ALASKA LEGISLATURE COMMITTEE FILES, 1989-1990 8672
5823 HOUSE JUDICIARY

August 8, 1984
Tesoro spills over 120,000 pounds of hazardous waste, DEC approves a grossly inadequate clean up.

January 3, 1985
EPA requests information from Tesoro concerning spills and disposals of hazardous waste.

May 28, 1985
EPA inspects Tesoro and finds multiple hazardous waste violations. Tesoro claims records are kept in Texas but when pressed by inspector, Tesoro admits required hazardous waste records do not exist. Oily tar sludges (which appear identical to hazardous waste) are seen in a road side ditch. Tesoro was apparently illegally dumping hazardous waste, DEC promise EPA it will investigate - no follow up records were found.

July 24, 1985
EPA requests Tesoro for information regarding spillage of hazardous waste.

November 18, 1985
DEC informs Tesoro that it does not have an Oil Spill Contingency plan.

February 6, 1986
EPA conducts an inspection of Tesoro and finds numerous violations.

April 1, 1986
DEC recommends EPA issue a Notice of Violation to Tesoro because of multiple hazardous waste violations.

September 12, 1986
EPA issues a Complaint and Compliance Order because Tesoro ignored the July request for information, Tesoro is fined $38,750.

January 23, 1987
EPA fines Tesoro $19,000 for violations found on February 1986.

June 2, 1987
Tesoro informs EPA that the ground water is severely contaminated.

August 24, 1987
EPA issues a Consent Order to Tesoro because ground water [illegible] a substantial threat to human health

Your Loca

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FDNM 3/11/89

Mapco to pay fine, changes procedures

By BRIAN O'DONOGHUE
Staff Writer

Mapco Alaska Petroleum has agreed to institute new test procedures and pay an $80,000 fine to conclude a 2-year-old investigation into past waste disposal violations at its North Pole oil refinery.

"The whole thing was largely a matter of administrative issues," said Mapco Vice President Buki Wright Jr. "We did agree to pay the fine. Certain administrative procedures have been changed and corrected. But no criminal charges were even considered."

The settlement was publicized this week by the Northern Alaska Environmental Center, a Fairbanks-based environmental group that wants a citizens advisory group created to monitor ongoing clean-up efforts at the refinery.

"It would work to everyone's benefit, because the public would gain more confidence in the methods they're using," said Carl Reller, the center's hazardous waste expert.

Both the testing requirements and the fine arose as a result of inspections by representatives of the U.S. Environmental Protection Agency in March 1987. During those inspections, conducted by the state Department of Environmental Conservation, a number of drums containing hazardous cleaning solvents and refinery by-products were found improperly stored. The company's internal record-keeping and disposal program for hazardous materials were also determined to violate federal guidelines.

According to Wright, the majority of the problems addressed in the consent orders concerned technical violations of the EPA's complex waste monitoring regulations. He denied the environmental center's assertion that EPA determined Mapco has injected waste products into the trans-Alaska pipeline.

"The (EPA consent) order in no way concluded or implied that Mapco has dumped toxic or hazardous waste into the pipeline," Wright said. "We did not put anything into the pipeline — period."

While the consent orders make no reference to the practice, Reller said EPA's file on the oil refinery contains four separate reports, by environmental officials and independent consultants, referring to the possibility such waste injection occurred. The most recent report, produced last September by California consultant A.T. Kearney, states: "Tank 112 stores recovered oil from Tank 192 as well as distillation residues and other process wastes. Material in this tank is piped to TAPS. According to facility personnel, this tank has never been cleaned out."

"Certainly we have to get the return oil back into the pipeline," Wright said when informed of the

(See MAPCO, Back Page)

MAPCO

(Continued from Page 1)

EPA reports. "But nothing collected from the sumps is injected into the pipeline. Those consent orders found we did not put anything hazardous into the pipeline."

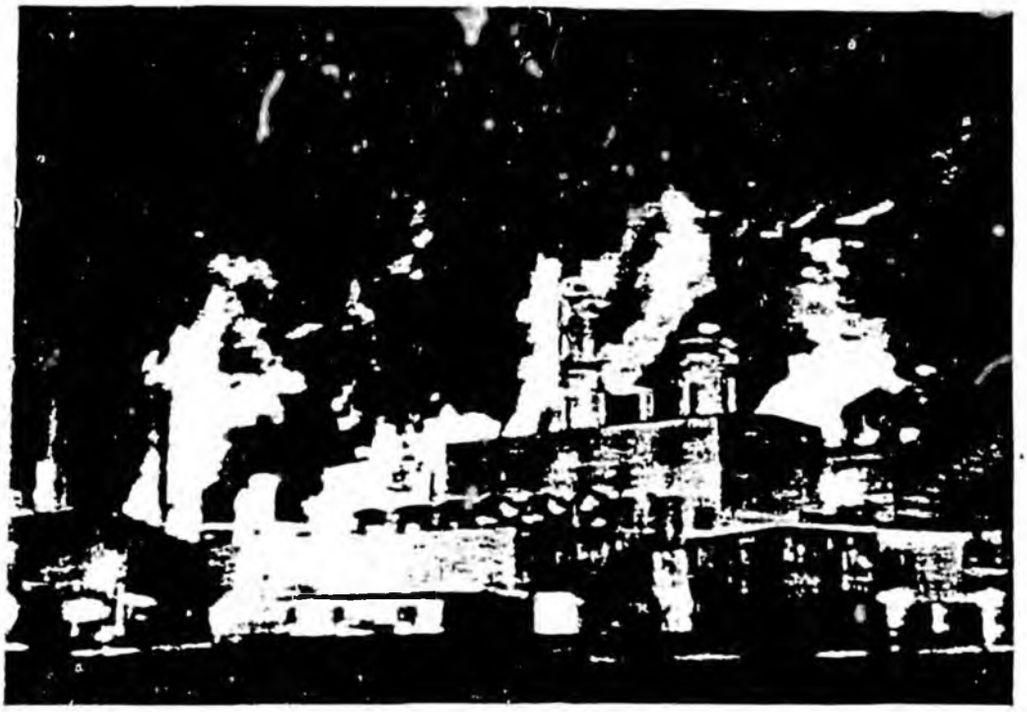
Reller praised the new protections and testing requirements specified in the consent orders. But he and center Executive Director Rex Blazer cite the refinery's past problems as grounds for opposing development of the Arctic National Wildlife Reserve.

"The situation at Mapco is extremely disturbing in light of other serious compliance problems stemming from North Slope oil development," Blazer said. "If this sort of thing is going on right next to our major population centers and indeed, within a few miles of regulatory agency offices, how can we trust the oil industry to operate in compliance with environmental laws in the distant and more sensitive lands of the Arctic National Wildlife Reserve?"

Wright believes the center's interest in Mapco's clean-up plans is rooted in the controversy over opening the refuge to development.

"There's nothing new about this," he said. "This whole thing is just a ploy to discredit ANWR. It has very little to do with Mapco."

An Environmental Compliance Audit of the Oil and Gas Industry Kenai, Alaska



An Environmental Compliance Audit of the Oil and Gas Industry Kenai, Alaska

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Alaska Conservation Foundation

cover photograph: a night picture of the Unocal-Mitsubishi chemical manufacturing plant, the largest urea/ammonia plant in the world

November 17, 1989

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photographs by Carl Reller

1. Introduction

The Kenai peninsula oil and gas fields provide raw materials for world class petrochemical industries. A small town of Kenai, called Nikiski hosts four major industrial facilities on less than one square mile, including the world's largest nitrogen fixing chemical manufacturing plant, North America's largest exporter of natural gas, and two petroleum refineries. Petrochemical industries are well known for causing substantial pollution in other parts of the United States. Prior to this study there was never a comprehensive evaluation of the pollution discharges, record of violations, or adequacy of enforcement for the Kenai industries.

1.1 Purpose

The objective of this report is to find out the how much pollution escapes into the environment and if current pollution control laws are adequate in scope and enforcement.

1.2 Scope

Research concentrated on a cluster of four petrochemical plants in Nikiski during a period of operation from the late 1950's to January 1989;

Chevron USA Refinery,

Phillips-Marathon-USX Refinery,

Tesoro Alaska Refinery, and the

Unocal-Mitsubishi (formerly Colliers) plant.

These facilities were selected for investigation because of their proximity to human habitation and potential to pollute. Other oil and gas facilities may be responsible for substantial regional environmental degradation but are not part of this study because available funds limited the scope. Further research is needed to determine the pollution problems of off shore platforms, reserve pits, and oil production facilities.

An additional section is dedicated to the Trading Bay production facility. As Trading Bay is an old facility it is expected to represent long term trends in environmental pollution, regulation, and enforcement.

1.3 Method

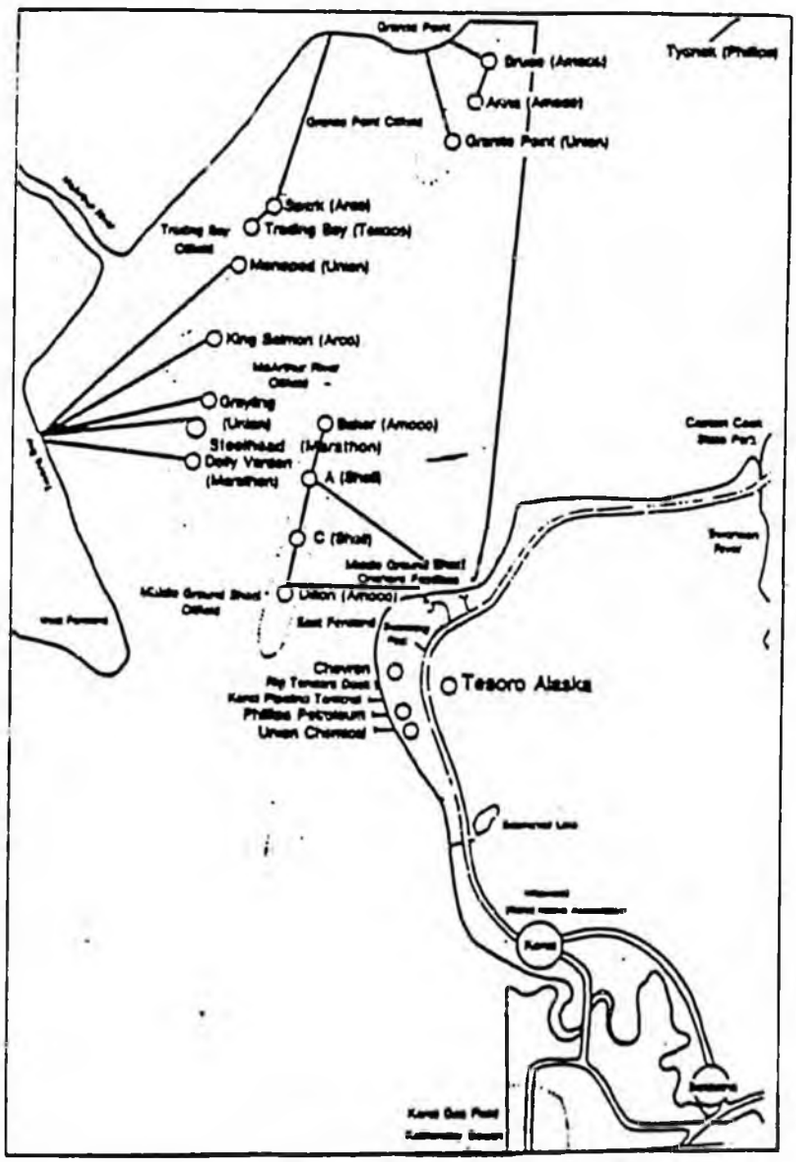
I reviewed approximately 20,000 pages of public records from state and federal agencies. Industry files are not available for public review. For the early years of facility operation few records existed. Every attempt was made to thoroughly research each facility file. All information presented is accurate, however more information may exist which could change the conclusions and recommendations.

Information is organized similar to the mass balance model required of the Environmental Protection Agency (EPA) by the U.S. Congress in Superfund (CERCLA paragraph 313 (1)). There is increasing national recognition that current pollution control practices often only shift waste from one environmental media to another. Consequently, this report divides environmental pollution into the three media of air, water and soils. It is through these media that adverse effects of pollution are transferred between each other and to living things. The contamination of each media is reviewed in relation to the adequacy of current laws to prevent or reduce environmental degradation.

2. Facility Descriptions

The oil and gas industry can be divided into the three operations called well head, production, and petrochemical.

Offshore Platforms and Processing Plants



Well head facilities operate both on and off shore. On shore, 14 oil and gas fields flank the sides of Cook Inlet, off shore seven fields span 40 miles of ocean waters. Both exploratory and production wells generate liquid, solid, and airborne wastes. Liquid wastes are composed of "drilling muds" (a mixture of barium based clay sometimes with diesel or mineral oils and numerous other additives), brine (salt solutions from the oil formation), oil/water mixtures, and oily soapy waste water from washing down the oil rig. The bulk of solid wastes are dewatered drilling muds, used drill pipe, and discarded chemical containers used in drilling mud. Large volumes of air pollutants are released from power generating gas turbines and gas flares. This report did not attempt to evaluate the pollution from well head operations.

Production facilities are defined for purposes of this report to mean centralized collection/processing plants, and oil terminals. Oil leaving the well head contains water. The water comes from brines and chemicals solutions; such as, polyacrylamide used to enhance the recovery of oil. Oil is separated from water using gravity, heat, and emulsion breaking chemicals. After as much oil as possible is removed from the oil/water mixture a residue remains. Three disposal

methods are used for oil/water waste. Liquids with a high percentage of oil are flared in an open pit. Liquids with a high percentage of water are dumped into Cook Inlet. Oily sludges are dumped into pits. After oil is sufficiently clean it is sent to an oil terminal where it is stored before shipment aboard ocean tankers. Oil terminals generate oily sludges from the storage tanks, volatile hydrocarbons from tank and tanker venting, and ballast water. This report did not attempt to evaluate the impacts of production facilities other than a few comme. about Trading Bay.

2.1 Petroleum Refineries

The three Nikiski refineries are Chevron USA Refinery, Phillips-Marathon-USX Petroleum Refinery, and Tesoro Alaska Refinery. Together they make gasoline, jet fuel, fuel oils, asphalt, and export more natural gas than anywhere else in North America. Production began between 1964 and 1969. Current petroleum production capacity is 2.6 billion gallons a year.

If the combined annual production capacity was placed in 55 gallon drums and put end-to-end the drums would encircle the globe with enough left over to reach from Prudhoe Bay to San Francisco.

Phillips-Marathon-USX Natural Gas Refinery

2.2 Chemical Plant

Adjacent to the refineries is the Unocal-Mitsubishi facility also called the "Collier Plant" (original owner), the world's largest chemical plant dedicated to the manufacturing of ammonia and urea. Over 3 billion pounds of nitrogen based chemicals are produced annually - equal to 2% of the world's annual nitrogen fixing by soil bacteria (Garrels, Mackenzie,& Hunt 1975).

2.3 Petroleum Production Facilities

Trading Bay and Granite Point are collectively the largest oil production facility in Alaska (Cox 1988). Shell also operates a production facility on the East Forelands.

At the production facilities a mixture of approximately 40% oil and 60% water is treated chemically and physically to enhance separation. Approximately two hundred million gallons of oily waste water is dumped into Cook Inlet each year. The oily water is contaminated with biocides and chemicals. Biocides inhibit the growth of microorganisms in production

equipment. Acutely toxic chemicals such as polyacrylamide are injected underground to enhance oil recovery. The recovered oil is partially emulsified and more chemicals are added to extract additional oil. From the Marathon-USX facilities oil is piped 41 miles to the Drift River oil tanker terminal. The contaminated water is discharged into Cook Inlet.

2.4 Hazardous-Toxic Waste Sites

This report does not evaluate the hundreds of hazardous and toxic waste sites in Kenai. Further study is needed to investigate the known 60 drilling mud pits, 9 area wide injection wells, roads oiled with PCBs, and dumps - whether they be legal, illegal, "special" industrial, or military.

3. Air Pollution

Air quality is the single most important environmental requirement. Excessively poor air quality can cause death within minutes. Air pollution is unique for another reason, air pollution travels everywhere and affects all people. A single air pollution incident such as Cherynobal can impact the entire earth in less than ten days.

Unocal-Mitsubishi Chemical Manufacturing Plant

3.1 Totalled Pollution

The four Nikiski facilities annually dump over 60 million pounds of pollutants into the air, Table 1, more than enough to exceed National Air Quality Standards across the entire state of Alaska to a height of 250 feet.

Table 1

Annual Air Pollution from the
Nikiski Petrochemical Industry

pounds		toxic waste	source
30,000,000		ammonia	vents, stacks, leaks
19,000,000	*	nitrogen oxides	stacks
5,400,000	*	carbon monoxide	stacks
4,300,000		hydrocarbons	fugitive
3,400,000		methanol	cooling tower, vents
2,400,000	*	particulates	stacks
1,000,000	*	sulfur oxides	stacks
1,000,000		hazardous waste-arsenic	alleged burning
73,000		benzene	fugitive
45,000		xylenes	fugitive
32,000		chloroform	cooling towers
31,000		toluene	fugitive
18,000		1,1,1 trichloroethane	mixed with waste oil
17,000		cyclohexane	fugitive
13,000		ethylbenzene	fugitive
4,000		formaldehyde	vents, stacks, leaks
500		naphthalene	fugitive
100	*	lead	waste oil burning
34		ethylene dichloride	fugitive
22		polycyclic aromatics	waste oil burning
1		chromium	waste oil burning
5		ethylene dibromide	fugitive
2		cadmium	waste oil burning
67,000,000		total	

* regulated by the Clean Air Act

compiled from current state air permits, Alaska Air Toxics inventory (Radian 1986), and facility reports required by Superfund section 313 of Title III Emergency Planning and Community-Right-to-Know Act

3.2 Regulation

The Clean Air Act commands that primary ambient air standards be set by reference to public health and not economics, although there are many economic concessions granted to special interests (West 1988). Regulations focus on suspended particulates, lead, and the listed oxides of sulfur, nitrogen and carbon. The other air pollutants are currently unregulated.

Only "large" facilities are effectively regulated. Large means a facility could emit 40 tons per year of a specified air pollutant. If a facility meets the 40 tons threshold then the facility may calculate potential affects on air quality. If models predict that an ambient air quality standard could be exceeded then "best available control technology" may be installed. The Clean Air Act contains numerous exemptions; for example, a facility can adjust emissions to 39.99 tons/year to avoid the 40 tons/year regulation - called PSD avoidance (PSD means Prevention of Significant Deterioration), old and poorly functioning facilities are grandfathered, and considerations are made for "excessive" costs.

In Alaska, the state is authorized to regulate industries using the Clean Air Act. If a state does not pursue Clean Air Act enforcement the federal government is obliged to enforce when the state will not.

3.3 Compliance

Only 41% of the air pollution tonnage is even considered for regulation. The inadequacy of the Clean Air Act to consider all emissions is further compounded by numerous violations. Little is known about the real impacts of these air pollutants. During a controversial permit hearing regarding expansion of the Tesoro refinery the state agreed to monitor and sample the air. After years of equipment failure and reallocation of resources air quality monitoring equipment was installed (while this report was being written), but the data and the evaluations are not currently available. It is not uncommon to see a large cloud of atmospheric pollutants hover over Nikiski.

Phillips-Marathon-USX

For 18 years waste oil of unknown composition (analyses not found) and refinery gasses were frequently dumped into a flare pit and burned in violation of air quality standards (Lucky 1986a).

Tesoro

Within the last year this refinery knowingly built new sources of air pollution without prior authorization, a violation of the Clean Air Act (Grantham 1988a, 1988b).

Unocal-Mitsubishi

On going violations include non compliance with the Clean Air Act limitations on suspended particulates (O'Neal undated). In response to over a decade of violations the Alaska Department of Environmental Conservation (DEC) has done the following:

* stopped recording violations (Schulz 1987),

* requested EPA not to issue an enforcement letter to Unocal (Kelso 1987),

* promised Unocal to refrain from fines or legal action for past violations (DEC 1987), and

* amended state air quality regulations to create a specific exemption for Unocal's air emissions (Verrelli 1988).

Trading Bay

The Trading Bay facility operates an open flare pit of questionable construction and efficiency which has received two Notices of Violation (Crawford 1988c). The flare pit is hole in the ground into which a flare tube is aimed (MacClarence 1985a). Toxic and dangerous chemicals are pumped into the upside down flare tube under conditions that produce an uncontrolled exhaust plume. A loophole in state air quality regulations allows this "device" to operate without a permit (Williams 1976, Lamoreaux 1984, MacClarence 1984, Verrelli 1984). A special attachment to the combustion device exempts the burner from regulations (MacClarence 1983), when the attachment was removed to burn a large volume of unspecified toxic waste the resulting uncontrolled burn destroyed the part of the combustion device (Brooks 1983).

4. Water Pollution

Polluted water is a serious problem. Once in the water dissolved and suspended pollutants flow without restraint impacting water quality far from the pollution source.

Ground water can flow hundreds of feet in one day, rivers hundreds of miles, and ocean currents eventually travel around the world. Surface water pollution in the Gulf of Alaska can rotate around in the Bering sea returning in only several years. Deep oceanic polluted water will find its way to the equator and back. Oily water once in the marine environment takes hundreds (near shore) to thousands (offshore) of years to completely biologically degrade.

4.1 Totalled Pollution

Surface Ocean Water

Nearly seven million pounds of toxic wastes are dumped into Cook Inlet each year by the four Nikiski facilities alone, this does not include the weight of the polluted water.

The water receiving this pollution is called Cook Inlet, well known as having some of the world's highest tidal fluctuations. However parts of Cook Inlet are not well mixed. In places water simply flows back and forth or around and around in large rotary currents. A potential exists for pollutants concentrating over time instead of dispersing. This problem is recognized but has not been adequately studied.

Tesoro Alaska Refinery

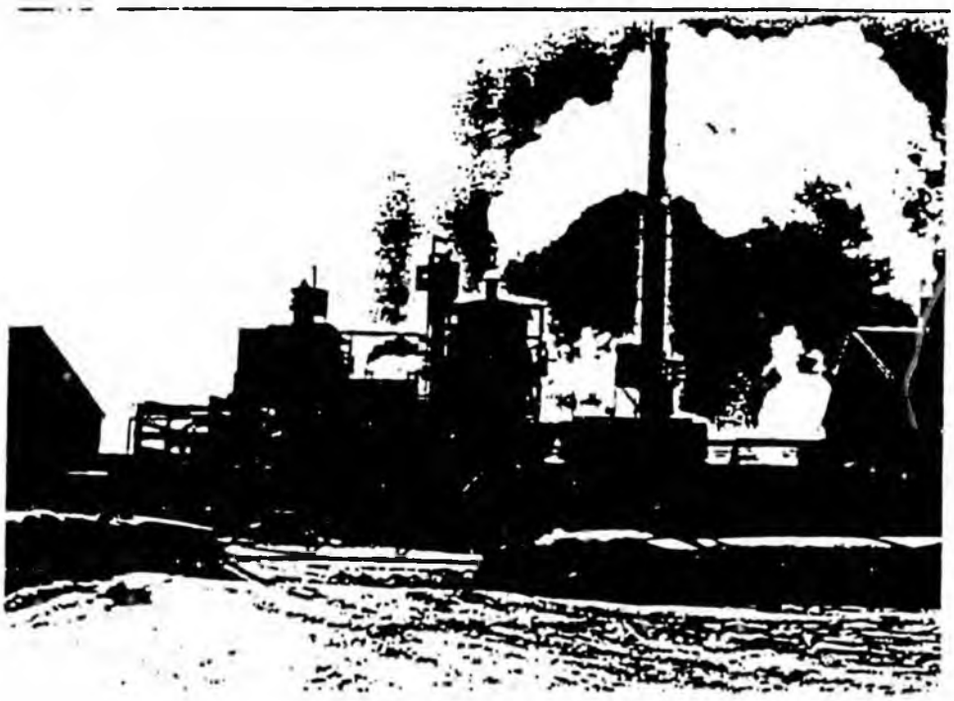


Table 2
Annual Oceanic Water Pollution from the
Nikiski Petrochemical Industry

pounds		toxic waste
3,300,000	*	nitrogen compounds
2,400,000	*	sulfuric acid
690,000	*	unidentified suspended solids
140,000	*	oil and grease
18,000	*	zinc
7,000		ethylene glycol
2,500		1,1,1 trichloroethane
970	*	chromium
460	*	phenols
550	*	sulfide
370		polynuclear aromatic hydrocarbons
200		cyclohexane
200		xylenes
130		benzene
60		toluene
7		ethylbenzene
7		arsenic
7		cadmium
4		nickel
4		cyanide
6,500,000	total	

* regulated by current Clean Water Act permits

compiled from current EPA National Pollution Discharge Elimination System permits (NPDES), DEC waste water permits, and facility reports required to Superfund section 313 of Title III Emergency Planning and Community-Right-to-Know Act

Ground Water

Ground water pollution data is difficult to calculate. Leaking piles and pits of waste; such as the Sterling Special Waste Site, Tesoro's hazardous waste surface impoundments, and drilling mud pits, leak at undetermined rates over a long period of time. Oil spills contaminate not only the aquifer but soils above the water table which release hydrocarbons for decades.

Because of the lack of data on volumes of contaminated ground water two examples were chosen. The volumes of waste illustrated here do not account for the fact these waste mingle with clean ground water making the total amount of pollution much greater.

If we want to find out how much ground water is eventually polluted we need to have sufficient monitoring wells to determine the extent of contamination. I could not find a single waste site with an adequate number and types of monitoring wells. Therefore all I can say is there is a much larger amount of ground water pollution than listed here.

In calculating the data for Table 3 information was used from only three sites, Phillips-Marathon-USX refinery, Unocal-Mitsubishi chemical plant, and a Unocal underground injection well.

Table 3

Contaminated Water Dumped
Annually into the Ground Water
Without a Permit or in
Violation of Permit Conditions

pounds	toxic waste in water
92,000,000	ammonia, arsenic, urea, phenols
52,000,000	groundwater contaminated from a hazardous waste site
144,000,000	

compiled from current EPA Safe Drinking Water Act Underground Injection Control permits and DEC waste water files

4.2 Regulation

Two regulations control water pollution the Clean Water Act and the Safe Drinking Water Act. It is the national policy of the Clean Water Act to prohibit the discharge of toxic

pollutants in toxic amounts (Federal Water Pollution Control Act 1988). However the standards for discharge are more commonly based on physical observations rather than precise chemical analysis. For example off shore oil platforms and major oil production facilities must not have a visible oil slick or floating solids. The serious problem of cancer risks associated with dissolved benzene and other aromatic hydrocarbons is disregarded.

The Safe Drinking Water Act authorizes the injection of toxic and hazardous waste into the ground water. Alaska is authorized to permit oil and gas industrial waste disposal. The federal government permits the injection of hazardous wastes. Under ground injection wells nationally account for the majority of all hazardous waste disposal. In Alaska under ground injection wells operate with minimal if any restrictions at all.

4.3 Compliance

Phillips-Marathon-USX

A cluster of shallow underground injection wells on the Phillips facility, dumps contaminated water without a state or federal permit.

Marathon-USX

The oil production facility dumped waste water onto wet lands and Cook Inlet without permits (Erickson 1986, Soderlund 1984). Additionally Marathon Oil sued EPA in the Fifth Circuit Court of Appeals to an effort to relax their permit requirements (Geren 1987). Marathon lost the case and EPA subsequently proposed Administrative Orders under section 309 of the Clean Water Act requiring Marathon to change the facility and cease discharges to the wetlands.

Tesoro

Tesoro reported a "small underground oil spill' that grew from 40 to 2,[illegible] to 150,000 gallons, to 700,000 (Crawford 1988b, Chappell 1988). Ground water under the refinery is polluted, now known to have as much as three feet of pe[illegible] oleum product on the water table, causing Unocal to abandon a water well.

When Tesoro increased production [illegible]apacity the allowable pollution increased (Bowker 1986). Studies have shown the refin[illegible]y water pollution effluent to be so toxic that all speci.s subjected to a 1:10 dilution were killed and even a 3% mixture severely affected reproduction (Duncan 1987).

Unocal-Mitsubishi

The Unocal permit based allowable amounts of pollution on a mixing zone, yet when the pipe diffusers become plugged the pipe was cut underwater, thus negating the permit mixing zone calculations (EPA 1988).

Unocal dumped hazardous and toxic waste into both surface and ground waters in violation of both state and federal regulations, some examples follow.

* By pouring "only" 4 barrels at a time into Cook Inlet, Unocal attempted a "midnight clean up" to dispose of over 50,000 pounds of a hazardous waste containing methanol and formaldehyde, in violation of the Resource Conservation and Recovery Act Clean Water Act (Burd 1987a).

* Over 200 unpermitted underground injection wells are used to dump contaminated water, in violation of Alaska waste water discharge regulations (Lucky 1984a). Additional unpermitted wells are allowed under a "gentleman's agreement" (Turner 1984). The ground water under the plant is contaminated with arsenic, ammonia, and urea.

* An underground injection well exceeded pressure limits and injected prohibited waste, a violation of permit conditions (Burd 1987b)

Unocal claimed their carcinogenic arsenic containing hazardous waste is "less toxic than table salt" (Turner 1983). Unocal's lack of concern for the public health is illustrated by the use of human subjects for a taste and odor panel used to screen contaminated water. A claim was made "Should any contaminated water somehow reach a domestic water well, the water would acquire a detectable taste or odor prior to becoming hazardous." (Scott 1975).

Compliance problems are complicated by the multiple authorities of state and federal regulatory agencies. Consequently pollution problems are not addressed in a comprehensive manner. For example, the following actions occurred in response to water pollution problems at Unocal.

1. Groundwater investigation was transferred from RCR to Superfund (Miller 1985).

2. Because of the contaminated ground water an unpermitted air releases the Superfur investigation calculated a Hazard Ranking Syst

score (called an HRS score) over 30, high enough for National Priorities List nomination (Tryck, Nyman, and Hayes 1987; HRS Documentation file with held from public review).

3. Unocal compliance issues were reassigned back to RCRA.

4. EPA environmental specialists stated that there are neither plans nor schedules to evaluate the ground water contamination issue under RCRA.

After nearly a decade and a half of documented ground water pollution under Unocal neither state nor federal authorities have taken enforcement actions.

5. Contaminated Soils, Sludges, and Spills

The most common forms of solid waste management at the Nikiski petrochemical facilities is "dump waste on the ground or spread it on the roads." As a consequence industry

disposes of their waste where convenient - in their back yard, where cheap - at inadequately permitted "special waste" dumps, or even illegally in gravel pits.

5.1 Petroleum Refineries

All three refineries generate some "listed hazardous waste" as defined by 40 CFR 261.32. Not all the refineries generate all of these wastes.

Chevron Refinery

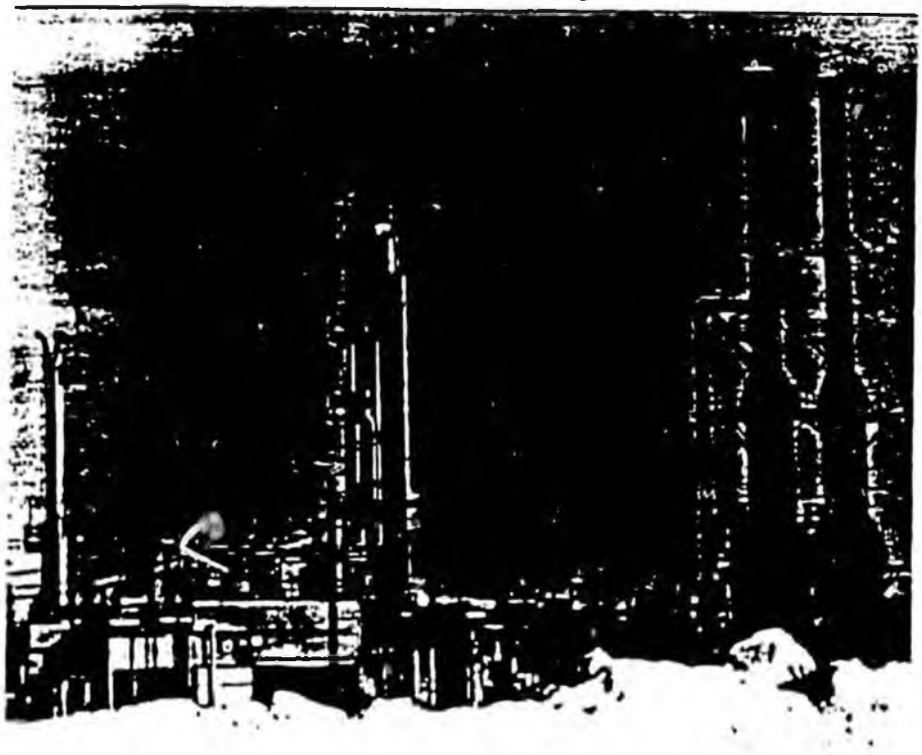


Table 4

Listed Hazardous Waste Common to Petroleum Refineries

Hazardous Waste	EPA No.
dissolved air flotation float	K048
slop oil emulsion solids	K049
heat exchanger cleaning sludge	K050
API separator sludge	K051
leaded tank bottoms	K052

Tesoro

Past hazardous waste practices resulted in fines totalling $57,750 (Caldwell 1986, and Findley 1987). The hazardous waste violations include the following.

1. Tesoro dumped hazardous waste into unlined pits dug in porous soils (Findley 1987).

2. Hazardous waste was pumped out of the pits and spread on public roads (Necessary 1988).

3. Hazardous waste was illegally stored and shipped (Fuentes 1984).

4. Hazardous waste solids were allegedly recycled. Unacceptable uses included making disposal pits walls out of hazardous wastes sludge (Torok 1983).

Tesoro generates 10,000,000 pounds of elemental sulfur each year. Sulfur is dumped on the ground without a permit.

Chevron

At least three kinds of hazardous waste are generated at the Chevron refinery. In the past, Chevron dumped their hazardous waste both at the Sterling Special Waste Site and in pits at the rear of Chevron property (TetraTech 1984, Rice 1985). Currently, hazardous waste solids are added to consumer products (Burgh 1987a), this disposal method is not approved by RCRA. Solids derived from hazardous waste are not eligible for recycling (40 CFR 261.1). Chevron was twice served Notices of Violations for noncompliance with hazardous waste laws (Alexakos 1987). Other improper practices include dumping oil filter waste on roads for the purpose of disposal (Williams 1984).

Phillips-Marathon-USX

API separator sludges, which are listed hazardous wastes, are not stored, treats, and/or disposed as required by RCRA. Waste oil, possibly mixed with API hazardous waste is dumped on the ground with the intent of disposal (Burgh 1987b).

Filter charcoal contaminated with arsenic and mercury is analyzed for toxicity using EP-tox, an inappropriate and inapplicable test method considering the requested disposal methods (Patterson 1988). EP-tox tests used are intended to determine if waste should be in single or triple lined permitted landfill, in either case a permanent cap is placed over the waste. The EP-tox test results were used to justify dumping the contaminated charcoal on roads as "road oiling", rather than managing it as solid waste. The most recent incident involved 22,000 pounds of contaminated charcoal.

5.2 Chemical Plant

Solid waste problems are evident in two areas; solids and sludges, and hazardous waste.

Unocal-Mitsubishi Solids and Sludges

Unocal dumps toxic waste on facility grounds (Table 5) using waste for fill or simply dumping it in gravel pits.

Table 5

Toxic Waste Dumped Annually on the Ground at the Unocal-Mitsubishi Chemical Plant

pounds	waste	type of toxic waste
3,600,000	sludge	metals
470,000	catalyst	metals
16,000	resins	synthetic polymers
4,086,000		

Each day 10,000 pounds toxic metal sludges are dumped into gravel pits, an analysis of the sludge appears in Table 6 (Unocal 1980, EPA 1988).

Table 6

Toxic Metals Found in
Unocal-Mitsubishi Chemical Plant Sludge

toxic metal	concentration (ppm)
arsenic	3,300
cadmium	3
chromium	230
copper	25,500
lead	160
nickel	161
zinc	250,000

(Tryck, Nyman, and Hayes 1987)

Unocal generates one half million pounds of catalyst each year. Laboratory testing in 1983 indicated used catalysts are hazardous waste due to high levels of extractable chromium. Unocal repeated laboratory analyses until the

catalyst passed EP-tox tests, and then declared their waste "safe". Intra-laboratory differences of more than 100, between three separate labs were not resolved (Heus 1983), and the catalyst waste was "declared" non hazardous. Used catalysts are dumped on the ground, used for fill, and buried (Tryck, Nyman, and Hayes 1987). No solid waste permits were found for these disposals.

Industrial accidents include Unocal dumping more than 800,000 pounds of air pollutants in a single incident (Tryck, Nyman, and Hayes 1987). Major spills of ammonia such as this occur on a regular basis, usually two or three times a year (Crawford 88a). As a result of spills and inadequate operating procedures off site air monitoring instruments have exceeded maximum readings for six hours at a time (Lucky 1985). These recurrent problems prompted a proposal for an ambient air standard for ammonia; however the proposal is stalled largely due to Unocal-Mitsubishi pressure on the DEC (Merrill 1988). Another dangerous incident occurred during an unregulated and unapproved clean up of a hazardous waste spill (formaldehyde and methanol) toxic gasses escaped in an uncontrolled chemical reaction, (Turner 1982) spreading across public roads and endangering both people and

industrial facilities; including potentially explosive liquid natural gas tanks (storage for the largest exporter of gas in North America).

Hazardous Waste - Waste Oil

In a single incident, Unocal attempted to dispose 70,000 pounds of drummed hazardous waste by giving it to the City of Kenai for road oiling (White 1986). The oil was hazardous waste because it contained excessive amounts of halogenated solvents, in addition to significant but unregulated amounts of arsenic, cadmium, chromium, and lead (Laurie 1987). After several years in storage the hazardous waste was moved from city storage yards back to the chemical plant. No records of manifests, storage facility permits, or other required RCRA reports were found in the public record.

Current solvent disposal methods at Unocal include dumping halogenated solvents into waste oil (Tryck, Nyman, and Hayes 1987, Burgh 1986). This practice is clearly prohibited by RCRA.

Hazardous Waste - Formaldehyde

Illegal disposal into Cook Inlet of formaldehyde hazardous waste was discussed in section 4.3. Unocal also dumped an undetermined amount of formaldehyde at the Sterling Special Waste Site (Burgh 1985).

Hazardous Waste - Arsenic

Unocal "burns" arsenic contaminated oil calling the practice recycling. Each year over one million pounds of hazardous waste is sprayed into a boiler not originally designed to burn hazardous waste, 10% goes up the stack and 90% accumulates within the boiler and must be scrapped off by hand thus increasing worker health risk (MacClarence 1985b, Unocal 1987) .

Arsenic hazardous waste spills are managed by a system of alleged recycling. Arsenic laden hazardous wastes (soil, rags, etc) are washed with hot water (Unocal 1987). The arsenic contaminated wash water is dumped into a lagoon on Unocal property (Laurie 1985a). According to Unocal the

arsenic is recycled into plant processes; but according to other Unocal documents this claim is suspect because incoming plant water must be deionized and cleaned prior to use, Unocal cannot use dirty water (Turner 1983). Residual arsenic in waste water cannot be recycled for the intended use of corrosion inhibition because sodium arsenite is a reactive compound and will not retain it's anti-oxidant properties when haphazardly mixed with dirt and hot water. Additional evidence is provided by the fact arsenic precipitates into lagoon sediments (Tryck, Nyman, and Hayes 1987) as opposed to Unocal's claim arsenic is recycled.

Serious and chronic problems concerning storage and spillage of hazardous waste exist at the chemical plant. The following problems were found.

* EPA stated that Unocal violated the same RCRA storage regulation as many as three times in only four months (Findley 1984).

* In a single year as much as 640,000 pounds of hazardous waste were spilled at the chemical plant (Lucky 1984b).

* A Superfund investigation revealed hazardous waste and hazardous substance spills were a common problem. Between 1983 and 1985 there were seven reported major hazardous waste spills (Tryck, Nyman, and Hayes 1987).

* Unocal ignored RCRA regulations and stored over 140,000 pounds of hazardous waste in violation of 40 CFR 270.71. Further mismanagement resulted in unreported spillage from bulldozers knocking over drums of hazardous waste (Smith 1984).

* Over 1,000,000 pounds of hazardous waste is generated and stored each year at the Unocal plant. Two large hazardous waste tanks (190,000 pound total capacity) are called "temporary" and do not have RCRA permanent tank permits (Laurie 1985b).

* A Superfund investigation revealed hazardous waste and hazardous substance spills were a common problem. Between 1983 and 1985 there were seven reported major hazardous waste spills (Tryck, Nyman, and Hayes 1987).

* Unocal ignored RCRA regulations and stored over 140,000 pounds of hazardous waste in violation of 40 CFR 270.71. Further mismanagement resulted in unreported spillage from bulldozers knocking over drums of hazardous waste (Smith 1984).

* Over 1,000,000 pounds of hazardous waste is generated and stored each year at the Unocal plant. Two large hazardous waste tanks (190,000 pound total capacity) are called "temporary" and do not have RCRA permanent tank permits (Laurie 1985b).

5.3 Petroleum Production Facilities

Marathon illegally operated disposal pits with expired permits at the Trading Bay facility (Crawford 1988c). The pits contain a mixture of oily sludges and toxic waste. Monitoring wells show contamination of the water and soils.

Oil spills are managed by dumping oil contaminated dirt on local roads in violation of DEC regulations (Cannone 1985, Curtis 1987, Lucky 1986b, c, d, e, & f).

5.4 Regulation

Laws controlling "solid waste" are the most complicated environmental regulations in effect today. Each law has numerous exemptions, exceptions, and special cases for large industries. For example oil spills are exempt from Superfund, and most mining and oil and gas industrial wastes are exempt from RCRA. Sludges from waste water treatment lagoons are left entirely to local control.

RCRA and Solid Waste

The Resource Conservation and Recovery Act (RCRA) regulates "hazardous waste". It is not easy to determine if a waste is a hazardous waste. How the waste was generated can be "more important" than the actual type and volume of waste. For example methanol used by the oil and gas industry for exploration and development is exempt, but methanol used by a local gas station is regulated. Methanol waste caused several young people death on Alaska North Slope.

Some kinds of hazardous waste can be declared nonhazardous if mixed with sufficient clean dirt. If other kinds of hazardous waste are mixed with clean material then the whole mixture is classified as hazardous waste. It is beyond the scope of this paper to describe the numerous shortfalls of hazardous waste laws.

Superfund

The Comprehensive Environmental Response Compensation and Liability Act (CERCLA or Superfund) evaluates the threat to public health from past disposals. As with RCRA there are exemptions. Oil and petroleum waste is excluded. There are two serious flaws with Superfund. The first is that sites are ranked using a hazard ranking system (called an HRS score), if the score is above 28.4 the EPA may nominate the site to the National Priorities List (NPL), and begin clean up activities. If the HRS score is below 28.4, action is seldom if ever taken. A serious consequence of the scoring system is that clean ups are unlikely in villages and towns with big problems but small populations. The second flaw lies in the fact the scoring process is subject to polluter pressure. The polluter may be large and internationally based, such as a mining company or oil and gas related industry, or even state government itself. Members of the affected public are not allowed to review the score. Contributing to the problem EPA has claimed "executive privilege" and exempted itself from the Freedom of Information Act regarding HRS score disclosure.

5.5 Compliance

RCRA and Solid Waste

Enforcement of RCRA is shared between DEC and EPA. Currently DEC conducts facility inspections and EPA is responsible for the enforcement. Inspections are infrequent and often superficial, DEC has never taken a sample from any of the four Nikiski facilities for RCRA enforcement (Dietrick 1988a). With a single exception, enforcement actions and fines resulted solely from anonymous complaints.

Enforcement of Alaska solid waste regulations is usually voluntary. Monitoring requirements are limited, post closure plans absent, and applications non existent for most oil and gas drilling mud disposal pits. New solid waste regulations were enacted by DEC but recent applications show little change from past practices.

What are these?

Superfund

Officially there are no sites within the Kenai peninsula that score above 28.4, however the Unocal-Mitsubishi chemical plant has an HRS score of 33. The public is not allowed access to the EPA record. DEC has cooperated with EPA in with holding HRS scoring information.

Several sites are undergoing "voluntary clean up" efforts; such as, the Union Oil Gravel Pit dump near Poppy Lane, an AMOCO production facility, and the Sterling Special Waste site. An informal use of "technical assistance" is the predominate method of enforcement. Compliance Orders, clean up standards, and procedures pertaining to remedial actions were not found. Little if any official correspondence or documentation is available. Currently the public has great difficulty or may face impossibilities when attempting to find out if a site was adequately cleaned up or even the standard of how "clean is clean".

6. Conclusions

After tabulating the mass of pollutants, analyzing the violations, checking on enforcement actions, and evaluating the compliance records three problems are evident.

1. POLLUTION

Although nearly invisible to a causal observer the Nikiski petrochemical industry generates and dumps a lot of pollution each year:

2,300 tons on the ground,

3,200 tons into the ocean,

33,000 tons into the air.

These wastes do not include wastes from oil and gas drilling, production facilities, or underground injection, wastes which are greater in volume but lower in toxicity.

Nor do these numbers include waste generated from the clean up of hazardous - toxic waste sites which could be in excess of 100,000 tons for a single site with great variations in toxicity.

2. VIOLATIONS

Violations of pollution control laws are a frequent occurrence. Some industries have chosen to simply ignore existing laws, others violate them on almost a daily basis.

3. ENFORCEMENT and COMPLIANCE

Laws with sole federal jurisdiction have the best compliance record (Clean Water Act).

Federal laws the state is authorized to enforce have a poor compliance record (Clean Air Act and Resource Conservation and Recovery Act).

State laws without federal jurisdiction are almost without compliance or enforcement (solid waste, waste water treatment sludges, oil spills, and clean ups not ordered by Superfund).

7. Recommendations

The state of Alaska cannot enforce environmental pollution control laws. Other states which rely on one or two major industries; such as, oil or mining, experience similar pollution control problems. Enforcement actions usually require considerable legal resources. The legal reserves of a multinational corporation greatly exceed those available to a state environmental regulatory agency. In addition regulatory agencies may not have sufficient funding or expertise to inspect, sample, and analyze.

If a federal pollution control law is violated a private citizen has the legal right to enforce that law. Citizen enforcement actions have major positive impacts regarding

compliance with the Clean Water Act in interior and arctic Alaska.

RECOMMENDATION 1

Alaska state law should be amended to allow citizen enforcement of all environmental pollution control laws. Federal provisions for citizen enforcement should be adapted to state law. Precedence in state laws should make this possible. Alaska law allows citizen enforcement in both mining (AS 27.21.950) and oil and gas (AS 31.05.170) activities, such provision should be extended to solid waste and waste water regulations.

RECOMMENDATION 2

Ensure that staff who work in technical assistance are not the same people who conduct enforcement actions. The DEC should have legal assistance dedicated to environmental pollution enforcement. Affected citizens

should have to right to be actively involved in Compliance Orders and enforcement actions.

RECOMMENDATION 3

Potentially affected citizens should be given the right to conduct inspections of facilities regulated under both state and federal law.

RECOMMENDATION 4

The clean up of hazardous - toxic waste sites is arbitrary. A task force composed of regulated industry, victims of improper waste dumping, environmental groups, and independent experts should be formed to develop guidelines for state regulations governing state clean up efforts. Current Alaska law provides for functioning and funding of an Environmental Advisory Board. The governor should appoint this board (AS 44.46.030).

RECOMMENDATION 5

The Cook Inlet general permit is inappropriate for on shore production facilities. A site specific permit such as required by the Alyeska terminal at Valdez should be required for on shore oil production facilities.

Unocal and Chevron

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TESTIMONY BEFORE THE ALASKA HOUSE RESOURCES COMMITTEE

ON HOUSE BILL 565 MARCH 13, 1990

BY GENE BURDEN FOR TESORO ALASKA PETROLEUM COMPANY

There are three points in the proposed bill that I ask be closely considered as the Committee evaluates this bill.

First is in **Section 2 (proposed AS 46.03.758 (b))** which substantially redefines fees for discharge to "environments without significant aquatic resources" from the current level of $1.00 per gallon to a level of up to $50 per gallon. This proposal places the abiotic receiving environments in the same penalty description as those environments with significant aquatic resources. We support a continued separation between the two in regards to the statutory penalty descriptions applicable to each.

Second is in **Section 3 (proposed AS 46.03.758(d))** which deals with situations where a spill affects more than one type of receiving environment. The proposal provides for spiller liability at the rate for the most critical environment affected for the entire discharge unless the Spiller can demonstrate by **"clear and convincing evidence"** the quantities entering each environment. This language not only shifts the burden of proof from the State to the Spiller but also abandons the preponderance of evidence standard in favor of the stricter clear and convincing evidence standard. There is question as to whether this higher

standard can ever be met when the quantities can typically only be identified by engineering projections and opinions.

Third is in Section 5 (proposed AS 46.03.758(f)) which would eliminate the current credit for recovery of spills that occurs after the first 36 hours following the spill. This will have the effect of virtually eliminating the credit for land based spills since they frequently will take more time to characterize, obtain engineering assistance and ADEC approvals for recovery techniques. We support continuation of the credit arrangement and believe it offers a spiller additional incentives to maximize the total recovery possible from a site. The financial implications from any spill can be very complicated; however it appears good policy to retain the offset provisions in current law as additional positive incentive for maximum recoveries.

LEGISLATIVE PROPOSAL

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235-5154

OCTOBER 13, 1989

Corporations would probably be more cautious about their operating procedures if they knew that they would be seriously penalized in the event of a major spill or serious violation of environmental regulations.

In theory the Governor has the authority to stop the flow of oil through the pipeline. The prospect of facing such a penalty would likely command the attention of any potential offending producer.

In reality the Federal Government would be unlikely to allow this to happen. But perhaps a way could be found to deny access to the pipeline on a selective basis, without interrupting the actual flow of oil.

-- develop a regulation that sets the percentage of oil each producer can pump into the line

-- in the event of a catastrophic spill or major violation provide for automatic reduction of the offending company's allocation

-- increase the allocations of other producers to maintain the flow of oil through the line

-- the degree and term of the reduction would be scaled to the magnitude of the offense (these would be great enough to effectively penalize but not destroy the offending company)

-- application of the penalty could be imposed for incidents occurring at any point from production source to point of delivery

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M E M O R A N D U M

MARINE

TO: Representative Cliff Davidson
Representative Curt Menard
Co-Chairmen
House Resources Committee

FROM: Ray Gillespie

DATE: March 21, 1990

SUBJECT: HB 565 and HB 567 - Civil Penalty and Financial Respcnsibility for Non-Crude Oil Distributors

I represent Petro Marine, Delta Western and Crowley Maritime, which are relatively small distributors of refined products, such as marine fuel and petroleum products, rather than crude oil. This memo contains thoughts and comments on the legislation as it may affect owners and operators of distribution facilities in Alaska:

I. Appendix G to the Alaska Oil Spill Commission Report is entitled "The Role of Insurance for the Preparedness and Response to Oil Spills: Liability and Compensation Issues". This report should be carefully reviewed by the Committee and its recommendations seriously examined prior to action on HB 565 and 567. Neither the Alaska Oil Spill Commission report nor Appendix G recommends any specific changes to Alaska liability or penalty laws with respect to non-crude oil distributors.

On the contrary, Appendix G recommends that the Commission and the State Legislature review the analysis of the civil penalty scheme, oil spill liability and compensation thesis, written by W.J. Graham in 1989. This thesis was done at the University of Washington, Institute of Marine Studies and is entitled "Oil Spill Liability and Compensation: A Review of and Evaluation of Alaska's Civil Penalty Scheme." A copy of this paper has been provided to Committee staff.

II. Other Observations and comments on Appendix G:

A. The report references the U.S. Government Accounting Office, 1987 report, which states that the insurance industry has maintained that the basic concerns of underwriting, risk the process of identifying and evaluating risks and setting the premiums to be charged cannot be satisfied when assessing a pollution risk, making them sometimes uninsurable.

B. It suggests that insurance requirements of this nature have historically been addressed through national programs, such as the National Flood Insurance Program, the Flood Disaster Protection Act, the Federal Emergency Management Act and Earthquake Insurance Programs.

C. The House Resources Committee may wish to examine the pertinent provisions of Federal legislation to ensure that HB 567 is coordinated with pending Federal legislation, which may also contain liability provisions according to the report.

D. It may be advisable for the Resources Committee to hear from the author of Appendix G, Mr. Clancy Phillpsborn of Boulder, Colorado.

III. With specific reference to HB 565 and 567, Delta Western, Petro Marine and Crowley Maritime offer the following general comments:

A. Tank facilities owned and operated by these entities are located in the following communities: Unalaska, Nome, Kotzebue, Seward, Dutch Harbor, Kodiak, Nikiski, Anchorage and Juneau. With the exception of one small Anchorage lube plant and a small facility in Juneau, each of these facilities would be subject to the $50 million financial responsibility requirement of HB 567.

B. Earlier testimony before the House Resources Committee by insurance representatives from Lloyds of London and an Anchorage marine insurance broker indicate that $50 million is not available for many small companies operating these size facilities.

The testimony indicated that $10 million might be available, depending upon the particular owner and operator, the size and age of the tanks and the type and nature of mitigation and prevention practices and policies in place at the specific location.

C. The term "realistic maximum oil discharge" as the standard for demonstrating contingency spill plan cleanup capability needs further refinement. The tank farms referenced above range from a single tank to up to 18 tanks. Must these operators be prepared to cleanup a spill that presupposes full loss of the entire capacity of all the tanks, such as resulting from a catastrophic earthquake? If so, what manpower and equipment will be required and are the costs realistic for small operators of tank farms?

D. It is apparent that some kind of transition mechanism should be in place while the new contingency plans are written and approved and the necessary manpower and equipment put on site after the effective date of the legislation and before final approval of the plans.

E. With respect to tanks vessels or barges in excess of 300 gross tons, HB 567 would require $20 million of coverage. This requirement does not necessarily reflect the risk of harm posed by tank vessels or barges nor does it necessarily reflect insurance which may be available in the market place. Much of the refined petroleum products sold in the state are transported by independent barge owners under charter to the distributors, such as Petro Marine, Crowley and Delta Western.

F. There are several other issues that should be addressed by the committee such as:

1. Must operators with multiple farms meet the financial responsibility requirement for each facility or will blanket coverage meet the requirements of HB 567?

2. Will small operators be able to fairly compete with large operators if both must meet the same financial responsibility requirements?

3. Will it be necessary to insure against the civil penalties contained in HB 565 in addition to the financial responsibility requirements of HB 567? See Section 2(j) of HB 567 which indicates that <u>both</u> types of coverage or responsibility must be demonstrated prior to contingency plan approval. If this is true, then the financial responsibility requirements are placed further out of reach for small operators.

4. For tank vessels and barges does the financial responsibility refer to each vessel or is blanket coverage sufficient?

We believe the Committee should seriously consider deleting non-crude from the bills at this time, to allow further examination of the serious and complicated issues surrounding small operators.

Thank you for the opportunity to address these bills. The companies I represent are willing and anxious to work further with the Committee on these bills. We suggest that sufficient time and study be devoted to HB 565 and 567 so that the small operators and distributors of refined products can serve the Alaskan consumer in a safe and efficient manner at reasonable prices.

Oil Reform Alliance

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

March 9, 1990

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Thank you for the opportunity to testify.

Oil Reform Alliance

Governor Steve Cowper
Office of the Governor
Third Floor, State Capitol
Juneau, AK 99811

March 13, 1990

The Oil Reform Alliance is a grassroots coalition among commercial fishermen, environmentalists, and others within and outside Alaska who are dedicated to reforming oil industry practices that impact communities on social, economic, and environmental levels.

The Oil Reform Alliance (ORA) strongly supports the intention of the Governor's oil bill packet (HB565/SB502, HB566/SB503, and HB567/SB504). In the wake of the Exxon Valdez, we find that existing laws are clearly inadequate regarding the State's role in prevention and management of catastrophic oil spills from large facilities and tankers. In addition, we find that there are serious problems with wastes from numerous smaller facilities and operators statewide. We are very pleased with and strongly support the intent of this package to comprehensively address all polluters.

During hearings on this package in Senate Oil & Gas and House Resources, we noticed areas in which arguments for the Administration's position, as presented by DEC, were particularly weak. To augment the passage of this package, both in spirit and in letter, we would like to point out these weak areas so that the DEC could perhaps be better prepared to argue the Administration's position.

HB567/SB504
* Sec. 1

POINT: DEC authority to require and revoke contingency plans.
COUNTER: DEC is currently bottleneck in review process. (BP testified that Prudhoe Bay and Endicott oil spill contingency plans held up by DEC for nearly 2 yrs.) Currently there are over 50 operations without required contingency plans. How does the Dept. plan to address this? By reorganizing? By shifting priorities? By contracting? Present a plan to show how DEC will handle the job created for them in this bill.

POINT: Requiring response to "realistic" maximum oil discharge.

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COUNTER: DEC needs better arguments for requiring redundancy of equipment. Point out that industry is "redundant" in other areas of the world and we expect same redundancy (safety) measures in this state. Use specific examples: DEC sent personnel (Dan Lawn) over to Europe to report on exactly this topic and has the information available!

* Sec. 2

POINT: Proof of financial responsibility increases.
COUNTER: Small operators claim that this will put them out of business. Show that insurance cooperatives are possible. Use examples. What are comparable requirements in other states?

* Sec. 3

POINT: Increasing coverage of bill by reducing exemption from 10,000 to 5,000 barrels of oil.
COUNTER: Provide list of facilities that would be included with this change. Offer proof that these facilities should no longer be exempted; i.e., do any of these have a past history of noncompliance?

* Sec. 4

POINT: DEC inspections of tankers.
COUNTER: Real prevention starts with improved tankers: offer arguments that federal inspection program is weak (high percentage of structural failures in fleet carrying North Slope crude; no certified inspectors). DEC does not have expertise to inspect tankers so offer a plan. How does DEC expect to do this? Fund contractors to do job in California or wherever Alaskan tankers unload oil? How would DEC inspections interface with the Coast Guard inspections? What happens if inspections disagree? Does DEC plan to ban structurally unsound tankers from Alaskan trade? Use as example "Rogue's Gallery" from terminal in Sullom Voe, Scotland: is DEC planning something similar?

Enclosed is ORA testimony in House Resources (3/9/90). Please notice that we support additional changes which we believe will further strengthen the original intent of this package. The ORA has assembled documentation to support most of our arguments which we would be more than happy to provide if your staff are interested.

Local phone: 586-2820

Respectfully,

Dr. Riki Ott

Dr. Riki Ott
President

Laurie Ferguson Craig

TESTIMONY

FOR THE SENATE OIL AND GAS SUBCOMMITTEE

March 5, 1990

Thank you for the opportunity to testify. This piece of art was my initial reaction to the oil spill. Completed only a week after the spill, the ugly black hands were still just reaching out for the innocent creatures that would later fill mountains of plastic bags on the beach.

This graphic has joined with other poignant images of Prince William Sound to carry the message that oil and water are a deadly mix. To date, 500 posters, 45,000 postcards and numerous reproductions of this illustration have been seen all over the world. The Alaska Conservation Foundation has used it to raise funds to clean up and rehabilitate the Sound.

I realize that it takes more than ink and outrage to correct the circumstances that led to the wreck of the Exxon Valdez. In pursuit of information, I read the Oil Spill Commission's Executive Summary, a very readable document filled with common sense recommendations. The last sentence of the introduction compelled me to

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follow the legal trail of the report:

> " Future vigilence vests in the hands of state and federal leaders, industry and public agency officials, terminal operators, tanker officers and crew, technical advisors, and, perhaps most important of all, citizens exercising a watchdog presence and role."

It was that invitation which prompted me to attend the first Commission hearing before the legislature in January, and to continue to pursue this process as a source of information and a hope for prevention of another environmental disaster.

Some of the testimony offered by the experts alarmed me: the age and condition of the tanker fleet; the Coast Guard's greater concern on a national level about crack cocaine than cracked hulls; the statistical provability of minimizing the effects of a spill like the Exxon Valdez by the requirement of double hulls; and the gross negligence which resulted from complacency.

But the one area that impacted me most strongly was the testimony of Professor Zygmunt Plater whose research team pointed out the amazing weakness of Alaska's legal authority to regulate and protect its own resources. One pivotal lawsuit brought the state to its knees and continues to be an axe waiting to fall again. Many of the preventative measures called for in the commission's report were all in place as part of the original program in the late 1970's, but lack of diligence and dollars dissolved them in the wake of the Chevron, et al. vs. Hammond case.

Once again legislation is on the table to restore our legal ability to prevent oil-related disasters, respond when they occur, and ensure

The recovery of the natural environment.

In light of the responsibility incumbent upon you, I'd like to share the words of another artist, playwright and president of Czechoslovakia, Vaclav Havel, who delivered them recently to a joint session of the U.S. Congress:

> " We are still incapable of understanding that the only genuine backbone of all our actions, if they are to be moral, is responsibility. Responsibility to something higher than my family, my country, my company, my success — responsibility to the order of being where all our actions are indelibly recorded and where and only where they will be properly judged."

I urge you to act decisively and with strength and courage on the legislation before you. Statistics indicate that another major oil spill is a matter not of "if", but "when". Perhaps with these measures in place, it won't have to draw another picture like this for a long, long time.

Thank you.

HB-565

Specific comments presented to H. Resources on HB-565

COMMENTS ON SB 502, SB 503, AND SB 504

GOVERNOR COWPER'S OIL & GAS LEGISLATIVE PACKAGE
AND SB 468
PRESENTED TO THE SENATE SPECIAL COMMITTEE ON OIL & GAS

MARCH 5, 1990

MICHAEL S. O'MEARA

P.O. BOX 1125, HOMER, ALASKA 99603

SB 502 CIVIL PENALTIES AND DAMAGE PROVISIONS

Page 3, Sec. 2, Lines 24 & 25

The wording "penalties...may not exceed" should be changed to read, "penalties...shall be set at"
At the very least, if a maximum penalty is to be stated, the a minimum penalty should be stated as well. As written, application of penalties in discretionary.

Page 4, Sec. 3, Line 1

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

Page 7, Sec. 8, Lines 20-25

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

Alaska State Legislature

Please enter into the record my testimony to the ~~Senate~~ Senator Zharoff & ~~Local Senator & the~~ House Resources Committee
committee name

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

SUGGEST:

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

Thank you for your time.

Signed: William Preth
Testifier

myself
Representing (Optional)

1516 Lamailow PO Box 1398 KODIAK, AK 99615
Address

486-2504 HOME / 486-6760 WORK
Phone No.

BP EXPLORATION (ALASKA), INC.
Testimony Before the House Resources Committee
March 9, 1990

HB 565

House Bill 565 increases the penalties on all oil spills. BP Exploration doesn't handle any refined productions in Alaska, so a good portion of this bill doesn't apply directly to us. BP does believe, however, that these types of penalties would be very damaging to many smaller businesses in Alaska who do distribute refined oil products.

Imposition of the required penalties on crude oil and refined product spills of any size (by deleting the 18,000 gallon minimum) will discourage additional development of marginal oil reserves, result in increased paperwork and discourage the reporting of all spills as we now do.

(X)

TESTIMONY BEFORE THE ALASKA HOUSE RESOURCES COMMITTEE

HB 565, HB 566 & HB 567

WALTER B. PARKER, CHAIRMAN
ALASKA OIL SPILL COMMISSION

8 MARCH 1990

HB 565

The Commission did not address penalty amounts. The general thrust of the legislation is not directly addressed in any of our recommendations since our emphasis was on system improvement and not on penalties incurred for system violation.

Section 5 (F)

The elimination of all presently utilized means, other than mechanical recovery, could have an inhibiting effect on using best available technology in contingency plans. In particular, we would like to see the use of gelling agents promoted.

Section 6 (B)

Same comment as above.

HOUSE COMMITTEE REPORT

(9)
Date Referred: February 22, 1990

Date of Committee Action: 3/28/90

FURTHER REFERRALS:
JUDICIARY
FINANCE

The RESOURCES Committee considered: HB 565

HOUSE BILL NO. 565 OIL & OTHER ENVIRONMENTAI LAWS/PENALTIES

"An Act relating to strengthening the civil penalty and damage provisions concerning the discharge of oil and other environmental violations; amending Rule 82, Alaska Rules of Civil Procedure; and providing for an effective date."

RECOMMENDATIONS:
[ ] be replaced with CS HB565 (RES) [ ] the same title [ ] a new title
[ ] have attached amendment(s)
[✓] do pass
[ ] do not pass
[ ] no recommendation
[ ] individual recommendations
[ ] additional referral to the ____________ Committee

ADOPTS: ____________ letter of intent

ATTACHES NEW FISCAL NOTE(s): (Dept)
[ ] fiscal impact ________
[ ] zero fiscal note ________
[ ] zero with analysis ________

APPROVES PREVIOUS: (Date/Dept)
[ ] fiscal note(s) ________
[2] zero fiscal note(s) DEC 2/22/90 ADF+G 2b
[ ] zero fn/analysis ________

SIGNING DO PASS:

[signature]
[signature]
[signature]
[signature]
[signature]

SIGNING:
(Check approp. column)

	Do Not Pass	No Rec	Amend
[signature]		✓	
[signature]		✓	
[signature]	X		

[signature]
Chairman's Signature

STEVE COWPER
GOVERNOR

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

February 21, 1990

The Honorable Sam Cotten
Speaker of the House
Alaska State Legislature
P.O. Box V
Juneau, AK 99811

Dear Mr. Speaker:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting three bills implementing recommendations made by the Alaska Oil Spill Commission.

One bill authorizes the governor to use the oil and hazardous substance release response fund, established under AS 46.08.010, to respond to declared disaster emergencies under AS 26.23.020(c). The bill also repeals the exception in AS 46.04.080(a) that requires the Department of Environmental Conservation (DEC) to perform the duties of the Division of Emergency Services during a catastrophic oil discharge. Finally, the bill creates in statute the State Emergency Response Commission, presently established by an administrative order.

Another bill extensively revises AS 46.03.758 - 46.03.763, which deals with civil penalties for oil spills. In general, the bill increases penalties for spills and eliminates unwarranted exemptions and defenses.

The third bill strengthens DEC's authority to require compliance with oil discharge contingency plans. Of particular significance is the requirement that applicants for contingency plans must maintain sufficient resources to contain and remove, within the shortest possible time, a realistic maximum oil discharge. Next, this bill increases the financial responsibility requirements for offshore oil exploration and production activities, to guarantee that in the event of another spill, significant financial resources will exist to compensate damaged parties, including the state. Finally, this bill authorizes DEC to inspect oil industry facilities and tankers to guarantee compliance with contingency plans and to assure structural integrity of the equipment.

Sectional analyses of each bill, describing the bills in detail, will be provided by my staff.

As you know, the Oil Spill Commission "Executive Summary," issued last month, includes over 50 recommendations. Through this legislation, as well as other bills already under consideration by the legislature (House Bill 409, Senate Bills 359, 421, and 497), most of those recommendations are being addressed. Furthermore, additional legislative proposals based upon these recommendations are still under consideration, and, after review of the full commission report, just released, additional proposals might be forthcoming.

The Oil Spill Commission, after extensive study, has identified several ways for the state to improve its ability to prevent future spills and to better respond if a serious bill occurs again. These bills are critical to prevent another disaster like the Exxon Valdez spill. I therefore urge your serious discussion, consideration, and passage of these measures.

Sincerely,

Steve Cowper
Governor

STATE OF ALASKA
1990 LEGISLATIVE SESSION

BILL VERSION: HB 565 No. 1
PUBLISH DATE: HOUSE 2/22/90

FISCAL NOTE

REQUEST:
Revision Date:
Agency Affected: Environ Conservation
Title: An Act relating to the strengthening of DEC's civil penalty and damage provisions.
BRU: Environ. Quality
Sponsor: Rules Committee
Components: Environ. Quality
Requestor: Governor

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES	0.0	0.0	0.0	0.0	0.0	0.0
TRAVEL	0.0	0.0	0.0	0.0	0.0	0.0
CONTRACTUAL	0.0	0.0	0.0	0.0	0.0	0.0
SUPPLIES	0.0	0.0	0.0	0.0	0.0	0.0
EQUIPMENT	0.0	0.0	0.0	0.0	0.0	0.0
LAND&STRUCTURES	0.0	0.0	0.0	0.0	0.0	0.0
GRANTS,CLAIMS	0.0	0.0	0.0	0.0	0.0	0.0
MISCELLANEOUS	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL	0.0	0.0	0.0	0.0	0.0	0.0
REVENUE	0.0	0.0	0.0	0.0	0.0	0.0

FUNDING: (Thousands of Dollars)

GENERAL FUND	0.0	0.0	0.0	0.0	0.0	0.0
FEDERAL FUNDS	0.0	0.0	0.0	0.0	0.0	0.0
OTHER	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME	0.0	0.0	0.0	0.0	0.0	0.0
PART-TIME	0.0	0.0	0.0	0.0	0.0	0.0
TEMPORARY	0.0	0.0	0.0	0.0	0.0	0.0

ANALYSIS: (Attach a separate page if necessary)
This bill revises the schedule of penalties for the discharge of oil.

Prepared by: David Bruce
Division: Environmental Quality
Phone: 465-2630
Date: 2/12/90

Approved by Commissioner:
Date: 2/19/90
Agency: Department of Environmental Conservation

Distribution (by preparer):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

STATE OF ALASKA
1990 LEGISLATIVE SESSION

BILL VERSION: HB 565 - corrected
PUBLISH DATE: HOUSE 2/22/90

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: An Act relating to strengthening civil penalty...
Sponsor: Rules Committee
Requestor: Governor

Agency Affected: Fish and Game
BRU: _____
Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL	0					
REVENUE	0					

FUNDING: (Thousands of Dollars)

GENERAL FUND	0					
FEDERAL FUNDS	0					
OTHER	0					
TOTAL	0					

POSITIONS:

FULL-TIME	0					
PART-TIME	0					
TEMPORARY	0					

ANALYSIS: (Attach a separate page if necessary)

No FY 90 Impact.

Prepared by: _____ Phone: _____
Division: _____ Date: _____

Approved by Commissioner: Ronald O. Skoog Date: 2 27 90
Agency: Fish and Game

Distribution (by preparer):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

To: All Teleconference Sites

From: Rep. Menard, Co-chair House Resources
Rep. Davidson, Co-chair House Resources

Attached is the Governor's new proposal regarding financial responsibility requirements in HB 567. The financial responsibility requirements in the original version of HB 567 have been withdrawn.

Both HB 565 and HB 567 are being modified by the House Resources Committee. Tonight we welcome additional assistance and comments on both bills as we continue our efforts to craft legislation that meets the needs of Alaskans and minimize costs for small utilities and fuel distributers.