRU Environmental Quality
Component Southcentral Region

FY 87

Page _____ of _____
Revised Date _____

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. 470

The Department of Environmental Conservation, as the administrator of the "Oil and Hazardous Substance Release Response Fund" will transfer funding by Reimbursable Services Agreement to the Department of Labor. This will allow the Department of Labor to meet its responsibilities under the proposed Section 46.08.040(3).

The \$5000 travel monies will be used to send two industrial health consultants to the Environmental Protection Agency's (EPA's) Hazardous Material Incidence Operations training course. It is estimated that it will cost \$2,500 each. The course is held at EPA's New Jersey training facility. This will assure that the Department's Occupational Safety and Health Consultation Section will have persons with knowledge to assist employers set up training programs.

The \$5000 in commodities will be used to purchase books and other written materials and films or video tapes recommended by EPA that can be loaned out to employers who need audio visual materials for their training classes.

This fiscal note assumes, though the bill has an "immediate effective date", the funding for the above will not be available until FY 87.

STATE OF ALASKA 1986 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST

Bill Resolution No.: HB 470
 Title: An Act Relating to the Release of Oil and Hazardous Substances
 Sponsor: DAVIS, NOBONEN, etc.
 Requestor: House Resources
 Date of Request: 1/14/86

FISCAL DETAIL

Agency Affected: Labor
 BRU: Occupational Safety and Health
 Components: Occupational Safety and Health

EXPENDITURES/REVENUES : (Thousands of Dollars)

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES						
TRAVEL		5.0				
CONTRACTUAL						
SUPPLIES		5.0				
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	10.0	-0-	-0-	-0-	-0-
CAPITAL						
REVENUE						

FUNDING : (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER		10.0				
TOTAL	-0-	10.0	-0-	-0-	-0-	-0-

POSITIONS :

FULL-TIME	0					
PART-TIME	0					
TEMPORARY	0					

ANALYSIS : Attach a separate page if necessary

Prepared by: Bob Macotas, Director
 Division: Labor Standards and Safety
 Approved by Commissioner: Jim Robison
 Agency: Labor

Phone: 465-4870
 Date: 1/21/86
 Date: 1/21/86

Distribution (by Agency preparing fiscal notes):

- Legislative Finance
- Legislative Sponsor
- Requester
- Director of Management and Services
- Director of Administration

TC-3924

PRELIMINARY ASSESSMENT OF 45 POTENTIAL HAZARDOUS
WASTE SITES IN THE STATE OF ALASKA

by

Tetra Tech, Inc.

for

Alaska Department of Environmental Conservation
Juneau, Alaska 99811

December, 1984

Tetra Tech, Inc.
11820 Northup Way, Suite 100
Bellevue, Washington 98005

TABLE 1. PRIORITY ACTION RANKINGS

None: No further action required	Low: Inspect on a time-available basis	Medium: Inspection required	High: Inspection required immediately
<ul style="list-style-type: none"> • Commercial Printing Company • Fairbanks Daily News-Miner • The Letter Shop • Diesel Fuel Dump, Kutzebue • Liquid Air, Inc. 	<ul style="list-style-type: none"> • Fairbanks City Dump, 2nd Ave. • Juneau Landfill • Alaska Battery Enterprises • Alaska Gold • Big Hurrah Gold Mine • Earth Movers of Fairbanks • Fairbanks Sand & Gravel, Inc. • Alaska Electroplating & Bumper Repair, Anchorage • Alaska Husky Battery, Inc. • Pacific Almutive Corp. • Red Devil Mine Waste Ponds • Tesoro Alaska Petroleum • Chevron USA Alaska • Crowley Environmental Services • Kenai Landfill • M & H Enterprises • Russian Creek/Bell Flats • Hagers & Babler, Inc. • International Airport Landfill • North Pole Refinery 	<ul style="list-style-type: none"> • Fairbanks North Star Borough Landfill • Nome City Dump • City Dump, Fort Yukon • Howe Barrel Dump • Sagwon Airstrip Dump • Mukluk Dump • Sand Dune Landfill • Putullgayuk Landfill • ARCO - Prudhoe Bay Site • Mukluk Freightlines • Municipal Utilities System • University of Alaska, Fairbanks • Alaska Railroad, Fairbanks • White Pass/Yukon Railroad • Alaska Pollution Control • Old Kenai Dump • Frontier Lanning 	<ul style="list-style-type: none"> • Old Creosote Plant • Union Oil of California • Alaska Railroad, Anchorage

SUMMARY MATRIX

	None Priority	Low Priority	Medium Priority	High Priority	Site Is Inactive/Abandoned	Site Is a Landfill/Dump	Site Contains PCBs	Site Contains <u>Only</u> Waste Oil	The Site Is a Small 1-2 Person Operation	COMMENTS
Fairbanks City Dump	●				●	●				The inventory at the dump is unknown. There is no monitoring system.
Fairbanks North Star Borough Landfill		●				●				The landfill does not accept hazardous wastes. There may be hazardous wastes.
Nome City Dump		●				●				This site is an open dump.
City Dump, Fort Yukon		●				●				Municipal wastes and petroleum products are stored at this site.
Juneau Landfill	●					●				The landfill contains radioactive wastes.
Nome Barrel Dump		●			●					Approximately 1,000 deteriorating barrels are stored at this site.
Sagwon Airstrip Dump		●			●			●		Approximately 3,000 deteriorating drums are stored at this site.
Mukluk Dump		●			●	●		●		Drilling materials are suspected at this site.
Sand Dunes Landfill		●			●	●		●		Small quantities of hazardous materials are suspected at the site.
Putulgayuk Landfill		●				●		●		Oily wastes are suspected at this landfill.
Alaska Battery Enterprises		●							●	This facility recycles its wastes.
Alaska Gold		●					●			This site may contain PCB transformers.
ARCO, Prudhoe Bay Site		●			●	●			●	Drilling muds are at this site.
Big Hurrin Gold Mine		●			●					The site once contained 18 drums of cyanide.
Commercial Printing Company	●									There is no problem at this site. This site is owned by Fairbanks Daily News.
Earth Movers of Fairbanks		●						●		This site generates 300 gallons/month of waste oil.
Fairbanks Daily News Miner	●									There is no problem at this site.
Fairbanks Sand and Gravel, Inc.		●						●		This site generates waste oil which is stored in 55-gallon drums.
Mukluk Freight Lines		●							●	Miscellaneous drilling chemicals were stored at this site.
Municipal Utilities System		●					●			This site contains 40-45 PCB capacitors.
The Letter Shop	●									This facility generates waste rags.
University of Alaska, Fairbanks		●			●	●				The site is a 1/2-acre landfill containing laboratory wastes.
Alaska Railroad, Fairbanks		●				●				The site contains a landfill and at least 10 PCB transformers.

SUMMARY MATRIX

	None Priority	Low Priority	Medium Priority	High Priority	Site Is Inactive/Abandoned	Site Is a Landfill/Dump	Site Contains PCBs	Site Contains <u>Only</u> Waste Oil	The Site Is a Small 1-2 Person Operation	COMMENTS
Diesel Fuel Dump, Kotzebue	●									The City of Kotzebue is underlain with diesel fuel.
Alaska Electroplating and Bumper Repair		●								Facility generates approximately 500 gallons of dilute HCL/month.
Alaska Husky Battery, Inc.		●								This facility generates less than 200 gallons/month of dilute HCL.
Pacific Automotive Corporation		●		●						Location of the facility is not known.
Red Devil Mine Waste Ponds		●		●						Mercury and arsenic contamination are present at this abandoned mine.
Tesoro Alaska Petroleum Company		●						●		This facility is a large refinery. Wastes include oily materials.
Old Creosote Plant, Whittier			●	●						Creosote and waste oil contaminate this site.
White Pass and Yukon Railroad			●	●						There is no information about this site.
Alaska Pollution Control			●					●		The facility stores waste oil. The storage capacity is 50,000 gallons.
Chevron USA Alaska Ref.		●								This facility is a refinery. It generates miscellaneous oily wastes.
Crowley Environmental Services		●					●			This facility once stored hazardous wastes for disposal.
Kenai Landfill		●			●					The Kenai landfill has accepted hazardous wastes in the past.
Liquid Air, Inc.	●									This facility generates lime as its only waste.
M & M Enterprises		●							●	This facility is a scrap metal recycler. Batteries are recycled.
Russian Creek and Bell Flats Subdivision		●		●						At one time there were 300 drums suspected of containing tar at this site.
Old Kenai Dump			●	●	●					The inventory at this abandoned dump is unknown.
Rogers & Babler, Inc.		●						●		Waste oil is generated at this site.
Union Oil of Calif., N. Kenai			●							This facility is a chemical manufacturing plant.
Frontier Tanning			●						●	This facility uses an on-site leach field for disposal of tanning wastewater.
International Airport Landfill		●		●	●					The inventory of wastes at this facility is unknown.
North Pole Refinery		●						●		All waste fuel/oils are either re-refined or re-injected into the pipeline.
Alaska Railroad, Anchorage			●	●	●					Facility generates caustics. On-site landfill and past spill history.

RECOMMENDATIONS

As a result of this study, it is recommended that the five sites ranked "None" priority be removed from the ERRIS list. A site inspection should be performed, on a time-available basis, on the 20 sites ranked "Low" priority. The 17 sites in the "Medium" priority group should receive prompt site inspection.

There were three sites ranked in the "High" priority group: Old Creosote Plant, Whittier; Union Oil of California, North Kenai; and the Alaska Railroad, Anchorage. Creosote and waste oil tank bottoms are present in the soil and in a pond at the Old Creosote Plant in Whittier. The Union Oil of California chemical manufacturing facility in North Kenai has had large chemical spills and has disposed of hazardous wastes on-site. The Alaska Railroad in Anchorage has discharged hazardous materials on-site and houses an abandoned on-site landfill. It is recommended that these three sites receive the highest priority for inspection.

HAZARDOUS WASTE TRUSTS

State or Other Jurisdiction	State Hazardous Waste Trust and Spill Funds	Source of Fund	Major Scope of Fund
ALABAMA	Hazardous Waste Management Fund Perpetual Care Fund	F(a) F(a)	Administrative costs Revolving beyond the active use of the site
ALASKA	....	....	....
ARIZONA	Hazardous Waste Trust Fund	F, F(a), P	Operation, maintenance, perpetual care, matching federal superfund monies
ARIZONA	....	....	....
CALIFORNIA	Hazardous Substances Account	F, B, T(g), P	Match federal superfund monies, cleanup, incident contingency fund, victim compensation fund, health studies, emergency equipment
CONNECTICUT	Emergency Response Cash Fund	F, P	Emergency response
CONNECTICUT	Emergency Spill Response Fund	F(g), F, B, Fc	Oil and hazardous spills
DELAWARE	Hazardous Substances Spill Fund	F ^a	Contain and cleanup spills
FLORIDA	Hazardous Waste Management Trust Fund Inland Spill Fund	F(p), T(g), F, B, P T	Reduce hazard at abandoned sites, monitoring Cleanup underground petroleum storage tanks
GEORGIA	Hazardous Waste Trust Fund	F(a), B ^a	Maintenance of abandoned sites
HAWAII	....	....	....
ILLINOIS	....	....	....
ILLINOIS	Hazardous Waste Fund	F(a)	Take action against long-term danger, research and development of recycling
INDIANA	Hazardous Substances Emergency Trust Fund Environmental Management Special Fund	T(a) F, P	Emergency response, match under superfund Multipurpose environmental response

1 TEXAS	Hazardous Waste Emergency Fund	L, R, P	Cleanup, disposal, containment
1 YORK	Hazardous Waste Remedial Fund Environmental Protection and Spill Compensation Fund	T(g), L, P P	Emergency response Oil spills only
01 CALIFORNIA	Hazardous Waste Fund Oil Pollution Protection Fund	F(o) P, L, R, P	Perpetual care Oil and hazardous substances spills
02 IOWA	....	....	....
0	Hazardous Waste Facility Management Special Account Emergency Response Spill Fund	F(p), F(g) L, P, R	Administration, closure, abatement, grants Emergency response to spills
70 ILL	Controlled Industrial Waste Fund	L	Emergency response
120	Hazardous Waste Account	F(g)	Perpetual care
5 ALABAMA	Solid Waste Abatement Fund	P, R, B*	Emergency situations, spills
16 ISLAND	Hazardous Substance Emergency Fund Feasibility Study for State Superfund	L, R	Abandoned site spills
01 CALIFORNIA	Hazardous Waste Contingency Fund	L, F(g)(g')	Emergencies at permitted landfills
01 IOWA	....	....	....
MISSOURI	Hazardous Waste Trust Fund Perpetual Care Trust Fund	R* F(o)	Cleanup, perpetual care Containment of abandoned site
AS	Disposal Facility Response Fund	L, P	Match federal superfund monies
0	....	....	....
000	Oil and Hazardous Spill Contingency	L, C	Response to spills, hazardous substances
0000	....	....	....
00000	....	....	....

	Hazardous Waste Remedial Fund	F(o),F(L)	Cleanup, emergency response, superfund match, postclosure, maintenance, disposal alternatives
KANSAS	Perpetual Care Trust Fund Hazardous Waste Cleanup Fund	F(o),L, L,Fo	Cleanup and monitoring Cleanup, emergency response, legal costs, match superfund
KENTUCKY	Hazardous Waste Management Fund	F(g)(o),R	Emergency response, postclosure, monitoring, and maintenance
KENTUCKY	Hazardous Waste Protection Fund Abandoned Hazardous Waste Site Fund Environmental Emergency Response Fund	B*,J,Fe R,excess \$,L, Fe,R,I,P	Perpetual care, assure financial responsibility Match federal funds, cleanup at abandoned sites Environmental emergency response, match federal funds
KYINE	Hazardous Waste Fund	B,F(g),F(L*)	Emergency response
MAINE	Oil Disaster Containment Cleanup and Contingency Fund Hazardous Substance Control Fund	F(o),P,R F(o)(p),L	Oil and petroleum products spills Hazardous substances in water cleanup
MASSACHUSETTS	Oil Spills Cleanup Fund	B,L,R	Contain and remove oil and hazardous waste spills, match superfund
MICHIGAN	Disposal Facility Trust Fund Hazardous Waste Service Fund	F,(o) L,R	Long-term care of closed facilities Emergency response
MINNESOTA	Environmental Response, Compensation and Compliance Fund	T(g),L,F,R,P	Emergency response, cleanup, match superfund, alternative water supplies
MISSISSIPPI	Hazardous Waste Fund	F(o)	Perpetual care, county reimbursement
MISSOURI	Hazardous Waste Fund	F(L)(p),Fe(g),L	Administrative costs, cleanup
NEBRASKA	Resource Indemnity Fund	L**	Match federal superfund
NEBRASKA	....	....	....
NEVADA	State Emergency Fund	L	Emergency response
NEW HAMPSHIRE	Hazardous Waste Cleanup Fund	T(g),F,P,L	Cleanup, administrative costs
NEW JERSEY	Spill Compensation Fund	B,T(o),L,P	Cleanup of spills

WEST VIRGINIA

MISSOURI

Hazardous Waste Fund
Hazardous Substances Spill Fund

F(o),R
L,R

Closing and long-term care
Cleanup and disposal

MICHIGAN

Key:

B - Bond supported

B* - Bond forfeiture

F - Fees

(d) - Depending on method of disposal

Fc - Federal funds or grants

g - Generator

g* - Out-of-state generator

L - Legislative appropriations

L* - Emergency appropriations

L** - 60 percent of interest from tax on minerals

o - Operator

P - Penalties

p - permit

R - Reimbursements

T - Taxes

t - transporter

t* - Out-of-state transporters

T(d) - Depending on method of disposal

Source: Compiled by the Council of State Governments, November, 1981; Updated May 5, 1984

MEMORANDUM

State of Alaska

TO: Bill Ross
Commissioner

DATE: February 19, 1985

FILE NO:

TELEPHONE NO: 465-2640

FROM: Keith Kelton
Director
Division of Environmental Quality

SUBJECT: Spill Expense Reserve Account
History and Status Report

In 1976, the Alaska Legislature passed its first major legislation addressing the problem of oil spills. It required oil spill contingency plans, proof of financial responsibility for cleanup efforts, as well as provisions for charges against terminal users and oil tankers based on the degree of spill risk their equipment and operations presented. Funds collected from the program were to be used to develop a contingency fund to meet cleanup costs in the event of a major spill. The fund was struck down by the courts, leaving the other two provisions intact.

In order to maintain the State's oil pollution control program, a new bill, HB 205, was introduced by the 1979 Legislature. This legislation extended the contingency plans and financial responsibility to offshore exploration and production facilities, and oil barges. The new legislation was to correct the defects in the 1976 law and ensure that Alaska had a strong program for preventing and mitigating the effects of an oil spill. Chapter 120, SLA 80, Section 53 provided \$1,542,600 for HB 205 (FY 80), and provided a \$1 million expense reserve and a fiscal note to start and fund the Oil Pollution Control Program. The Spill Expense Reserve was to pay costs directly involved in the abatement, containment, and removal of a discharge of oil or hazardous substances: the fiscal note provided for staff, equipment, and training.

House Journal Supplement No. 43 indicated that, "the cleanup reserve be maintained by capital appropriation at the \$1 million level. The balance of the reserve should carry over from year to year. Subsequent budget requests may be less than \$1 million." An additional \$250,000 was appropriated in 1981 and another \$250,000 in 1984.

Since the inception of the program, hundreds of spills have been cleaned up. Most of the expenses are charged directly to the spiller. When the spiller was unknown or the spill incident required immediate emergency action, the spill reserve was used to fund the cleanup work.

Some spills involve action by the courts and the Attorney General's Office. The account balance on January 31, 1985, was \$410,080.74. There are several spills that are still in the litigation or pre-litigation stages and may require sizable funding. The Nome Gasoline Spill has cost over \$680,000 to date.

On December 27, 1984, we received a reimbursement of \$597,396.07 for spill expenses from the U.S. Coast Guard for the Nome Spill; this is the first time that the state has received federal funds for reimbursement of spill expenses.

On July 14, 1983, a settlement/agreement was reached between the State and the Alyeska Pipeline Service Company on the two spills that occurred over four years prior, the Atigun Pass Spill and the Mile Post 734 Spill. The settlement was for \$350,000.

AS 46.03.758(k) states that: "penalties received by the state under this section shall be deposited in the general fund and credited to a special account called the 'oil spill mitigation account.' The legislature may annually appropriate from the spill mitigation account a sum equivalent to the amount of penalties received under this section for the calendar year preceding the legislative session in which the appropriation is made, the appropriation to be made for the purpose of restoring and enhancing environments affected by oil pollution, including but not limited to the funding of aquaculture projects."

Amount expended in FY 84	\$ 785,112.62
Amount expended for FY 85 to date	69,827.18
TOTAL	<u>\$ 854,939.80</u>

Amount recovered FY 84	354,541.73
Amount recovered FY 85 to date	608,885.58
TOTAL	<u>\$ 963,427.31</u>

We are asking for a capital appropriation of \$550.0 for FY 86 to bring the Spill Reserve Account back up the \$1.0 million level.

3) "guarantor" means any person, other than the owner or operator, who provides evidence of financial responsibility for an owner or operator under this Act;

(14) "hazardous substance" means (A) any substance designated pursuant to section 311(b)(2)(A) of the Federal Water Pollution Control Act, (B) any element, compound, mixture, solution, or substance designated pursuant to section 102 of this Act, (C) any hazardous waste having the characteristics identified under or listed pursuant to section 3001 of the Solid Waste Disposal Act (but not including any waste the regulation of which under the Solid Waste Disposal Act has been suspended by Act of Congress), (D) any toxic pollutant listed under section 307(a) of the Federal Water Pollution Control Act, (E) any hazardous air pollutant listed under section 112 of the Clean Air Act, and (F) any imminently hazardous chemical substance or mixture with respect to which the Administrator has taken action pursuant to section 7 of the Toxic Substances Control Act. The term does not include petroleum, including crude oil or any fraction thereof which is not otherwise specifically listed or designated as a hazardous substance under subparagraphs (A) through (F) of this paragraph, and the term does not include natural gas, natural gas liquids, liquefied natural gas, or synthetic gas usable for fuel (or mixtures of natural gas and such synthetic gas);

33 USC 1321.

42 USC 8921.

42 USC 7412.

15 USC 2606.

(15) "navigable waters" or "navigable waters of the United States" means the waters of the United States, including the territorial seas;

(16) "natural resources" means land, fish, wildlife, biota, air, water, ground water, drinking water supplies, and other such resources belonging to, managed by, held in trust by, appertaining to, or otherwise controlled by the United States (including the resources of the fishery conservation zone established by the Fishery Conservation and Management Act of 1976), any State or local government, or any foreign government;

16 USC 1801 note.

(17) "offshore facility" means any facility of any kind located in, on, or under, any of the navigable waters of the United States, and any facility of any kind which is subject to the jurisdiction of the United States and is located in, on, or under any other waters, other than a vessel or a public vessel;

(18) "onshore facility" means any facility (including, but not limited to, motor vehicles and rolling stock) of any kind located in, on, or under, any land or nonnavigable waters within the United States;

(19) "otherwise subject to the jurisdiction of the United States" means subject to the jurisdiction of the United States by virtue of United States citizenship, United States vessel documentation or numbering, or as provided by international agreement to which the United States is a party;

(20)(A) "owner or operator" means (i) in the case of a vessel, any person owning, operating, or chartering by demise, such vessel, (ii) in the case of an onshore facility or an offshore facility, any person owning or operating such facility, and (iii) in the case of any abandoned facility, any person who owned, operated, or otherwise controlled activities at such facility immediately prior to such abandonment. Such term does not include a person, who, without participating in the management of a vessel or facility, holds indicia of ownership primarily to protect his security interest in the vessel or facility;

CERCLA (Comprehensive Environmental Response, Compensation, and Liability Act of 1980)

RESOLUTION OF THE ALASKA MUNICIPAL LEAGUE

RESOLUTION NO. 86-07

A RESOLUTION REGARDING HAZARDOUS WASTE SITE INVESTIGATIONS
AND A STATE HAZARDOUS SUBSTANCES RESPONSE FUND.

WHEREAS, nearly 100 potential hazardous waste sites have been identified in the State of Alaska by the U.S. Environmental Protection Agency and the Alaska Department of Environmental Conservation for investigation as to possible Superfund sites under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), and

WHEREAS, these potential hazardous waste sites are a possible threat to the public health and environment in each of the communities they are located and are spread throughout the State of Alaska, impacting numerous local governments, and

WHEREAS, the U.S. Environmental Protection Agency and Alaska Department of Environmental Conservation have initiated preliminary assessments and site investigations at many of these locations, and the Department of Army and Air Force are conducting similar investigations under the Defense Environmental Restoration Program (DERP) for clean-up of hazardous waste sites at abandoned and active facilities, and

WHEREAS, none of the involved agencies have made adequate efforts to include participation by affected local governments in conducting preliminary assessments, site investigations, or emergency or remedial clean-up actions, and

WHEREAS, it is the right and responsibility of affected local governments to know about and participate in any such determinations, and

WHEREAS, local governments do not have the financial capability or technical expertise to assume responsibility for any hazardous waste sites found in a community, and

WHEREAS, many potential hazardous waste sites will not be cleaned up by the Superfund program, even though a potential threat to the health and environment exists, since the Hazard Ranking System used by the U.S. Environmental Protection Agency is biased against Alaska sites due to low populations exposed;

NOW THEREFORE, BE IT RESOLVED that the Alaska Municipal League requests the U.S. Environmental Protection Agency, Alaska Department of Environmental Conservation, and Department of Defense to establish procedures to involve affected local governments in all phases of evaluating potential hazardous waste sites identified under CERCLA.

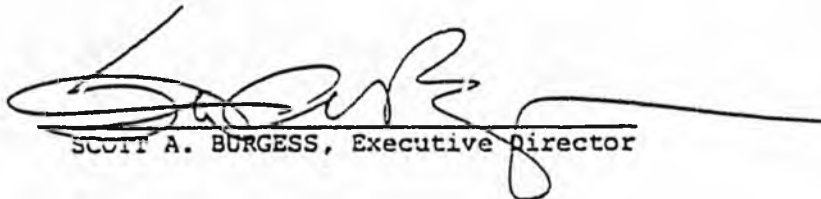
BE IT FURTHER RESOLVED that the Alaska Municipal League requests the Alaska Legislature to establish a Hazardous Substances Response Fund to provide funds for matching purposes for participation in Superfund clean-ups, to provide funds for clean-up of hazardous waste sites not eligible for federal clean-up actions, and for instances when an emergency response is appropriate.

Adopted this 16th day of November 1985.



LEO B. RASMUSSEN, President

ATTEST:



SCOTT A. BURGESS, Executive Director

ALASKA FEDERATION OF NATIVES, INC.
1984 ANNUAL CONVENTION

RESOLUTION NO. 84-30

TITLE: HAZARDOUS MATERIALS INDEMNITY

WHEREAS, Widespread contamination with polychlorinated biphenyls (PCBs) occurred between 1971 - 1983 at an abandoned U.S. Air Force White Alice Site at Aniak; and

WHEREAS, Costs for health hazard assessment, environmental monitoring and environmental clean-up have been excessive, estimated at greater than \$1.0 million, and are continuing; and

WHEREAS, 68 White Alice sites exist in Alaska, many of which can be expected to have toxic or hazardous materials on site similar to those found at the Aniak site; and

WHEREAS, These White Alice sites may be turned over to the State or local ownership in the future, as was the Aniak White Alice site,

NOW THEREFORE BE IT RESOLVED that the Alaska Federation of Natives urges the State of Alaska to develop a comprehensive strategy to ensure that future White Alice sites or other federal lands or facilities which have been conveyed or may be conveyed to State or local ownership in the future do not contain toxic or hazardous materials and

BE IT FURTHER RESOLVED that the Alaska Federation of Natives urges representatives of the U.S. Department of Defense, Legislature, Governor's office, Department of Environmental Conservation, Department of Health and Social Services, Department of Community and Regional Affairs, and the State's Congressional Delegation meet to ensure that adequate procedures are developed to protect the State from hazardous materials and to indemnify the State in the event that investigation, sampling, monitoring, and disposal program at federal sites conveyed to State or local ownership become necessary in future.

RESOLUTIONS COMMITTEE RECOMMENDATION: DO PASS

CONVENTION ACTION: PASSED



BILL SHEFFIELD
GOVERNOR



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

October 7, 1985

The Honorable Mike Davis
Chairman, House Special Committee
on Oil and Gas
Alaska State House
Pouch V
Juneau, AK 99811

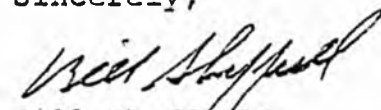
Dear Representative Davis:

Thank you for the opportunity to review your proposal to establish an emergency fund to pay for containing or cleaning up unpermitted discharges of oil and hazardous substances. Since access to federal funds may not be as prompt as required, and since the availability of federal funds depends on a priority system which may be inappropriate to deal with any particular incident in Alaska, I believe State emergency response funds as you have proposed are appropriate.

I have asked the Attorney General and the Commissioner of Environmental Conservation to review the draft legislation, and have directed them to work with you and the Committee as you refine this legislation.

Thank you again for your letter.

Sincerely,


Bill Sheffield
Governor

cc: Attorney General Hal M. Brown
Department of Law
Commissioner Bill Ross
Department of Environmental
Conservation

BILL SHEFFIELD, GOVERNOR

REPLY TO:

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

1st NATIONAL CENTER
100 CUSHMAN ST.
SUITE 400
FAIRBANKS, ALASKA 99701
PHONE: (907) 452-1568

POUCH K - STATE CAPITOL
JUNEAU, ALASKA 99811
PHONE: (907) 465-3600

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

October 15, 1985

Johnathan Sperber
House Special Committee on Oil and Gas
Pouch V
Juneau, Alaska 99811

Re: Proposed legislation
pertaining to oil and
hazardous substance
response fund

Dear Mr. Sperber:

Thank you for sending the most recent version of the proposed act which would establish an oil and hazardous substance response fund.

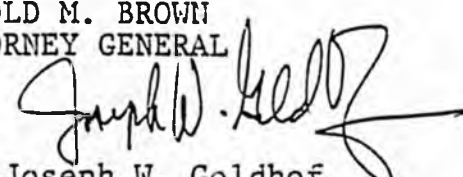
We certainly support the concept embodied in this legislation. Our principle concern regarding this piece of legislation is that it not run afoul of the constitutional prohibitions against "dedicated funds". In its current form, we do not believe the proposed bill runs afoul of the dedicated fund provision.

We will be working closely with the Department of Environmental Conservation supporting this measure as it moves through the legislature.

Sincerely,

HAROLD M. BROWN
ATTORNEY GENERAL

By:


Joseph W. Geldhof
Assistant Attorney General

JWG:rn

cc: Stan Hungerford
Molly McCammon
Doug Mertz

BILL SHEFFIELD, GOVERNOR

DEPT. OF ENVIRONMENTAL CONSERVATION

OFFICE OF THE COMMISSIONER
POUCH O, JUNEAU, ALASKA 99811

Telephone: 19071
Address:

465-2500

January 16, 1986

The Honorable Mike Davis
Chairman
House Committee on Oil and Gas
Pouch V
Juneau, AK 99811

Dear Representative Davis:

Thank you for continuing to provide us with an opportunity to work with you on your proposed legislation establishing a State Oil and Hazardous Substance Response Fund. Enclosed are a fiscal note along with associated forms, as you requested, and a comment on the current draft of the bill. As you predicted, administration of this fund will require additional staff. I have requested nine month funding in FY 87 with full funding in subsequent years.

The fiscal note requests a program manager to establish and manage the program, one administrative assistant to help with administration of contracts and fiscal matters, and one clerk typist to provide clerical support. We anticipate that it would take at least one year to establish the program. After that, management of this program will require a reassessment of how the activities and workload should be integrated with other closely related federal and State programs.

I also am requesting additional field staff to respond to incidents involving materials which are sufficiently dangerous to require trained investigators for safety reasons. We have found that well-trained investigators are needed to manage cleanup efforts efficiently, even those conducted through contractors. Current staff available for this purpose is severely limited. I propose to add one and one-half positions in Anchorage for the Southcentral Region, a full-time position in Fairbanks for the Northern Region, and a half-time position in Juneau.

As the Legislature considers providing increased resources at the State level for cleanup of hazardous substances, you might be interested to know we are also increasing our involvement in the federal "Superfund" program. The Governor's FY 87 operating budget includes an increment for a new federally funded position. If funded and your legislation is passed, this federally funded position would work closely with the positions established as a result of your legislation. As you know, the

The Honorable Mike Davis

- 2 -

January 16, 1986

U.S. Environmental Protection Agency awarded us \$300,000 of their FY 85 appropriation to investigate about a dozen sites which may have had inappropriate management of hazardous waste in the past. They are offering \$500,000 in FY 86 to investigate about fifteen more. EPA has lent an employee to manage these contracts for the past several months, until we establish our own position to manage these site investigations ourselves.

The federal Superfund program is likely to provide limited resources for cleanup of many of these sites, even if problems are discovered. Funding under the federal Superfund requires a ranking high enough to place the site on a national priority list. This ranking gives great weight to the population of areas affected by a site, and probably could be expected to result in very few Alaska sites being eligible for federal cleanup. Consequently, the State fund would provide a vehicle to allow more rapid cleanup of sites not eligible for Superfund sites.

Thank you for the opportunity to provide this information. My staff is available to continue working with you as the proposal moves through the legislative process.

Sincerely,



Bill Ross
Commissioner

Enclosures

cc: Jim Ayers, Director of Legislative Relations
Office of the Governor

Technical Comments on ProposedOil and Hazardous Substance Release Fund

Section 46.04 of the proposed legislation is modeled after the Department of Environmental Conservation's existing oil pollution statutes contained in AS 46.04. However, two elements from 46.04 dealing with contingency plans and financial responsibility were not extended. There may be merit in classifying activities or facilities which should have contingency plans and financial responsibility for hazardous substances. This may be more appropriately done by local governments.

BILL SHEFFIELD, GOVERNOR

DEPARTMENT OF FISH AND GAME

OFFICE OF THE COMMISSIONER

P.O. BOX 3-2000
JUNEAU, ALASKA 99802
PHONE: 907 / 465-4100

December 19, 1985

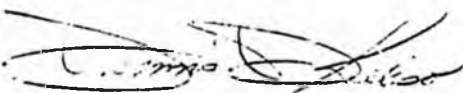
The Honorable Mike Davis
Chairman, House Special Committee
on Oil and Gas
Alaska State House
Pouch V
Juneau, AK 99811

Dear Representative Davis:

Thank you for the opportunity to review your proposed legislation dealing with an Oil and Hazardous Substance Release Response Fund. I would like to commend you for taking a leadership role on this important issue. As the Governor stated in his letter of October 7, it is very appropriate for the state to have a fund of this type.

The Department of Environmental Conservation has the expertise most applicable to this proposal. However, if I or my department can be helpful in this regard, feel free to call me.

Sincerely,


Don W. Collinsworth
Commissioner

cc: Bill Ross, Commissioner
Department of Environmental Conservation

Bill No. House Bill 470

Date January 22, 1986

Title "An Act relating to the release of oil and hazardous substances."

Contact: Richard Arab
(907) 465-4856
Eileen Plate
(907) 465-2700

This legislation will provide a reliable funding source to assist the Department of Environmental Conservation (DEC) regulate and help in the clean-up of oil or hazardous substances into the environment. It does not add additional requirements to the laws on how these substances have to be handled. However, it should do much to assist in the clean-up of such substances by providing the monies necessary to accomplish proper clean-up. A fund made up of State and Federal monies, private donations, and fines levied against parties responsible for hazardous waste spills will be used by DEC to perform various tasks involved in the clean-up of oils or hazardous substances.


Under the provisions of this bill, one of the tasks this fund can be used for is to help the Department of Labor assist employers to develop safety education programs for employees who may be called upon to respond to a release of oil or a hazardous substance. The department currently provides safety and health training upon request. However, we have only limited resources and materials relating to hazardous waste clean-up. The department could, therefore, use the monies that may become available from the fund to better train our industrial hygienists and to purchase training materials and films so that we can assist employers to develop safety education programs for employees.

This bill meets the objectives of the Occupational Safety and Health program in that it will assist in assuring that persons involved in clean-up of oil and hazardous waste are properly trained to safely do this work. This should, in turn, prevent occupational injuries and illnesses.

The bill places the responsibility of providing the training on the employer. This will assure that the employer has the flexibility to tailor training to meet his/her need. The department will assist the employer by providing advice and by making available materials and training films on loan. This will assist the employer, employees and the department to work as a team to assure that clean-up of oil and hazardous substances is accomplished in a safe and healthful manner.

The Department supports House Bill 470.

APPROVED:


Jim Rodison, Commissioner
Department of Labor

POSITION PAPER/Department of Labor



REPLY TO
ATTN OF: A00/J

U.S. ENVIRONMENTAL PROTECTION AGENCY

REGION X
ALASKA OPERATIONS OFFICE
3200 HOSPITAL DRIVE
SUITE 101
JUNEAU, ALASKA 99801
January 21, 1986

The Honorable Mike Davis
Alaska State House
Pouch V
Juneau, AK 99811

Dear Representative Davis:

We have reviewed the proposed legislation introduced this month that would establish two new chapters within Alaska Statute 46: Water, Air, Energy & Environmental Conservation. Since the State currently lacks a mechanism to expend funds to contain and cleanup releases of hazardous substances other than oily substances, these chapters creating a Response Fund and addressing Hazardous Substance Release Control will certainly be a positive addition.

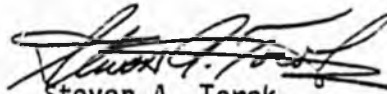
Very instrumental in this program is the ability to efficiently and effectively manage operations. The authority to recoup costs is, in itself, a key point. One suggestion we have is to provide for a mechanism that will determine what incidents are eligible for these funds. Subsequent regulations could define criteria for determining when the fund is to be utilized.

Some question was raised as to the definition of hazardous substance, and whether by being so general, it indeed unintentionally excluded some hazardous materials. It is our opinion that this is not the case. By using the "federal" definition, your bill not only encompasses the Comprehensive Environmental Response, Compensation & Liability Act (CERCLA) and an extensive listing under 40 CFR Part 302, but also the Water Pollution Control, Solid Waste Disposal, Clean Air, and the Toxic Substances Control Acts.

While this bill covers immediate response, there is another concern that warrants similar attention. Under CERCLA, the Department of Environmental Conservation has received two grants to assist EPA in investigating suspected hazardous waste sites throughout the state. A scoring system enables EPA to prioritize these sites on a national level. Present federal guidelines however, indicate that most Alaska sites probably will not rank high enough to receive further funding (Superfund) for remedial action. Consequently, other mechanisms are needed to allow for appropriate remedial actions at these sites.

As written, HB 470 appears consistent with EPA policy. We fully support this measure and intend to coordinate efforts with DEC for an effective program. We appreciate the opportunity to comment on this most needed legislation. Please contact me if you have any questions on our comments or if we can be of any assistance.

Sincerely,

A handwritten signature in black ink, appearing to read "Steven A. Torok", written over a horizontal line.

Steven A. Torok
Air/Waste Coordinator



United States Department of the Interior

FISH AND WILDLIFE SERVICE

IN REPLY REFER TO:

NORTHERN ALASKA ECOLOGICAL SERVICES
Room 222, Federal Building, Box 20
101 12th Avenue
Fairbanks, Alaska 99701-6267
September 5, 1985

Mr. Jonathan Sperber, Committee Aide
House Special Committee on Oil and Gas
State of Alaska
Pouch V
Juneau, Alaska 99811

Dear Mr. Sperber:

I have reviewed the proposed provisions of legislation for the Oil Discharge Response Fund, Hazardous Substance Control, and Hazardous Substances Response Fund. In general, these are excellent pieces of legislation for protecting Alaska's environment. The following are some specific comments and recommendations for your consideration.

I recommend that "acts of God" should be further defined to explicitly exclude blowouts. Currently some oil exploration on the North Slope is being conducted in gas-rich areas that are very vulnerable to blowouts. Blowouts present very high risks to human safety and often result in environmental disasters. Oil companies should remain fully liable for any oil spills that occur as a result of blowouts, as an impetus to assure that safety and prevention are foremost in the exploration operations.

The FWS also recommends that "containment and cleanup" be further defined to include (1) revegetation of lands on which vegetative cover is destroyed and (2) erosion control where cleanup or containment procedures induce or enhance erosion. In the case of a large-scale oil or hazardous waste spill, a provision for long-term monitoring of chronic effects on vegetation, fish and/or wildlife would be valuable and certainly justified.

I was pleased to have the opportunity to review this draft legislation and would be happy to discuss any of my comments further. If you have any questions, please contact me at 456-0323.

Sincerely yours,

Elaine Snyder-Conn

Elaine Snyder-Conn
Resource Contaminant Biologist

cc: H. Metsker, USFWS
R. Jacobsen, USFWS
L. Dietrich, ADEC



December 20, 1985

Representative Mike Davis
P.O. Box 81435
Fairbanks, Alaska 99708

Dear Representative Davis:

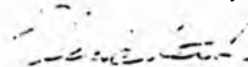
Jonathan Sperber has reviewed with me your Hazardous Substance handling. I favor such legislation.

My initial concern expressed to Jonathan was that such legislation not hamper subsistence lifestyles. I see that it does not. I appreciate your sensitivity to the concerns of all Alaskans in the exercise of your office.

I wish you and yours pleasant and peaceful holidays.

Sincerely,

FAIRBANKS NATIVE ASSOCIATION, INC.


Elizabeth L. Keating
Executive Director

ELK/ab

cc: File



CITY OF NOME

P.O. BOX 281 - NOME, ALASKA 99762
TELEPHONE (907) 443-5242

December 27, 1985

Representative Mike Davis
Pouch V
Juneau, AK 99811

Dear Representative Davis:

We are in support of legislation on

1. Oil and hazardous substance response fund
2. Hazardous substance release control
3. Related statutory changes.

We appreciate your informing us of the legislation in your letter of November 25.

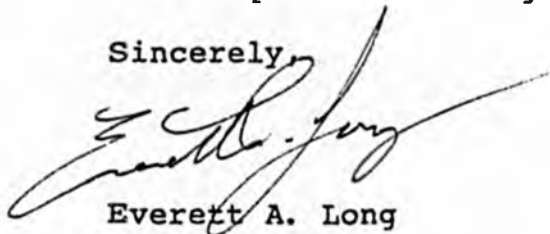
Sincerely,

Tim Holder
Coastal Management Planner

TH/il

As a professional firefighter, I find it encouraging that you have taken an interest in a common problem firefighters must share.

Sincerely,

A handwritten signature in cursive script, appearing to read "Everett A. Long". The signature is written in black ink and is positioned above the printed name.

Everett A. Long

cc: FNSB Haz-Mat Task Force

League of Women Voters of Alaska

January 21, 1986

Representative Mike Davis
Chairman, House Special Committee on Oil and Gas
Alaska State House
Pouch V
Juneau, Alaska 99811

Dear Representative Davis:

The League of Women Voters of Alaska commends you on authorship of House Bill 470. There is a demonstrated need for a fund that can be used to respond to hazardous substance release in addition to oil spills. The bill reflects careful analysis of the necessity for containment of hazardous materials, creates a mechanism by which the state can respond to hazardous substance releases and copes with the constitutional prohibition of dedicated funds.

The League of Women Voters of Alaska recommends additions to the legislation based on the National League of Women Voters position on hazardous waste. Full legal fees should be awarded the Attorney General's office if an enforcement action under H.B. 470 goes to court and the state wins the enforcement action. All decisions to respond to a spill or release are based on the Commissioner of Environmental Conservation's discretion. Two mechanisms for citizen access to due process should be included. First, the legislation should provide for citizens to sue in state courts to stop hazardous releases from waste sites that endanger their health. Under most state law a citizen can only sue to stop an action after harm is done. The citizen provision will assist in enforcement action. Second, a mechanism should be included by which citizens can bring a suit against the state of Alaska if the state does not respond to a clean up request in a statutorily established process. This would allow the citizens to seek relief from the court system.

HB470 is especially timely given the scope of present and potential problems with containment and clean up of existing sites. For instance a list presently being investigated by the Alaska Department of Environmental Conservation and U.S. Environmental Protection Agency, lists 101 sites suspected to contain hazardous wastes. Given the EPA's



Alaska Health Project

Providing information about hazardous materials on the job and in the community.
417 West Eighth Avenue, Anchorage, Alaska 99501 (907) 276-2864

January 9, 1986

Representative Mike Davis
Pouch V
Juneau, Alaska 99811

Dear Representative Davis:

Alaska Health Project is a non-profit organization dedicated to providing information and education in the area of hazardous materials on the job and in the community. We appreciate the opportunity to express our opinion on your legislation addressing state response to hazardous substances releases.

Alaska Health Project has been closely following the development of a hazardous substance response fund in Alaska. We appreciate your efforts in this area and give you our support for the expansion of AS 46 to include: AS 46.08: Oil and Hazardous Substance Response Fund; and AS 46.09: Hazardous Substance Release Control. The limitations in both the existing state oil and hazardous substance clean-up fund and the federal Superfund program underscore the need for the legislation you propose.

In addition, we appreciate the broad scope and applicability of the proposed fund. We strongly endorse use of the fund to facilitate Department of Labor efforts to provide technical assistance and safety education to employers and employees called upon to respond to hazardous substances releases.

Our major concern is with regard to the definition of a hazardous substance as written in Sections 46.08.080 and 46.09.090. We feel that new language should be added to make certain that hazardous substance also means hazardous waste, toxic substance (such as PCBs) and hazardous material. We understand the proposed intent of the bill is to include all such releases, but we believe that the current definition of hazardous substance does not support this intended purpose.

Please keep us informed of the progress of this legislation. We are available to review additional drafts, if appropriate.

Sincerely,

David Wigglesworth
Occupational Health Specialist

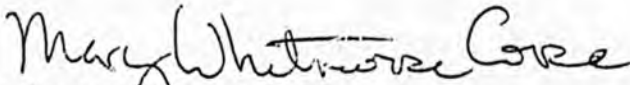
cc: Jonathan Sperber



priorities nationwide, none of these sites will likely be addressed by federal Superfund dollars.. It may become necessary for the legislature to establish a mandatory schedule for clean up as the present schedule for investigating the 101 sites will take place over the next fifteen years. Fifteen years may present a real and substantial threat to the public health, to the environment, and to the economy of the state. HB470 could provide a mechanism for addressing this problem. However, the situation may be so grave that additional legislative action may be necessary.

While the League urges additions to HB470 we congratulate you on addressing the serious and complicated problem of hazardous substance escapement.

Respectfully submitted,

A handwritten signature in cursive script that reads "Mary Whitmore Core". The signature is written in dark ink and is positioned above the typed name.

Mary Whitmore Core
Natural Resource Issues
Alaska State Board



Alaska Environmental Lobby, Inc.

204 N. Franklin Street, Suite 3 Juneau, Alaska 99801

907-586-2345

January 20, 1986

Representative Mike Davis
Pouch V
Juneau, AK 99811

Dear Representative Davis:

Congratulations on the introduction of HB 470, creating an oil and hazardous substance release response fund. Creation of this fund is an integral part of Alaska's approach to hazardous substances.

As we learn more about the transportation, use and disposal of hazardous substances in our state, we may draw two conclusions. First, Alaska is faced with a wide range of hazardous substance related problems. For instance, a recent report by Tetra Tech identified 45 potential hazardous waste sites in Alaska, 17 of which were determined to be of medium priority; and three of high priority. Second, we are learning that the approach taken by federal programs to address hazardous waste and hazardous substance problems nation-wide often do not fit our young state's needs. The federal "superfund," for example, is of little help to Alaska because of our low population relative to other states. There is little likelihood that any of the sites identified by Tetra Tech will be cleaned up by the EPA.

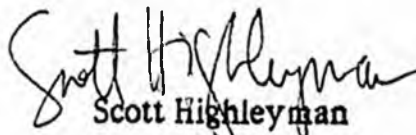
The timely introduction of HB 470, directing the Alaska Department of Environmental Conservation to contain and clean up hazardous releases, speaks directly to these two points. Such a fund would allow the Department, if necessary, to take prompt remedial action to minimize environmental damage to people and the surrounding ecosystem in the occurrence of a hazardous release. At the same time, the approach taken is well suited to the specific nature of Alaska's situation. A state program as outlined in the bill would ensure responsiveness to local hazardous substance problems not afforded by federal programs.

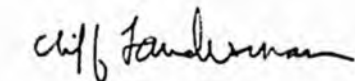
Of course, the most important part of a state response fund is clear legislative direction to the executive branch to pursue reimbursement from responsible parties. This fund would allow prompt state action if necessary for the sake of human safety and the integrity of the environment; it would in no way absolve those responsible for hazardous substance spills from being held accountable. To the contrary, it emphasizes pursuit of guilty parties.

The Alaska Environmental Lobby has two suggestions for improving the effectiveness of HB470. First, we believe the bill should establish a date for promulgation of regulations needed to implement the fund. Specific legislative direction for a time-certain date would clearly underscore the importance and timeliness of the fund. Second, we believe the list of activities which may require funds should include public notification, and education. Public notification would ensure site-specific information to local inhabitants about a spill in their area. Public education would be an important mechanism for briefing local municipalities, boroughs, and others on the purpose and scope of the program.

Thank you for this chance to comment on HB470. We enthusiastically support the bill and appreciate the care you have shown in crafting it.

Sincerely,


Scott Highleyman
Executive Director


Cliff Landesman
AEL volunteer

Everett A. Long
Member Fairbanks North Star Borough
Hazardous Material Task Force
Box 1
Ester, AK 99725

Representative Mike Davis
P.O. Box 81435
Fairbanks, Alaska 99708

December 9, 1985

Dear Mike:

I have read your proposed bill concerning hazardous substance containment and cleanup. I concur with your proposed legislation. We must have the force of this legislation to react to dangerous hazardous material spills, and hopefully prevent serious incidents by having a law with some teeth.

I am a member of a Task Force to develop a Borough wide Haz-Mat Response Team. The Response Team will not be involved in enforcement or clean-up. The team will consist of trained personnel from area fire departments, and trained personnel in the transportation industry, ie, the Alaska Railroad. Our task is like the medical First Responder.

Although we can express concern about Haz-Mat enforcement, our task limits us to being -- first in, attack the immediate threat (fire, spill, toxic, evacuation, etc.) and contain the problem. Funding for initial development is by a State grant to the Borough.

Once the equipment, and the basic training are completed for the response team, I'm not sure how future maintaining of that team is funded. Is it possible that some sort of matching funds be developed to keep these valuable teams operational. Of interest, Anchorage is developing a similar concept.

In the proposed bill, "Oil and Hazardous Substance Response Fund" does "Response" mean only a response "to an incident." Or will it include maintaining the "Response Capabilities," such as the Haz-Mat teams.

If that is too involved to include with your present proposal, maybe it can be dealt with later. In the mean time, I encourage you to continue pushing the present proposal.

BERING STRAITS COASTAL MANAGEMENT PROGRAM

Box 28

Unalakleet, Alaska 99684

(907) 624-3062

December 5, 1985

Representative Mike Davis
Pouch V
Juneau, Alaska 99811

Re: Proposed Hazardous Waste Legislation

Dear Mike:

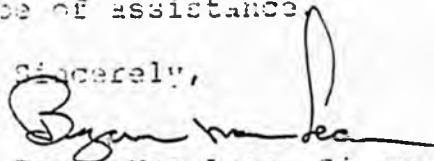
Thank-you for including us on your mailing list of organizations concerned about the management and treatment/disposal of hazardous waste. We appreciate the opportunity to review the legislation you propose to introduce in the upcoming legislative session.

We have completed a preliminary review. There is a definite need for the type of legislation you are proposing and you may count on our support. On page 2, we found Section 46.09.010 a bit cumbersome to comprehend.

Your letter indicated more than just a passing familiarity with the Environmental Restoration Act's mandate to clean up active and abandoned military sites. At a regional level, we are extremely concerned and distressed with the Army Corps of Engineers management of the St. Lawrence Island Clean-up. For your review, I have enclosed a copy of Resolution 35-98 ("A Resolution of The Bering Straits Coastal Resource Service Area Board Requesting The Army Corps Of Engineers To Work With Local Entities In Developing A Mutually Agreeable Set Of Locally Affected Communities And Private Landowners During The Implementation Of The Environmental Restoration Act") that was adopted on November 15, 1985. Resolution 35-98 outlines the Board's concerns and position. We would appreciate any intercession or assistance you may be in a position to provide. Should you require more background or detailed information, I would be pleased to work with your staff.

As you pursue the development of a comprehensive State management policy for hazardous wastes, please feel free to call on us if we can be of assistance.

Sincerely,



Bryan MacLean, Director
Bering Straits Coastal
Management Program

JIM D. CLARK
BOROUGH MANAGER



TELEPHONE
(907) 246-4224

Bristol Bay Borough

BOX 189 • NAKNEK, ALASKA 99633

December 3, 1985

Representative Mike Davis
Alaska State Legislature
P.O. Box 81435
Fairbanks, AK 99508

Dear Mike:

I have reviewed your proposed legislation, and agree there is a need to strengthen the laws in the containment and cleanup of hazardous wastes.

I have two points that in my opinion should be clarified or given additional thought.

1. Sec. 46.08.030 Financing the Fund, Paragraph 6.

I think it should be made mandatory that the Attorney General or the Department through the Attorney Generals office use any means possible to recover the costs from the perpetrator. "May Recover" as stated, is rather nebulous. Particularly when dealing with the expenditure of public funds to cleanup, or contain a hazardous substance that belonged to a private source.

Possibly, when an individual or firm applies for a permit to store hazardous wastes in particular, that he be required to post a bond to insure that in the event of a spill, or leak that funds will be available for cleanup or damage to persons or the environment.

This way, the use of public funds would only be used in extraordinary cases.

Also, if the funds set aside as a separate entity of the general fund the oil and substance response fund could be partially self-perpetuating through the interest income it may derive.

2. Sec. 46.08.100 Definitions, Page 7, Item 5, Hazardous Substance, Letters "A" & "B".

A smart attorney representing a client perpetrator may put you in a position of the states word against his clients if you get involved in an exotic substance that is not currently listed as a hazardous substance by either the federal government or state regulation.

Perhaps a "catchall" clause such as determined by so and so, etc.

**Fairbanks
North
Star
Borough**

JAN 17 -

Mayor: Juanita Helms

January 14, 1986

Representative Mike Davis
Pouch V
Juneau, Alaska 99811

Dear Representative Davis:

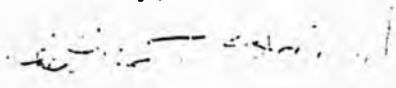
I wanted to thank you for the opportunity to comment on your proposed Hazardous Substance legislation. Overall, we are very pleased with the legislation and would like to offer the following comments:

- 1.) Can provisions for reimbursing local municipalities for costs they might incur in containment or cleanup of hazardous substances be included in this legislation?
- 2.) This legislation allows ADEC to contract with municipalities or persons for cleanup or containment operations. However, it does not appear to allow ADEC to delegate its authority for cleanup or containment of hazardous substances to a municipality. Should the legislation allow such a delegation, within an area where an emergency response authority exists? The language in the legislation at present would result in ADEC taking a leading role in emergency response to hazardous substance spills. Is this the intent of this legislation? Perhaps language should be added to clarify the relationship between ADEC and recognized emergency responders, and their respective roles in the event of a hazardous substance spill.

We feel it would be advisable to allow ADEC to delegate its authority to approved emergency response authorities within their jurisdictions.

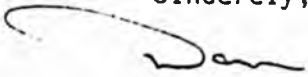
Thanks again for allowing us to review this legislation.

Sincerely,


Heather T. Stockard
Environmental Services Director

HTS/mnb
rj4-1

Sincerely,

A handwritten signature in black ink, appearing to read "Don", with a large, sweeping flourish at the beginning.

Don Perner
Director of Community Development

Municipality of Anchorage



P.O. BOX 6-650
ANCHORAGE, ALASKA 99502-0650
(907) 264-4960

TONY KNOWLES.
MAYOR

INTERGOVERNMENTAL AFFAIRS

January 20, 1986

Rep. Mike Davis
Pouch V
Juneau, Alaska

Dear Mike:

The Municipality of Anchorage appreciates the opportunity to review H.B. 470, proposing the establishment of an oil and hazardous substances response fund. The Municipality strongly endorses the concept of the bill, and believes the bill will significantly reduce the potential for a catastrophic hazardous substances incident in the State of Alaska.

Suzanne Tryck of my staff has already delivered to your office detailed comments and suggested language for inclusion in the bill. The most significant provisions contained in these comments are those dealing with the set-aside of funds for training and equipping local public safety agencies and allowing access to the fund by local public safety agencies in the event of a hazardous substance emergency.

These two provisions are of major importance since, in nearly all hazardous substance emergencies, local public safety agencies - namely, fire departments - will be the first responders. The first responders must be prepared to contain any such emergency so as to protect health, property and the environment. The actions taken within the first few hours are critical to the successful control of a hazardous substances emergency. Without properly trained and equipped local public safety agencies, chances of diverting a disaster are greatly diminished.

During my recent visit to Juneau, I discussed this legislation with Representatives Mike Szymanski and Don Clocksin, who I understand are co-sponsoring the bill. The Municipality is prepared to continue to work closely with you, Representatives Clocksin and Szymanski, other members, and their staffs to assure passage of a bill adequately reflecting the concerns of local governments.

Thank you for your continued cooperation in working with us on this important legislation.

Sincerely,



Chip Bennerlein

cc: Rep. Don Clockson
Rep. Mike Szymanski

Municipality of Anchorage

Comments on the Oil and Hazardous Substances
Response Fund Bill

Sec. 46.08.050. Financing the Abatement of Oil or Hazardous Substances

Add a new paragraph (b) as follows and change existing (b) to (c):

(b) Ten percent (10%) of the fund balance at the beginning of each fiscal year shall be dedicated to local public safety agencies for training, contingency planning and equipment specifically related to developing and maintaining oil and hazardous substance response capabilities. The department shall develop criteria and guidelines for distribution of funds authorized under this Chapter to local public safety agencies within 90 days of enactment. Criteria for distribution of funds shall include, but not be limited to: population at risk, current hazardous substances inventory, current response capabilities, and intended use of funding.

Sec. 46.09.070. Records of the Fund

Add a new paragraph (d) as follows and change existing (d) to (e):

(d) The department shall promulgate regulations within 90 days of enactment for authorizing local public safety agencies assuming on-scene control to commit funds for emergency containment and cleanup of oil and hazardous substance releases.

Sec. 40.08.100. Definitions

Add to the end of paragraph 5(A) the word "or".

Reword paragraph 5(B) as follows (words in [] added; -- deleted):

(B) a substance defined as a hazardous substance [, hazardous material, hazardous waste, or toxic substance] under [state or] federal law or regulations [adopted in accordance with state or federal law] of the department;

Sec. 46.09.010. Report of a Release of a Hazardous Substance

Reword paragraph (a) as follows (words in [] added):

(a) A person who is aware of the release or threatened release of a hazardous substance shall immediately notify the department [and a local public safety agency].

Add a new paragraph (b) as follows and change existing (b) to (c):

(b) The department shall establish and maintain a 24 hour per day duty officer to provide technical guidance and assistance and empowered to authorize expenditures of the fund for containment and cleanup of oil and hazardous substance releases.

Municipality of Anchorage



P.O. BOX 6-650
ANCHORAGE, ALASKA 99502-0650
(907) 264-4960

TONY KNOWLES,
MAYOR

INTERGOVERNMENTAL AFFAIRS

January 20, 1986

Rep. Mike Davis
Pouch V
Juneau, Alaska

Dear Mike:

The Municipality of Anchorage appreciates the opportunity to review H.B. 470, proposing the establishment of an oil and hazardous substances response fund. The Municipality strongly endorses the concept of the bill, and believes the bill will significantly reduce the potential for a catastrophic hazardous substances incident in the State of Alaska.

Suzanne Tryck of my staff has already delivered to your office detailed comments and suggested language for inclusion in the bill. The most significant provisions contained in these comments are those dealing with the set-aside of funds for training and equipping local public safety agencies and allowing access to the fund by local public safety agencies in the event of a hazardous substance emergency.

These two provisions are of major importance since, in nearly all hazardous substance emergencies, local public safety agencies - namely, fire departments - will be the first responders. The first responders must be prepared to contain any such emergency so as to protect health, property and the environment. The actions taken within the first few hours are critical to the successful control of a hazardous substances emergency. Without properly trained and equipped local public safety agencies, chances of diverting a disaster are greatly diminished.

During my recent visit to Juneau, I discussed this legislation with Representatives Mike Szymanski and Don Clocksin, who I understand are co-sponsoring the bill. The Municipality is prepared to continue to work closely with you, Representatives Clocksin and Szymanski, other members, and their staffs to assure passage of a bill adequately reflecting the concerns of local governments.

Thank you for your continued cooperation in working with us on this important legislation.

Sincerely,

cc: Rep. Don Clocksin
Rep. Mike Szymanski

Sec. 46.09.020. Containment and Cleanup of a Released Hazardous Substance

Reword paragraph (a) as follows ([] added; -- deleted):

(a) A person causing or permitting the release of hazardous substances shall immediately contain and cleanup the hazardous substances. The department may waive this requirement if [it determines, in consultation with the United States Environmental Protection Agency and local public safety agencies, as appropriate, that]

~~it determines, in consultation with the United States Environmental Protection Agency, as appropriate, that~~ [(1) the] containment or cleanup is technically not feasible; or

(2) the cleanup or containment activities would result in greater environmental damage than the release itself; [; or]

[(3) the cleanup or containment would result in a greater threat to life and human health than the release itself.]

Reword paragraph (d) as follows ([] added; -- deleted):

(d) The department shall provide for the immediate containment or cleanup of a hazardous substance release of unexplained origin [or when the person causing or permitting the release is unable or unwilling to immediately take responsibility] unless [the department determines, in consultation with the United States Environmental Protection Agency and local public safety agencies, as appropriate, that]

~~the department determines, in consultation with the United States Environmental Protection Agency, that~~ [(1) the] containment or cleanup of the hazardous substance release is technically not feasible; or

(2) the containment or cleanup activities would result in greater environmental damage than the release itself; [; or]

[(3) the cleanup or containment would result in a greater threat to life and human health than the release itself.]

Adopted
#7
#8

Add a new paragraph (e) as follows:

(e)(1) A local jurisdiction with capability to assume on-scene control of an oil and hazardous substance emergency shall notify the department of such capability, including a description of response training and equipment. The notification must be provided before a local public safety agency can commit funds for oil and hazardous substance containment and cleanup without prior department authorization;

(2) The department shall establish guidelines and procedures for authorizing other local public safety agencies to commit

funds for emergency containment and cleanup when the local jurisdiction assumes on-scene control;

(3) A local public safety agency that has assumed on-scene control for an oil and hazardous substances emergency shall maintain that responsibility until the incident has been contained and cleanup commenced or until on-scene control has been released to the department.

Change existing paragraph (e) to (f).

Sec. 46.09.030. Catastrophic Hazardous Substance Release

Add new paragraph (a) as follows:

(a) The department and the Alaska Division of Emergency Services shall develop and maintain a statewide oil and hazardous substances annex to the state emergency operations plan, including guidelines and procedures for determining if a release or threatened release constitutes a catastrophic hazardous substances release. The oil and hazardous substances annex shall be developed within one year of enactment and updated annually.

Change existing paragraph (a) to (b) and reword as follows ([] add; -- delete):

(b) The actual or imminent occurrence of a catastrophic release of hazardous substances constitutes a disaster emergency under AS 26.23. The department shall consult and coordinate its duties under this section with the Alaska Division of Emergency Services [.] , and the commissioner may direct the department to perform the duties of the Alaska Division of Emergency Services under AS 26.23-8).

Change existing paragraph (b) to (c).

Sec. 46.09.040. Hazardous Substances Containment and Cleanup

Delete existing sections and add new section as follows:

(a) The department may contract with a person, or a municipality of the state for personnel, equipment, or services necessary to carry out all training, planning, inspecting, sampling, testing, investigating, surveying, analyzing, and engineering activities.

(b) The department shall contract with a person, or a municipality of the state for personnel, equipment, or services necessary for constructing, operating, and maintaining oil and hazardous substance containment and cleanup operations.

Sec. 46.09.050. Peace Officers

Delete this section.

Sec. 46.09.090. Definitions

Change paragraph (1) as follows ([] add; -- delete):

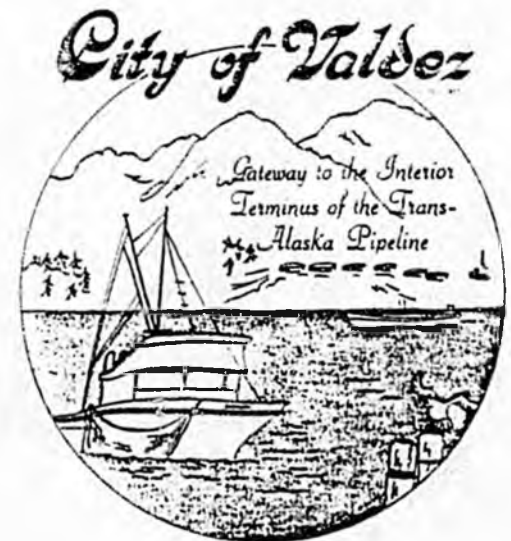
(1) "catastrophic release of hazardous substances" means any discharge which [release or threatened release exceeding the response capabilities of a local jurisdiction and for which the highest local elected official and] the governor determines represents a grave and substantial threat to the public health and safety, economy, or environment of the state;

Add to the end of paragraph 5(A) the work "or".

Reword paragraph 5(B) as follows ([] added; -- deleted):

(B) a substance defined as a hazardous substance [hazardous material, hazardous waste, or toxic substance] under [state or] federal law or regulations [adopted in accordance with state or federal law] of the department;

Office of Community Development
December 13, 1985



Representative Mike Davis
Pouch V
Juneau, AK. 99811

Dear Mike,

Thank you for the opportunity to review proposed AS 46.08 and 46.09. I have asked the City Fire Chief, who is responsible for hazardous waste, to review the draft and I've attached his comments.


I agree with Chief McAlister's comments on cost. The program could become very costly and cumbersome with some high side boards.

The main problem I have is with Sec. 46.09.070. Maybe I'm being somewhat sensitive to this issue as it's a current problem with our local Coastal Zone Management draft, but Title 29 gives the City authority to manage if its ordinances are equal to or more strict than the state law. I do have a problem with the State overriding city ordinances regardless if they are in conflict or not. I suggest that city's (municipalities) be given the option of developing their own hazardous management plan. DEC could approve of the plan and once approved it would be the prevailing ordinance or legislation within that community. The plan would have the obvious coordination language with the necessary state agencies.

Please keep us informed. As a major shipping point for both crude oil and other hazardous material we are very interested in your progress on legislation.

Please let me know if we can provide any further assistance.

Sincerely,
CITY OF VALDEZ


Dennis R. Thomason
Director, Community Development

DRT/lrf

enclosure

#20Davis.Dec

MEMO

City of
Valdez, Alaska Box 307, 99686

To Dennis Thomason

Date December 5, 1985

Subject Proposed Legislation Relating
to Hazardous Substances

From Tom McAlister *TWN*

This bill does many things that I think would be beneficial to the City of Valdez. To name a few:

1. Provides funds for emergency cleanup.
 - a) At present the fire department and harbor department pays for materials and manpower used in cleanup activities.
2. Provides for mutual aid agreements and contracts to Municipalities.
3. Provides a means to recover costs from persons responsible.
4. Provides for training.

Disavanges may include a large bureaucracy and a tremendous expense to the state each year if it is fully funded.

If not funded DEC would be shackled with a great statutory responsibility that they cannot carry out as a number of other agencies are at present.

Its going to be interesting to keep an eye on this one and see what the outcome is.



City of Petersburg
P. O. Box 329
Petersburg, Alaska 99833

December 11, 1985

Alaska State Legislature
Representative Mike Davis
Pouch 7
Juneau, Alaska 9811

Dear Representative Davis:

Thank you in advance for the opportunity to respond to you and the legislation which you plan to propose in January to the Legislature.

Basically, the legislation which you are proposing looks very good, and as we both know, the response fund portion of this legislation is very needed.

On December 9, 1985, I attended a Public meeting in Juneau put on by the Alaska Department of Environmental Conservation, Hazardous Waste Division, regarding their upcoming hazardous waste management program. This meeting or any of their other scheduled public meetings would have been a good meeting for you to attend and discuss your proposed legislation with the public in attendance.

ADEC's program, as I am sure you are aware, is designed to develop and adopt state regulations that would be managed and enforced by the department. The goal of ADEC is to eventually have a hazardous waste program ran by the state and to eliminate the Federal Environmental protection agency from the hazardous waste program here in Alaska.

The Super Fund legislation you are proposing appears to me to be similar to the EPA "CERCLA" act of 1980. At this aforementioned public meeting, we discussed this EPA fund and found that our current identified locations of hazardous waste do not qualify as a serious enough threat to health as is needed to receive a portion of this fund. Therefore, this state fund could be a real bonus to us in Alaska. Hopefully, the requirements and or

Alaska State Legislature.
December 11, 1985
page2

procedures for acquiring this money for use at hazardous waste sites will not be so burdensome so that any spill or location of waste site regardless of size can rely on these funds if needed.

In some aspects, this proposed legislation already closely coincides with the programs which ADEC has proposed. Further, their direction from the 1984 Alaska legislature, mandated some very specific points. I wonder if your legislation and their proposed programs might be duplicating each others efforts. The director of the hazardous waste division of ADEC who was also at this meeting is Dave Detraillia. A suggestion would be to contact him regarding their efforts if you have not already done so.

In closing, the component which is lacking in your proposal and also lacking in the DEC program is the identification/disposal problems of other hazardous substances such as PCB's and Asbestos. It is a confusing situation when items such as these corner a majority of the public outcry, but are not considered hazardous waste under either EPA or DEC guidelines. PCB's in old electrical transformers, and asbestor insulation will not just dissappear, and the inability to use this proposed state fund for the elimination of this type of hazardous substance in my opinion is a mistake. As the proposed DEC program does not address this problem, and your proposed legislation eliminates them from "Super Fund" use, this type of material will continue to be located around population centers. Small municipalities will continue to be forced to deal with various divisions of EPA for removal, and will never receive any financial assistance in this disposal process.

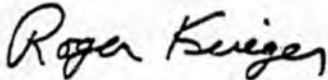
Knowing the amount of electrical transformers in our area with PCB contamination, and multiplying these times the communities in Alaska, I feel this type of substance is far more a concern then most substances as defined in the EPA-Resource Conservation and recovery act of 1976.

I urge you to amend your proposed legislation for the inclusion of PCB and Asbestor removal as a realistic candidate for use of Super Fund money for disposal. Further, I feel direction should be given to ADEC to expand their proposed programs to include all hazardous substances indentification/disposal areas as previously defined by EPA, so that state controls can be placed on all materials which are identified as hazardous, and Federal EPA regulations can be abandoned.

Alaska State Legislature,
December 11, 1985
page 3

Again, thank you for the chance to respond and I hope my comments
will be of value to you.

Sincerely,

A handwritten signature in cursive script that reads "Roger Krieger".

Roger Krieger
Building Official

RK/ec



CITY/BOROUGH OF JUNEAU
★ ALASKA'S CAPITAL CITY

Planning Department

December 18, 1985

File No. 2500

Representative Mike Davis
P.O. Box 81435
Fairbanks, AK 99708

Re: Oil and Hazardous
Substance Response Fund

Dear Rep. Davis:

Thank you for the opportunity to review your draft of legislation to create an Oil and Hazardous Substance Response Fund dated November 12, 1985. From the way your letter was addressed, I offer a personal response rather than an official response on behalf of the City of Juneau.

By way of background, let me note that I worked with a consultant to the Department of Environmental Conservation (DEC) on the subject of setting criteria for hazardous waste handling and disposal sites. It was my impression then that DEC was planning to either seek new legislation or enact regulations to set these criteria and a permit system to carry them out. The comments below are based, in part, on the prospect of some sort of permit system for regulating those sites.

I applaud the idea of a fund for DEC to use in reacting to oil and hazardous waste incidents. Using fines and penalties to buttress the fund sounds good too, although this is a bit of a departure from normal state practice where fines and fees are paid into the general fund. DEC should be fully equipped and authorized to assure that all monies intended for the Response Fund actually get there and stay there.

The source of money for the Response Fund is very likely going to be a problem. I gather that some money is available from Superfund but that a state matching share would be needed. As written, your bill is freestanding and does not depend on other programs or laws to function. If, however, a permit system for new and existing oil and hazardous waste facilities (or an improvement to an existing permit system) is established, then an annual fee could be assessed, based on quantities handled. These fees could make up the state share of the Response Fund. DEC could collect the fees as part of annual recertification and even reward good operators with rebates.

Some sort of system seems necessary for DEC to monitor the number of locations and type of facilities. This will allow them to focus their efforts on inspection and compliance. I would urge you to look at coupling the Response Fund to a regulatory system. I think the result will be better regulation and a fund that is self-supporting. The problem will thus be addressed more completely and lastingly.

I do not know what opportunities and amounts are offered by Superfund so the ideas above may not be workable. I also do not know how large our fund should be to prepare for likely emergencies. I would guess, however, that if we could establish a system based on less than one half percent of the operators' revenues that they would adjust easily. If this generates enough money for the state share of the Response Fund, and the administration of it, then you have an industry supported monitoring and emergency response package that stands alone.

A few words about the local government role in this matter should also be offered. Many communities have some sort of engineering or maintenance departments which have equipment and operators. Many of us are also engaged in planning for various forms of disaster. Local government warehouses are likely places for DEC to store special equipment for particular facilities. Finally, some DEC functions, notably subdivision review and air quality, can be turned over to local governments.

A lot of the planning, monitoring and inspection functions could be transferable to local governments as well as the pre-disaster activities. Some of the post-disaster responsibility could be lodged at the local level. The full package should allow for this.

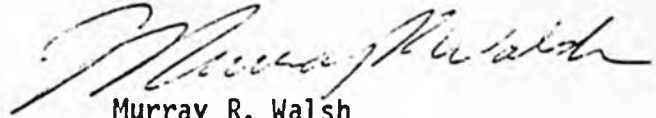
As an overall summary, I would say that your bill as it stands is a good one and should be enacted if a more comprehensive solution is not possible. I would, however, urge a more comprehensive approach that includes:

- criteria for oil and hazardous waste sites and facilities;
- a permit system, with annual renewals, inspections and fees;
- an industry-generated base for the state's share of the Response Fund;
- provision for transfer of responsibilities to local governments; and
- the Response Fund itself.

Rep. Mike Davis
2500
Page No. 3

Again, thanks for the opportunity to review this bill and thank you for your interest in this very important environmental concern. I hope my comments are helpful and if I can assist in any other way, please let me know.

Sincerely,

A handwritten signature in cursive script, appearing to read "Murray R. Walsh".

Murray R. Walsh
Planner III

792/52/MW/ym



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

*copy
George
Lind W.*

*copy given to
4/25*

APR 19 1983

OFFICE OF
SOLID WASTE AND EMERGENCY RES

RECEIVED

APR 21 1983

CONFIDENTIAL

MEMORANDUM

DATE:

SUBJECT: Subtitle C Exclusion of Drilling Fluids
and Produced Waters

FROM: John H. Skinner *John H. Skinner*
Director, Office of Solid Waste

TO: Kenneth D. Feigner
Chief, Waste Management Branch
E.P.A. - Region X

Your interpretation of the oil and gas waste exclusion in 40 CFR 261-4, as expressed in your February 14, 1983 memorandum to me, is the correct interpretation of the scope of that exclusion. The Agency's policy on oil and gas exploration, development and production wastes, is the same as the policy stated in the preamble to the November 19, 1980 regulations (45 FR 76619) for mining and cement kiln dust wastes. Specifically, wastes such as spent solvents, pesticide wastes, and discarded commercial chemical products, that are not uniquely associated with the exploration, development, or production of crude oil or natural gas or geothermal energy, are not eligible for the exclusion. As you noted, a memorandum from EPA's Office of General Counsel to Region VII on September 2, 1981 confirms that policy.

Although some judgment is required to determine those wastes that are "unique" and those that are not, the interpretation in the last paragraph of your memorandum of February 14, 1982 is consistent with our policy on this issue.

- Skinner list -

-2

This exclusion does not, however, apply to solid wastes, such as spent solvents, pesticide wastes, and discarded commercial chemical products, that are not uniquely associated with these mining and allied processing operations, or cement kiln operations. Therefore, should either industry generate any of these non-indigenous wastes and the waste is identified or listed as hazardous under Part 261 of the regulations, the waste is hazardous and must be managed in conformance with the Subtitle C regulations.

It is our opinion that Congress did not intend to exclude absolutely all wastes generated at drilling or exploration sites. It seems apparent in RCRA 3001 that along with the exclusion there is a clear concern with whether the excluded wastes have characteristics which would necessitate their being regulated as hazardous. It is only those wastes "uniquely" associated with the activities under consideration about which there might be any such question. (This same concern was also reflected in EPA's initial proposals to consider these wastes as "special wastes.")

However, for those wastes which are not uniquely associated, it should be clear that the issue of the extent of their hazardousness does not arise. Consistent with our sense of Congressional intent, we feel that EPA is obligated to make it clear that the hazardous wastes in this latter category are regulated as hazardous wastes under RCRA. Please be aware that an August 1981 response from OGC to a question raised by Region 7 on this issue supports this same position.

To summarize, we feel that the exclusion should properly cover soils, muds, fluids, etc., whether they are removed from the earth or added during the drilling or exploration operation. It should not include wastes routinely generated at construction sites, spent solvents from maintenance activities, unused chemical products intended for disposal, unused fuels, or any other wastes which are not unique to the exploration, development or production of crude oil, natural gas, or geothermal energy.

cc: Ron Kreizenbeck, AOD
Geoff Lewis, OSWER

DHanline:nay:2-9-83

*They get some support
from Martin et al,
V. Glass, 571 F. Supp
1406*



Alaska State Legislature

Representative Mike Davis

Room V
Juneau, Alaska 99811
(907) 465-4930/4941

Interim Office:
P.O. Box 81435
Fairbanks, Alaska 99708

February 9, 1986

Mr. Scott Burgess, Executive Director
Alaska Municipal League
105 Municipal Way, Suite 301
Juneau, Alaska 99801

Dear Mr. Burgess,

I am writing to you at the request of the House Resources Committee regarding HE 470, an act relating to the release of oil and hazardous substances.

The bill has several provisions regarding municipalities, a brief description of which follows below:

Section 46.09.020(e) provides that the commissioner of the Dept. of Environmental Conservation may enter into agreements with municipalities in order to

- (1) facilitate a coordinated and effective hazardous substance release response in the state;
- (2) provide for cooperative hazardous substance release notification procedures; or
- (3) provide for cooperative review of hazardous substance release response contingency plans submitted to the department.

Section 46.09.040 provides that the commissioner of the Dept. of Environmental Conservation may contract with a municipality for personnel, equipment, or services that may be useful to carry out the requirements of this chapter.

In order to allow municipalities to enter into these agreements and contractual agreements should they choose to do so, language was placed in Sec. 46.09.070 stating that

" Authority to contain, clean up, or prevent a release or threatened release of oil or of a hazardous substance, and to exercise other powers necessary to implement AS 46.08 - AS 46.09. are granted to municipalities that do not otherwise have that authority."

The question raised by the House Resources Committee is whether or not municipalities, as a result of being granted this authority, would in any way be obligated or compelled to implement this authority. Specifically, this question is directed toward second-class boroughs and home-rule municipalities.

I would appreciate receiving your response to this question as soon as possible.

Sincerely,

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

Rep. Mike Davis

STATE OF ALASKA

BILL SHEFFIELD, GOVERNOR

DEPT. OF ENVIRONMENTAL CONSERVATION

DIVISION OF ENVIRONMENTAL QUALITY
POUCH O, JUNEAU, ALASKA 99811

Telephone: (907)
Address:

465-2666

February 7, 1986

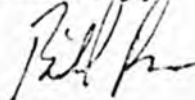
The Honorable Richard Schultz
Chairman, House Resources Committee
House of Representatives
Pouch V
Juneau, AK 99811

Dear Representative Schultz:

Enclosed is a revised fiscal note for CSHB 470. I have deleted the administrative assistant from the fiscal note due to the reduced administrative burden resulting from the amendments. This fiscal note will be adequate since the scope of the fund has been focused on site investigations and response to small or moderate incidents. Under this approach, major incidents would be addressed through capital appropriations or through funds available for emergencies declared by the Governor.

Thank you again for the opportunity to work with you in refining the proposed legislation.

Sincerely,



Bill Ross
Commissioner

Enclosure

STATE OF ALASKA 1986 LEGISLATIVE SESSION FISCAL NOTE

Revision Date : 2/4/86

REQUEST

Bill/Resolution No. : HB 470
 Title : An Act Relating to the Release of Oil and Hazardous Substance
 Sponsor : Representative Mike Davis
 Requestor : _____
 Date of Request : _____

SCAL DETAIL

Agency Affected : Environmental Conservation
 BRU : Environmental Quality
 Components : Director's Office

EXPENDITURES/REVENUES : (Thousands of Dollars)

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES		182.7	227.3	227.3		
TRAVEL		25.0	28.0	28.0		
CONTRACTUAL		48.5	53.5	53.5		
SUPPLIES		22.0	23.5	23.5		
EQUIPMENT		12.0	2.0	2.0		
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		290.2	334.3	334.3		

CAPITAL						
----------------	--	--	--	--	--	--

RESPONSE FUND (non-lapsing) 1,000.0 (replenishment to 1,000.0)

REVENUE						
----------------	--	--	--	--	--	--

FUNDING : (Thousands of Dollars)

GENERAL FUND		1290.2	334.3	334.3		
FEDERAL FUNDS						
OTHER						
TOTAL						

*5.0 FTE

POSITIONS :

FULL-TIME		4	4	4		
PART-TIME		2	2	2		
TEMPORARY						

ANALYSIS : Attach a separate page if necessary

Prepared by : Stan Hungerford Phone : 465-2666
 Division : Environmental Quality Date : 2/4/86

Approved by Commissioner : *Bill Kim* Date : 2/4/86
 Agency : Department of Environmental Conservation

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

STATE OF ALASKA 1986 LEGISLATIVE SESSION FISCAL NOTE

Revision Date : _____

REQUEST

Bill/Resolution No. : HB 470
 Title : An Act Relating to the
Release of Oil and Hazardous
Substances
 Sponsor : Rep. M. Davis
 Requestor : _____
 Date of Request : _____

FISCAL DETAIL

Agency Affected : Environmental Conservation
 BRU : Environmental Quality

 Components : Director's Office

EXPENDITURES/REVENUES : (Thousands of Dollars)

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES		210.7	264.6	264.6		
TRAVEL		28.0	28.0	28.0		
CONTRACTUAL		53.5	53.5	53.5		
SUPPLIES		23.5	23.5	23.5		
EQUIPMENT		14.0	2.0	2.0		
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		329.7	371.6	371.6		

CAPITAL						
---------	--	--	--	--	--	--

REVENUE						
---------	--	--	--	--	--	--

FUNDING : (Thousands of Dollars)

GENERAL FUND		7.0*	7.0	7.0		
FEDERAL FUNDS						
OTHER						
TOTAL						

*6.0 FTE

POSITIONS :

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : Attach a separate page if necessary

Prepared by : S.W. Hungerford Phone : 465-2666
 Division : Environmental Quality Date : 1/17/86

Approved by Commissioner : *Bill P.* Date : 1/17/86
 Agency : Dept. of Environmental Conservation

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

Position Title Ecologist II			No. of Positions One	Range/Step 18 A	Barg. Unit GGU	Gov.	Approv.	Disapp.																																
Time Status Full Time	Staff Months 12	RP Number	Location Juneau		Election District	LAG																																		
<table border="1"> <thead> <tr> <th>Type of Expenditure</th> <th>2</th> <th>3</th> </tr> </thead> <tbody> <tr> <td>Salary</td> <td>28.1</td> <td rowspan="4"></td> </tr> <tr> <td>Benefits</td> <td>8.3</td> </tr> <tr> <td>Premium Pay</td> <td></td> </tr> <tr> <td>Other</td> <td></td> </tr> <tr> <td>Total Personal Services</td> <td></td> <td>36.4</td> </tr> <tr> <td>Travel</td> <td></td> <td>5.0</td> </tr> <tr> <td>Contractual</td> <td></td> <td>25.0</td> </tr> <tr> <td>Commodities</td> <td></td> <td>6.5</td> </tr> <tr> <td>Equipment</td> <td></td> <td>2.0</td> </tr> <tr> <td>Other</td> <td></td> <td></td> </tr> <tr> <td>Total Cost</td> <td></td> <td>74.9</td> </tr> </tbody> </table>			Type of Expenditure	2	3	Salary	28.1		Benefits	8.3	Premium Pay		Other		Total Personal Services		36.4	Travel		5.0	Contractual		25.0	Commodities		6.5	Equipment		2.0	Other			Total Cost		74.9	Justification This new position will be responsible for writing regulations related to implementation of this bill, including procedures to be used in containment and cleanup of a hazardous substance, reporting the release of a hazardous substance, use of the response fund, procedures to assess fines, penalties and recovery of costs. This person will also negotiate contracts to contain and clean up incidents requiring immediate response, determine liability for incidents, initiate appropriate actions to recover costs or other penalties, coordinate a training and safety program for field staff and report program activities to appropriate State and federal agencies and the State Legislature. We expect to fill this position on October 1, 1986. Funding for nine months has been requested for FY 87.				
Type of Expenditure	2	3																																						
Salary	28.1																																							
Benefits	8.3																																							
Premium Pay																																								
Other																																								
Total Personal Services		36.4																																						
Travel		5.0																																						
Contractual		25.0																																						
Commodities		6.5																																						
Equipment		2.0																																						
Other																																								
Total Cost		74.9																																						
Receipt Code		Funding Source																																						
		Federal Receipts 1002																																						
		G. F. Match 1003																																						
		General Funds 1004	74.9																																					
		I-A Receipts 1005																																						
		Program Receipts 1028																																						
		CIP Receipts 1061																																						
		Other																																						
For B&M Use Only Key Number _____																																								

**Request For
New Position**

Agency Environmental Conservation
BRU Environmental Quality
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FY 87

Position Title Administrative Assistant II			No. of Positions One	Range/Step 14 A	Barg. Unit GGU	Gov. Leg.	Approv.	Disapp.
Time Status Full Time	Staff Months 12	RP Number	Location Juneau		Election District			
Type of Expenditure			Justification					
		Amount	<p>This new position will assist the program staff by preparing documents necessary to contract for services to contain and clean up hazardous substances, by recording and tracking expenditures from the response fund and preparing the fiscal reports required to report program activities to the Legislature. This person will also maintain records describing incidents and spills from across the State and other data necessary to obtain cost-recovery from responsible parties.</p> <p>We expect to fill this position on October 1, 1986.</p> <p>Funding for nine months has been requested for FY 87.</p>					
1	2	3						
Salary	21.2							
Benefits	6.8							
Premium Pay								
Other								
Total Personal Services		28.0						
Travel		3.0						
Contractual		5.0						
Commodities		1.5						
Equipment		2.0						
Other								
Total Cost		39.5						
Receipt Code									Funding Source
			Federal Receipts 1002					
			G. F. Match 1003					
			General Funds 1004 39.5					
			I-A Receipts 1005					
			Program Receipts 1028					
			CIP Receipts 1061					
			Other					
For B&M Use Only								
Key Number								

**Request For
New Position**

Agency Environmental Conservation
 BRU Environmental Quality
 Component Water Quality Management

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Position Title Clerk Typist III			No. of Positions One	Range/Step B A	Barg. Unit GGU	Gov.	Approv.	Disapp.	
Time Status Full Time	Staff Months 12	RP Number	Location Juneau	Election District	Leg				
Type of Expenditure			Justification						
		Amount	<p>This new position will provide clerical support to the new program staff and enter data into computer files established to record program activities. This person will be required to prepare regulations, contract documents and fiscal reports as well as routine correspondence.</p> <p>We expect to fill this position on October 1, 1987.</p> <p>Funding for nine months has been requested for FY 87.</p>						
1	2	3							
Salary	14.7								
Benefits	5.3								
Premium Pay									
Other									
Total Personal Services		20.0							
Travel									
Contractual		3.5							
Commodities		1.5							
Equipment		2.0							
Other									
Total Cost		27.0							
Receipt Code	Funding Source								
	Federal Receipts	1002							
	G. F. Match	1001							
	General Funds	1004							27.0
	I-A Receipts	1005							
	Program Receipts	1028							
	CIP Receipts	1061							
	Other								
For B&M Use Only									
Key Number									

**Request For
New Position**

Agency Environmental Conservation
 BRU Environmental Quality
 Component Water Quality Management

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Position Title Environmental Field Officer III			No. of Positions One	Range/Step 18 A	Barg. Unit GGU	Gov.	Approv.	Disapp.
Time Status Perm. Part Time	Staff Months 6	RP Number	Location Anchorage		Election District	48		
Type of Expenditure			Justification					
Amount			<p>This new field officer will augment the existing oil spill position to investigate reports of spilled hazardous materials, monitor cleanup activities, and work with community government and local safety agencies on plans for responding to emergencies due to spills or fires involving chemicals. This person will require safety training and equipment to minimize exposure to hazardous chemicals. This person will work with existing staff as a team of two for safety purposes when investigating incidents involving spills of hazardous materials especially in confined areas. This person will obtain samples and other information necessary to take enforcement actions under federal or State laws.</p>					
1	2	3						
Salary	18.7							
Benefits	5.6							
Premium Pay								
Other								
Total Personal Services		24.3						
Travel		5.0						
Contractual		5.0						
Commodities		3.5						
Equipment		2.0						
Other								
Total Cost		39.8						
Receipt Code	Funding Source							
	Federal Receipts 1002							
	G. F. Match 1003							
	General Funds 1004		39.8					
	I-A Receipts 1005							
	Program Receipts 1028							
	CIP Receipts 1061							
	Other							
For B&M Use Only								
Key Number								

**Request For
New Position**

Agency Environmental Conservation
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Position Title <u>Environmental Field Officer III</u>			No. of Positions <u>One</u>	Range/Step <u>18 A</u>	Barg. Unit <u>GGU</u>	Gov.	Approv.	Disapp.	
Time Status <u>Perm. Part Time</u>	Staff Months <u>6</u>	RP Number	Location <u>Juneau</u>		Election District	Leg.			
Type of Expenditure			Justification						
		Amount	<p>This new field officer will augment the existing oil spill position to investigate reports of spilled hazardous materials, monitor cleanup activities, and work with community government and local safety agencies on plans for responding to emergencies due to spills or fires involving chemicals. This person will require safety training and equipment to minimize exposure to hazardous chemicals. This person will work with existing staff as a team of two for safety purposes when investigating incidents involving spills of hazardous materials especially in confined areas. This person will obtain samples and other information necessary to take enforcement actions under federal or State laws.</p>						
<u>1</u>	<u>2</u>	<u>3</u>							
Salary	<u>18.7</u>								
Benefits	<u>5.6</u>								
Premium Pay									
Other									
Total Personal Services		<u>24.3</u>							
Travel		<u>5.0</u>							
Contractual		<u>5.0</u>							
Commodities		<u>3.5</u>							
Equipment		<u>2.0</u>							
Other									
Total Cost		<u>39.8</u>							
Receipt Code	Funding Source								
	Federal Receipts	1002							
	G. F. Match	1003							
	General Funds	1004							<u>39.8</u>
	I-A Receipts	1005							
	Program Receipts	1028							
	CIP Receipts	1061							
	Other								
For B&M Use Only Key Number _____									

**Request For
New Position**

Agency Environmental Conservation
 BRU Environmental Quality
 Component Southeast Region

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Position Title Environmental Field Officer III			No. of Positions One	Range/Step 18 A	Barg. Unit GGU	Gov. LEG	Approv.	Disapp.
Time Status Full Time	Staff Months 12	RP Number	Location Anchorage		Election District			
Type of Expenditure			Justification					
		Amount	<p>This new field officer will augment the existing oil spill position to investigate reports of spilled hazardous materials, monitor cleanup activities, and work with community government and local safety agencies on plans for responding to emergencies due to spills or fires involving chemicals. This person will require safety training and equipment to minimize exposure to hazardous chemicals. This person will work with existing staff as a team of two for safety purposes when investigating incidents involving spills of hazardous materials especially in confined areas. This person will obtain samples and other information necessary to take enforcement actions under federal or State laws.</p> <p>We expect to fill this position on October 1, 1986.</p> <p>Funding for nine months has been requested for FY 87.</p>					
1	2	3						
Salary	28.1							
Benefits	8.3							
Premium Pay								
Other								
Total Personal Services		36.4						
Travel		5.0						
Contractual		5.0						
Commodities		3.5						
Equipment		2.0						
Other								
Total Cost		51.9						
Receipt Code	Funding Source							
	Federal Receipts 1002							
	G. F. Match 1003							
	General Funds 1004		51.9					
	I-A Receipts 1005							
	Program Receipts 1028							
	CIP Receipts 1061							
	Other							
<div style="border: 1px solid black; padding: 5px; width: fit-content;"> For B&M Use Only Key Number _____ </div>								

**Request For
New Position**

Agency Environmental Conservation
BRU Environmental Quality
Component Southcentral Region

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FY 87

Original sponsors: Davis, Koponen,
Hurley, et al

IN THE HOUSE

BY THE RESOURCES COMMITTEE

CS FOR HOUSE BILL NO. 470 (Resources)

IN THE LEGISLATURE OF THE STATE OF ALASKA

FOURTEENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act relating to the release of oil and hazardous substances; and providing for an effective date."

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

* Section 1. AS 46 is amended by adding a new chapter to read:

CHAPTER 08. OIL AND HAZARDOUS SUBSTANCE RELEASES.

Sec. 46.08.005. PURPOSE. The legislature finds and declares that the release of oil or hazardous substances into the environment presents a real and substantial threat to the public health and welfare, to the environment, and to the economy of the state. The legislature therefore concludes that it is in the best interest of the state and its citizens to provide a readily available fund for the payment of the expenses incurred by the Department of Environmental Conservation in the protection of the environment of the state from the release of oil or hazardous substances.

Sec. 46.08.010. FUND ESTABLISHED. (a) There is established in the state general fund the oil and hazardous substance release response fund. The fund shall be administered by the commissioner of environmental conservation, but the commissioner of revenue shall be the custodian of the fund.

(b) Money from an appropriation made to the fund remaining in the fund at the end of a fiscal year remains available for expenditure in successive fiscal years.

(c) The fund shall be used for actual expenses incurred under AS 46.08.040. The fund may not be used for capital improvements.

Sec. 46.08.020. FINANCING OF THE FUND. The legislature may appropriate from the following sources to the fund:

(1) money received from federal, state, or other sources or from a private donor;

(2) money recovered or otherwise received from parties responsible for the containment and cleanup of oil or a hazardous substance at a specific site, but excluding funds from performance bonds and other forms of financial responsibility held in escrow pending satisfactory performance of a privately financed response action;

(3) fines, penalties, or damages recovered under this chapter or other law for costs incurred by the state as a result of the release or threatened release of oil or a hazardous substance.

Sec. 46.08.030. FINANCING THE ABATEMENT OF OIL OR HAZARDOUS SUBSTANCE RELEASES. It is the intent of the legislature and declared to be the public policy of the state that funds for the abatement of a release of oil or a hazardous substance will always be available.

Sec. 46.08.040. PURPOSES OF THE FUND. Subject to the approval of the governor, the commissioner may use money from the fund to

(1) contain and clean up releases or threatened releases of oil or a hazardous substance;

(2) undertake plans, inspections, sampling, tests, investigations, public notification, damage assessment, surveys, analyses, engineering, construction, operations, and maintenance necessary or appropriate to contain and clean up releases or threatened releases of oil or hazardous substances;

(3) help the Department of Labor to assist emergency response employers in developing safety education programs under AS 18.60 for employees who may be called upon to respond to a release of

oil or a hazardous substance;

(4) provide matching funds for participation in federal oil discharge cleanup activities and under 42 U.S.C. 9607 - 9657 (Comprehensive Environmental Response, Compensation and Liability Act of 1980); and

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

Sec. 46.08.050. RECORDS OF THE FUND. (a) The department shall maintain accounting records showing the income and expenses of the fund.

(b) By July 1 of each year, the department shall determine the projected cost for the following fiscal year of monitoring, operating, and maintaining sites where response has been completed or is expected to be continued during the fiscal year.

(c) The commissioner shall consult with the commissioner of revenue and the governor before adopting regulations governing fund accounting. The department shall develop procedures and adopt rules governing the expenditure of, and accounting for, money expended from the fund, and may not delay implementation of this chapter pending the effective date of the procedures and rules.

(d) The proper state officer shall pay disbursements from the fund on presentation of vouchers signed by the governor or the governor's authorized representative.

Sec. 46.08.060. REPORT TO THE LEGISLATURE. The commissioner shall submit a report to the governor and to the legislature not later than the 10th day following the convening of each regular session of the legislature. The report may include information considered significant by the commissioner but must include:

(1) the amount of money expended under AS 46.08.040 during the preceding fiscal year; and

(2) the amount and source of money received and money recovered during the preceding fiscal year as specified in AS 46.08.-020.

Sec. 46.08.070. REIMBURSEMENT FOR CONTAINMENT AND CLEANUP. (a) The commissioner shall seek reimbursement promptly under this section, AS 46.03.760(e), or federal law for the cost incurred in the cleanup or containment of oil or a hazardous substance that has been released.

(b) The attorney general, at the request of the commissioner, may seek to recover money expended by the department under this chapter or other law to contain and clean up oil or a hazardous substance that has been released or to control the threatened release of oil or a hazardous substance.

Sec. 46.08.080. REGULATIONS. The commissioner shall adopt regulations necessary to implement the provisions of this chapter.

Sec. 46.08.900. DEFINITIONS. In this chapter

(1) "capital improvement" includes construction, renovation, repair of, and improvement to, a building, but does not include other improvements to real property, such as construction of a dike or retaining wall;

(2) "commissioner" means the commissioner of environmental conservation;

(3) "containment and cleanup" includes the direct and indirect efforts associated with the prevention, abatement, containment, or removal of a hazardous substance, the restoration of the environment to its former state, and incidental administrative costs;

(4) "department" means the Department of Environmental Conservation;

1 (5) "employee" means a person who works for an employer in
2 a place that is not used primarily as a personal residence;

3 (6) "employer" means a person, including the state and a
4 political subdivision of the state, who has one or more employees
5 working in a place that is not used primarily as a personal residence;

6 (7) "fund" means the oil and hazardous substance release
7 response fund;

8 (8) "hazardous substance" means

9 (A) an element or compound that, when it enters into
10 or on the surface or subsurface land or water of the state,
11 presents an imminent and substantial danger to the public health
12 or welfare, or to fish, animals, vegetation, or any part of the
13 natural habitat in which fish, animals, or wildlife may be found;
14 or

15 (B) a substance defined as a hazardous substance under
16 state or federal law or by regulations adopted under state or
17 federal law;

18 (9) "oil" means petroleum products of any kind and in any
19 form, whether crude, refined, or a petroleum by-product, including
20 petroleum, fuel oil, gasoline, lubricating oils, oily sludge, oily
21 refuse, oil mixed with other wastes, liquified natural gas, propane,
22 butane, and other liquid hydrocarbons regardless of specific gravity;

23 (10) "release" means an intentional or unintentional release
24 into the environment of the state.

25 * Sec. 2. AS 46 is amended by adding a new chapter to read:

26 CHAPTER 09. HAZARDOUS SUBSTANCE RELEASE CONTROL.

27 Sec. 46.09.010. REPORT OF HAZARDOUS SUBSTANCE RELEASES. (a)
28 Except as provided in (b) of this section, a person in charge of a
29 vehicle, vessel or container from which, or a place at which, a

hazardous substance is released shall report the release to the department and appropriate public safety agencies promptly after learning of the release.

(b) The commissioner may enter into an agreement with a person for the periodic reporting of a controlled release of a hazardous substance if the release is not into water.

Sec. 46.09.020. CONTAINMENT AND CLEANUP OF A RELEASED HAZARDOUS SUBSTANCE. (a) A person who causes a release of a hazardous substance shall make reasonable efforts to contain and clean up the hazardous substance promptly after learning of the release, unless the commissioner determines

(1) after consulting the Environmental Protection Agency or appropriate public safety agencies, that containment or cleanup is technically infeasible;

(2) that containment or cleanup would cause greater environmental damage than the release would cause if unabated; or

(3) that containment or cleanup would pose a greater threat to human life or health than the release itself.

(b) The commissioner shall develop guidelines prescribing general procedures and methods to be used in the containment and cleanup of a hazardous substance.

(c) If the commissioner determines that the containment or cleanup of a hazardous substance undertaken is inadequate, the commissioner may direct the person undertaking the containment or cleanup to cease and may undertake the containment or cleanup directly or by contract.

(d) If it appears to the commissioner that the cause or responsibility for the release of a hazardous substance is unclear or unexplained, the commissioner may immediately undertake the containment

and cleanup of the release unless the commissioner determines

(1) after consulting the Environmental Protection Agency or appropriate public safety agencies, that containment or cleanup is technically infeasible;

(2) that containment or cleanup would cause greater environmental damage than the release would cause if unabated; or

(3) that containment or cleanup would pose a greater threat to human life or health than the release itself.

(e) The commissioner shall enter into agreement with the Environmental Protection Agency, and may enter into agreements with other persons and municipalities, in order to

(1) facilitate a coordinated and effective hazardous substance release response in the state;

(2) provide for cooperative hazardous substance release notification procedures; or

(3) provide for cooperative review of hazardous substance release response contingency plans submitted to the department.

Sec. 46.09.030. DISASTER EMERGENCIES. The commissioner may request the governor to determine that an actual or imminent release of a hazardous substance constitutes a disaster emergency under AS 26.23. If the governor declares a disaster emergency under AS 26.23, the commissioner may assist the adjutant general in the relief of the emergency.

Sec. 46.09.040. HAZARDOUS SUBSTANCES CONTAINMENT AND CLEANUP. The commissioner may contract with a person or a municipality for personnel, equipment, or services that may be useful to carry out the requirements of this chapter. If the commissioner determines that it is infeasible to contract with a person or a municipality, the commissioner may establish and maintain containment and cleanup personnel,

1 equipment, and supplies necessary to carry out the requirements of
2 this chapter.

3 Sec. 46.09.050. PEACE OFFICERS. Employees of the department
4 designated by the commissioner as enforcement officers in the imple-
5 mentation of this chapter are peace officers of the state.

6 Sec. 46.09.060. COMPACTS AUTHORIZED. The governor may enter
7 into supplementary agreements, reciprocal arrangements, and compacts
8 with another state or country for the implementation of this chapter
9 subject to the approval of the Congress of the United States, if
10 required, under the Constitution of the United States.

11 Sec. 46.09.070. MUNICIPALITIES. (a) If a provision of this
12 chapter or of a regulation adopted by the commissioner under this
13 chapter conflicts with the charter, ordinance, or regulation of a
14 municipality, the provision of this chapter or of the regulation
15 adopted by the commissioner under this chapter prevails.

16 (b) Authority to contain, clean up, or prevent a release or
17 threatened release of oil or of a hazardous substance, and to exercise
18 other powers necessary to implement AS 46.08 - AS 46.09, are granted
19 to municipalities that do not otherwise have that authority. Except
20 as provided in (a) of this section, a municipality may exercise its
21 police power within the area of the municipality.

22 Sec. 46.09.080. REGULATIONS. The commissioner shall adopt
23 regulations necessary to implement the provisions of this chapter.

24 Sec. 46.09.900. DEFINITIONS. In this chapter

25 (1) "commissioner" means the commissioner of environmental
26 conservation;

27 (2) "containment and cleanup" includes the direct and
28 indirect efforts associated with the prevention, abatement, contain-
29 ment, or removal of a hazardous substance, the restoration of the