

ALASKA LEGISLATURE COMMITTEE FILES, 1989-1990
6025 HOUSE RESOURCES

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1 owner, lessee or permittee, and operator of the facility;

2 (2) if the discharge occurs from a vessel,

3 (A) the owner and operator of the vessel; and

4 (B) the owner of the oil carried as cargo on the
5 vessel at the time the vessel was loaded, if the loading occurred
6 within the territorial jurisdiction of the state, or at a deep-
7 water port or other offshore storage facility adjacent to the
8 state; however, if the owner of the oil temporarily transfers
9 ownership of the oil to another person, and the transfer has the
10 purpose or effect of evading the vicarious liability imposed by
11 this section, the transferor will be considered the owner of the
12 oil for the purposes of this subsection; and

13 (3) if the discharge occurs from an offshore platform, the
14 lessee or permittee of the tract or acreage upon which the platform is
15 situated, and the operator of the platform.

16 * Sec. 5. AS 46.03.758(f) is repealed and reenacted to read:

17 (f) For purposes of assessing a penalty under (b) of this sec-
18 tion, in determining how many gallons of oil have been discharged, the
19 court shall deduct the number of discharged gallons of oil that the
20 defendant proves by clear and convincing evidence were removed by the
21 defendant from the environment as a result of a cleanup operation
22 undertaken in conformity with applicable state and federal law, except
23 that if the oil was discharged onto a surface freshwater or saltwater
24 environment or onto the surface of public land, the court shall deduct
25 the number of discharged gallons of oil that the defendant proves by
26 clear and convincing evidence were removed by the defendant within the
27 first 36 hours after the discharge as a result of a cleanup operation
28 undertaken in conformity with applicable state and federal law. The
29 dispersal of oil through burning, the use of chemical agents,

1 biological additives, sinking agents, or other means is not considered
2 removal for purposes of this subsection.

3 * Sec. 6. AS 46.03.758(i) is repealed and reenacted to read:

4 (i) The imposition of a civil penalty under this section does
5 not limit or otherwise affect the authority of the department to
6 enforce a provision of this chapter, AS 46.04, or AS 46.09, or to
7 recover damages, restoration expenses, investigation costs, court
8 costs, and attorney fees. A person who pays a civil penalty imposed
9 under this section is entitled to set off the penalty amount paid
10 against a civil penalty awarded by a court against the person for the
11 same discharge under AS 46.03.760(a).

12 * Sec. 7. AS 46.03.758 is amended by adding a new subsection to read:

13 (m) The penalty that would otherwise be assessed under (b) of
14 this section shall be multiplied by a factor of five if a court deter-
15 mines that

16 (1) the discharge was caused by the gross negligence or
17 intentional act of the discharger;

18 (2) the discharger did not take reasonable measures to
19 contain and cleanup the discharged oil; or

20 (3) the defendant did not respond in accordance with an
21 approved oil discharge contingency plan.

22 * Sec. 8. AS 46.03.759(a) is amended to read:

23 (a) A person who is found to be liable under any other state law
24 for an unpermitted discharge of crude oil [IN EXCESS OF 18,000 GAL-
25 LONS] is, in addition to liability for any other penalties or for
26 damages or the cost of containment and cleanup, liable to the state in
27 a civil action for a civil penalty, up to a maximum of \$500,000,000,
28 subject to adjustment under AS 46.03.761, in the amount of

29 (1) \$8 per gallon of crude oil discharged for the first

1 420,000 gallons discharged, subject to adjustment under AS 46.03.761;
2 and

3 (2) \$12.50 per gallon of crude oil discharged for amounts
4 discharged in excess of 420,000 gallons, subject to adjustment under
5 AS 46.03.761.

6 * Sec. 9. AS 46.03.759(c) is amended to read:

7 (c) Subject to the [\$500,000,000] maximum set under (a) of this
8 section the court shall assess five [FOUR] times the penalty amounts
9 set out in (a) of this section if the court finds

10 (1) the discharge was caused by the gross negligence or
11 intentional act of the defendant;

12 (2) the defendant did not take reasonable measures to
13 contain and clean up the discharged oil; or

14 (3) the defendant did not respond in accordance with an
15 approved oil discharge contingency plan.

16 * Sec. 10. AS 46.03.759(d) is repealed and reenacted to read:

17 (d) The imposition of a civil penalty under this section does
18 not affect the authority of the department to enforce a provision of
19 this chapter, AS 46.04, or AS 46.09, or to recover damages, restora-
20 tion expenses, investigation costs, court costs, and attorney fees. A
21 person who pays a civil penalty imposed under this section is entitled
22 to set off the penalty amount paid against a civil penalty awarded by
23 a court against the person for the same discharge under AS 46.03.-
24 760(a).

25 * Sec. 11. AS 46.03.760(a) is repealed and reenacted to read:

26 (a) A person who violates or causes or permits to be violated a
27 provision of this chapter, AS 46.04, AS 46.09, or a regulation, order
28 of the department, permit, approval, or certificate issued under this
29 chapter, AS 46.04, or AS 46.09, is liable to the state in a civil

1 action for a sum to be assessed by the court of not less than \$2,500
2 nor more than \$100,000 a day for each violation, subject to adjustment
3 under AS 46.03.761. Each violation is a separate and distinct of-
4 fense, and where a violation continues from day to day each day con-
5 stitutes a separate violation. The amount assessed by the court under
6 this subsection must reflect, as applicable,

7 (1) reasonable compensation for adverse environmental
8 effects of the violation;

9 (2) reasonable costs incurred by the state in the detec-
10 tion, investigation, and attempted correction of the violation;

11 (3) the economic savings realized by the person in not
12 complying with the requirement for which the violation is charged;

13 (4) the prior history of violations committed by the per-
14 son;

15 (5) the need for an enhanced civil penalty to deter future
16 violations;

17 (6) the extent and seriousness of the violation;

18 (7) the person's attainment of compliance, within the
19 shortest feasible time, with the requirement for which the violation
20 is shown;

21 (8) the person's ability to pay; and

22 (9) other factors that the court determines are in the
23 interest of justice.

24 * Sec. 12. AS 46.03.760(e) is amended to read:

25 (e) In addition to liability under (a) [- (d)] of this section,
26 a person who violates or causes or permits to be violated a provision
27 of AS 46.03.740 - 46.03.750 is liable to the state, in a civil action
28 brought under AS 46.03.822, for the full amount of actual damages
29 caused to the state by the violation, including direct and indirect

1 costs associated with the abatement, containment and [OR] removal of
2 the pollutant, restoration of the environment to its former state, and
3 all incidental administrative costs.

4 * Sec. 13. AS 46.03 is amended by adding a new section to read:

5 Sec. 46.03.761. ADJUSTMENT OF DOLLAR AMOUNTS. (a) The dollar
6 amounts in AS 46.03.758, 46.03.759, and 46.03.760 and in the regula-
7 tions adopted under AS 46.03.758 change, as provided in this section,
8 according to and to the extent of changes in the Consumer Price Index
9 for all urban consumers for the Anchorage metropolitan area compiled
10 by the Bureau of Labor Statistics, United States Department of Labor
11 (the index). The index for January of the year in which this section
12 becomes effective is the reference base index. *3 YRS.*

13 (b) The dollar amounts change on October 1 of each year. After
14 calculation of the new amounts, the resulting amounts shall be rounded
15 to the nearest cent.

16 (c) If the index is revised, the percentage of change is cal-
17 culated on the basis of the revised index. If a revision of the index
18 changes the reference base index, a revised reference base index is
19 determined by multiplying the reference base index applicable by the
20 rebasing factor furnished by the United States Bureau of Labor Statis-
21 tics. If the index is superseded, the index referred to in this sec-
22 tion is the one represented by the Bureau of Labor Statistics as
23 reflecting most accurately changes in the purchasing power of the
24 dollar for Alaskan consumers.

25 (d) The department shall adopt a regulation

26 (1) announcing, on or before June 30 of each year, the
27 changes in dollar amounts required by (b) of this section;

28 (2) amending, on or before June 30 of each year, the regu-
29 lations adopted under AS 46.03.758(b) to reflect the changes in dollar

1 amounts required by (b) of this section; and

2 (3) announcing, promptly after the changes occur, changes
3 in the index required by (c) of this section, including, if applica-
4 ble, the numerical equivalent of the reference base index under a
5 revised reference base index and the designation or title of any index
6 superseding the index.

7 (e) The department shall also provide notification of a change
8 in dollar amounts required under (b) of this section to the clerks of
9 court in each judicial district of the state.

10 * Sec. 14. AS 46.03.763 is amended to read:

11 Sec. 46.03.763. ATTORNEY FEES AND COSTS. In an action [TO
12 IMPOSE CIVIL PENALTIES] under AS 46.03.758, 46.03.759, [OR] 46.03.760,
13 46.03.765, 46.03.780, or 46.03.822 [FOR A DISCHARGE OF OIL], the state
14 may recover full reasonable attorney fees and costs incurred by the
15 state in maintaining the action.

16 * Sec. 15. AS 46.03.758(c), 46.03.758(g), 46.03.760(b), 46.03.760(c),
17 and 46.03.760(f) are repealed.

18 * Sec. 16. AS 46.03.763, as amended by sec. 14 of this Act, has the
19 effect of amending Rule 82, Alaska Rules of Civil Procedure, by allowing
20 the recovery of full reasonable attorney fees and costs in certain addi-
21 tional actions.

22 * Sec. 17. This Act takes effect immediately under AS 01.10.070(c).
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Lauterbach
3/28/90

Original sponsor(s): Rules/Governor

1 IN THE HOUSE

BY THE RESOURCES COMMITTEE

2 CS FOR HOUSE BILL NO. 565 (Resources)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to civil penalty, damages, costs,
7 and attorney fee provisions concerning the discharge
8 of oil and other environmental violations; amending
9 Rule 82, Alaska Rules of Civil Procedure; and provid-
10 ing for an effective date."

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

12 * Section 1. AS 46.03.758(a) is amended to read:

13 (a) The legislature finds that

14 (1) recent information discloses that the discharge of oil
15 may cause significant short and long-term damage to the state's en-
16 vironment; even [. EVEN] minute quantities of oil released to the
17 environment may cause high mortalities among larval and juvenile forms
18 of important commercial species, may affect salmon migration patterns,
19 and may otherwise degrade and diminish the renewable resources of the
20 state;

21 (2) the exact nature and extent of oil pollution can be
22 neither documented with certainty nor precisely quantified on a spill-
23 by-spill basis; however, in light of the magnitude of harm that
24 [WHICH] may be caused by oil discharges, and the vital importance of
25 commercial, sport and subsistence fishing, tourism, and Alaska's
26 natural abundance and beauty to the economic future of the state and
27 its quality of life, it is the judgment of the legislature that sub-
28 stantial civil penalties should be imposed for the discharge of oil in
29 order to provide a meaningful incentive for the safe handling of oil

1 and to ensure [INSURE] that the public does not bear substantial
2 losses from oil pollution for which, because of its subtle, long-term
3 or unquantifiable nature, compensation would not otherwise be re-
4 ceived; and

5 (3) the handling of oil in large quantities is a hazardous
6 undertaking that [WHICH] poses a significant threat to the economy and
7 environment of the state, that [WHICH] can be substantially reduced
8 only by the taking of rigorous safety precautions involving consider-
9 able expense; conversely, persons handling oil in smaller amounts
10 might pose a correspondingly lower risk to the economy and environment
11 of the state, and might be [ARE] capable of safe oil handling prac-
12 tices at correspondingly lower costs [; IN ORDER TO PROVIDE AN INCEN-
13 TIVE WHICH IS EFFECTIVE, BUT NOT PUNITIVE, IT IS NECESSARY AND APPRO-
14 PRIATE THAT THE ASSESSMENT OF CIVIL PENALTIES FOR DISCHARGES OF SMALL
15 QUANTITIES OF OIL BE LEFT FOR CASE-BY-CASE JUDICIAL DETERMINATION,
16 WHILE INSURING, THROUGH THE PENALTY PROVISIONS OF THIS SECTION, THAT
17 THE HANDLING OF OIL IN LARGE QUANTITIES OCCURS IN A MANNER WHICH WILL
18 NOT IMPAIR THE RENEWABLE RESOURCES OF THE STATE].

19 * Sec. 2. AS 46.03.758(b) is repealed and reenacted to read:

20 (b) In order to promote the safe handling of oil, the department
21 shall adopt regulations that establish a schedule of penalties for
22 discharges of oil into the receiving environments described in (l) -
23 (3) of this subsection. Subject to AS 46.08.761 and (m) of this
24 section, the penalties may not exceed

25 (1) \$12.50 per gallon of oil that enters an anadromous
26 stream or other freshwater environment with significant aquatic re-
27 sources;

28 (2) \$8.00 per gallon of oil that enters an estuarine,
29 intertidal, or confined saltwater environment;

1 (3) \$6.00 per gallon of oil that enters an unconfined salt-
2 water environment, public land, or a freshwater environment without
3 significant aquatic resources.

4 * Sec. 3. AS 46.03.758(d) is amended to read:

5 (d) The schedule must [SHALL] vary according to the toxicity,
6 degradability, and dispersal characteristics of the oil. The schedule
7 must [SHALL] also vary according to the sensitivity and productivity
8 of the receiving environment. Variations under this subsection may be
9 by subcategories of receiving environments, specific receiving en-
10 vironments, or both. The maximum penalties established in (b) of this
11 section must [SHALL] apply to discharges in the most sensitive and
12 productive of receiving environments within each category of receiving
13 environment, and the penalty must [SHALL] decrease for less productive
14 or sensitive receiving environments. If oil is discharged into mul-
15 multiple receiving environments, the penalty must be based upon the
16 schedule penalty value applicable to the most sensitive and productive
17 receiving environment unless the defendant proves how much oil entered
18 each receiving environment by clear and convincing evidence.

19 * Sec. 4. AS 46.03.758(e) is amended to read:

20 (e) If a discharge of oil in excess of 500 [18,000] gallons not
21 permitted under applicable state and federal law occurs within the
22 territorial jurisdiction of the state, or into or upon the adjacent
23 outer continental shelf of the state, the following persons, in addi-
24 tion to the person causing or permitting the discharge, are jointly
25 and severally liable to the state, in a civil action, for the full
26 amount of penalties established under this section and in the regu-
27 lations adopted under this section:

28 (1) if the discharge occurs from a [ANY] commercial or
29 industrial facility other than a vessel or offshore platform, the

1 owner, lessee or permittee, and operator of the facility;

2 (2) if the discharge occurs from a vessel,

3 (A) the owner and operator of the vessel; and

4 (B) the owner of the oil carried as cargo on the
5 vessel at the time the vessel was loaded, if the loading occurred
6 within the territorial jurisdiction of the state, or at a deep-
7 water port or other offshore storage facility adjacent to the
8 state; however, if the owner of the oil temporarily transfers
9 ownership of the oil to another person, and the transfer has the
10 purpose or effect of evading the vicarious liability imposed by
11 this section, the transferor will be considered the owner of the
12 oil for the purposes of this subsection; and

13 (3) if the discharge occurs from an offshore platform, the
14 lessee or permittee of the tract or acreage upon which the platform is
15 situated, and the operator of the platform.

16 * Sec. 5. AS 46.03.758(f) is repealed and reenacted to read:

17 (f) For purposes of assessing a penalty under (b) of this sec-
18 tion, in determining how many gallons of oil have been discharged, the
19 court shall deduct the number of discharged gallons of oil that the
20 defendant proves by clear and convincing evidence were removed by the
21 defendant from the environment within 365 days after the discharge as
22 a result of a cleanup operation undertaken in conformity with appli-
23 cable state and federal law, except that if the oil was discharged
24 onto a surface freshwater or saltwater environment or onto the surface
25 of public land, the court shall deduct the number of discharged
26 gallons of oil that the defendant proves by clear and convincing
27 evidence were removed by the defendant from the environment within the
28 first 36 hours after the discharge as a result of a cleanup operation
29 undertaken in conformity with applicable state and federal law. The

1 dispersal of oil through burning, the use of chemical agents, biological
2 additives, sinking agents, or other means is not considered re-
3 moval for purposes of this subsection.

4 * Sec. 6. AS 46.03.758(i) is repealed and reenacted to read:

5 (i) The imposition of a civil penalty under this section does
6 not limit or otherwise affect the authority of the department to
7 enforce a provision of this chapter, AS 46.04, or AS 46.09, or to
8 recover damages, restoration expenses, investigation costs, court
9 costs, and attorney fees. A person who pays a civil penalty imposed
10 under this section is entitled to set off the penalty amount paid
11 against a civil penalty awarded by a court against the person for the
12 same discharge under AS 46.03.760(a).

13 * Sec. 7. AS 46.03.758 is amended by adding a new subsection to read:

14 (m) The penalty that would otherwise be assessed under (b) of
15 this section shall be multiplied by a factor of five if a court deter-
16 mines that

17 (1) the discharge was caused by the gross negligence or
18 intentional act of the discharger;

19 (2) the discharger did not take reasonable measures to
20 contain and cleanup the discharged oil; or

21 (3) the defendant did not respond in accordance with an
22 approved oil discharge contingency plan.

23 * Sec. 8. AS 46.03.759(a) is amended to read:

24 (a) A person who is found to be liable under any other state law
25 for an unpermitted discharge of crude oil [IN EXCESS OF 18,000 GAL-
26 LONS] is, in addition to liability for any other penalties or for
27 damages or the cost of containment and cleanup, liable to the state in
28 a civil action for a civil penalty, up to a maximum of \$500,000,000,
29 subject to adjustment under AS 46.03.761, in the amount of

1 (1) \$8 per gallon of crude oil discharged for the first
2 420,000 gallons discharged, subject to adjustment under AS 46.03.761;
3 and

4 (2) \$12.50 per gallon of crude oil discharged for amounts
5 discharged in excess of 420,000 gallons, subject to adjustment under
6 AS 46.03.761.

7 * Sec. 9. AS 46.03.759(c) is amended to read:

8 (c) Subject to the [\$500,000,000] maximum set under (a) of this
9 section the court shall assess five [FOUR] times the penalty amounts
10 set out in (a) of this section if the court finds

11 (1) the discharge was caused by the gross negligence or
12 intentional act of the defendant;

13 (2) the defendant did not take reasonable measures to
14 contain and clean up the discharged oil; or

15 (3) the defendant did not respond in accordance with an
16 approved oil discharge contingency plan.

17 * Sec. 10. AS 46.03.759(d) is repealed and reenacted to read:

18 (d) The imposition of a civil penalty under this section does
19 not affect the authority of the department to enforce a provision of
20 this chapter, AS 46.04, or AS 46.09, or to recover damages, restora-
21 tion expenses, investigation costs, court costs, and attorney fees. A
22 person who pays a civil penalty imposed under this section is entitled
23 to set off the penalty amount paid against a civil penalty awarded by
24 a court against the person for the same discharge under AS 46.03.-
25 760(a).

26 * Sec. 11. AS 46.03.760(a) is repealed and reenacted to read:

27 (a) A person who violates or causes or permits to be violated a
28 provision of this chapter, AS 46.04, AS 46.09, or a regulation, order
29 of the department, permit, approval, or certificate issued under this

1 chapter, AS 46.04, or AS 46.09, is liable to the state in a civil
2 action for a sum to be assessed by the court of not less than \$2,500
3 nor more than \$100,000 a day for each violation, subject to adjustment
4 under AS 46.03.761. Each violation is a separate and distinct offense,
5 and where a violation continues from day to day each day con-
6 stitutes a separate violation. The amount assessed by the court under
7 this subsection must reflect, as applicable,

8 (1) reasonable compensation for adverse environmental
9 effects of the violation;

10 (2) reasonable costs incurred by the state in the detec-
11 tion, investigation, and attempted correction of the violation;

12 (3) the economic savings realized by the person in not
13 complying with the requirement for which the violation is charged;

14 (4) the prior history of violations committed by the per-
15 son;

16 (5) the need for an enhanced civil penalty to deter future
17 violations;

18 (6) the extent and seriousness of the violation;

19 (7) the person's attainment of compliance, within the
20 shortest feasible time, with the requirement for which the violation
21 is shown;

22 (8) the person's ability to pay; and

23 (9) other factors that the court determines are in the
24 interest of justice.

25 * Sec. 12. AS 46.03.760(e) is amended to read:

26 (e) In addition to liability under (a) [- (d)] of this section,
27 a person who violates or causes or permits to be violated a provision
28 of AS 46.03.740 - 46.03.750 is liable to the state, in a civil action
29 brought under AS 46.03.822, for the full amount of actual damages

1 caused to the state by the violation, including direct and indirect
2 costs associated with the abatement, containment and [OR] removal of
3 the pollutant, restoration of the environment to its former state, and
4 all incidental administrative costs.

5 * Sec. 13. AS 46.03 is amended by adding a new section to read:

6 Sec. 46.03.761. ADJUSTMENT OF DOLLAR AMOUNTS. (a) The dollar
7 amounts in AS 46.03.758, 46.03.759, and 46.03.760 and in the regula-
8 tions adopted under AS 46.03.758 change, as provided in this section,
9 according to and to the extent of changes in the Consumer Price Index
10 for all urban consumers for the Anchorage metropolitan area compiled
11 by the Bureau of Labor Statistics, United States Department of Labor
12 (the index). The index for January of the year in which this section
13 becomes effective is the reference base index.

14 (b) The dollar amounts change on October 1 of each third year
15 according to the percentage change between the index for January of
16 that year and the most recent index used to determine whether to
17 change the dollar amounts. After calculation of the new amounts, the
18 resulting amounts shall be rounded to the nearest cent.

19 (c) If the index is revised, the percentage of change is cal-
20 culated on the basis of the revised index. If a revision of the index
21 changes the reference base index, a revised reference base index is
22 determined by multiplying the reference base index applicable by the
23 rebasing factor furnished by the United States Bureau of Labor Statis-
24 tics. If the index is superseded, the index referred to in this sec-
25 tion is the one represented by the Bureau of Labor Statistics as
26 reflecting most accurately changes in the purchasing power of the
27 dollar for Alaskan consumers.

28 (d) The department shall adopt a regulation

29 (1) announcing, on or before June 30 of each third year,

1 the changes in dollar amounts required by (b) of this section;

2 (2) amending, on or before June 30 of each third year, the
3 regulations adopted under AS 46.03.758(b) to reflect the changes in
4 dollar amounts required by (b) of this section; and

5 (3) announcing, promptly after the changes occur, changes
6 in the index required by (c) of this section, including, if applica-
7 ble, the numerical equivalent of the reference base index under a
8 revised reference base index and the designation or title of any index
9 superseding the index.

10 (e) The department shall also provide notification of a change
11 in dollar amounts required under (b) of this section to the clerks of
12 court in each judicial district of the state.

13 * Sec. 14. AS 46.03.763 is amended to read:

14 Sec. 46.03.763. ATTORNEY FEES AND COSTS. In an action [TO
15 IMPOSE CIVIL PENALTIES] under AS 46.03.758, 46.03.759, [OR] 46.03.760,
16 46.03.765, 46.03.780, or 46.03.822 [FOR A DISCHARGE OF OIL], the state
17 may recover full reasonable attorney fees and costs incurred by the
18 state in maintaining the action.

19 * Sec. 15. AS 46.03.758(c), 46.03.758(g), 46.03.760(b), 46.03.760(c),
20 and 46.03.760(f) are repealed.

21 * Sec. 16. AS 46.03.763, as amended by sec. 14 of this Act, has the
22 effect of amending Rule 82, Alaska Rules of Civil Procedure, by allowing
23 the recovery of full reasonable attorney fees and costs in certain addi-
24 tional actions.

25 * Sec. 17. This Act takes effect immediately under AS 01.10.070(c).
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29



NORTH PACIFIC FUEL
P.O. BOX 1487
KODIAK, ALASKA 99615

Rep. Cliff Davidson
Juneau Alaska

March 21, 1989

Dear Cliff:

Re: HB 565 and HB 567

I have reviewed the contents of the above mention bills and have a couple of concerns about them.

The areas that concern me the most are Financial Responsibility and Penalties, in regards to refined oil terminals.

BACKGROUND

In Alaska, everything runs on Petroleum Products, fishing, timber, heating homes, airplanes, and automobiles. The fuel distributor (and his oil terminal) play a vital link in basic survival in Alaska.

If laws are passed that make it more expensive for a fuel distributor to operate, the Alaskan consumer is the only one who will pay the bill.

If laws are passed that force the fuel distributor out of business then the Alaskan consumer has no place to purchase the vital products he needs to run industry, heat his home, just basicly survive.

When you get away from the parts of Alaska linked to the Oil Refineries on the Kenai Peninsula (or Fairbanks) by road, Oil Terminals have to be able to be able to supply the city, village or cannery for extended periods of time. So the size of the storage needs to be large.

Costs of ocean transportation increase as the quantity of fuel delivered decrease. Weather conditions can keep a fuel barge from reaching its destination for days, weeks or in some situations all winter. Because of conditions like this the fuel distributor needs to have adequate storage to take a large quantity of fuel and still not be in a "run out" situation.

FINANCIAL RESPONSIBILITY

There should be a sliding scale attached to financial responsibility. To classify all terminals over a 10,000 bbls the same is grossly unfair. An amount per barrel stored would be more fair, so a facility storing 15,000 barrels would not have the same responsibility as one storing 150,000 barrels.

The legislature needs to consider what is available for Terminals Operators to cover the financial responsibility requirement. We are not all Exxon or Arco with unlimited resources to pledge. To those of us that are Alaskan owned business, this means buying insurance. The coverage may not be available or the price may be out of sight.

At one point a few years ago many dealers were not covered because the coverage was simply not available.

More thought needs to go into the regulations covering Refined Oil Terminals in the State. It is not good government to pass laws that cause extreme hardship and have no solution.

PENALTIES

The emphasis on penalitys is obviously designed to catch companies like Exxon that do major damage and have lots of money. The net effect of these penalitys on a smaller company (fishing boat, freighter, independent oil company etc) could be devistatng. A person may not be able to clean up the spill, fix the problem that caused the spill and still pay the penalitys.

PREVENTION

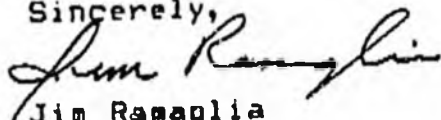
It is important that Oil Terminal Owners keep upgrading their facilities, if we have to put all our resources into paying insurance and saving accounts to pay fines in case we have a problem. There is that much less money to us to make our Facilities more enviromentaly safe.

CLOSING

We need to keep our environment safe and clean for ourselves and our children, but we need to do it in a manner that is reasonable and not destructive to business and consumers. There are only two types of individuals to pay these costs, taxpayers and consumers.

As you make your laws please consult with the industry which will be affected by the laws, the insurance companies which will need to provide the coverage. This will result in a system that works. To many times the legislature will pass a bill that creates an unworkable law.

Sincerely,



Jim Ramaglia
Vice President

STATE OF ALASKA

DEPARTMENT OF PUBLIC SAFETY

OFFICE OF THE COMMISSIONER

STEVE COWPER, GOVERNOR

P.O. BOX N
JUNEAU, ALASKA 99811-1200
PHONE: 465-4322

March 14, 1990

The Honorable Curt Menard
Co-Chairman, House Resources Committee
Alaska State Legislature
P.O. Box V
Juneau, AK 99811

RE: HB 566; establishing the
Alaska State Emergency
Response Commission

Dear Representative Menard:

One of the bills currently before the House Resources Committee is HB 566 which, among other things, establishes the Alaska State Emergency Response Commission. I am writing to request that the Department of Public Safety (DPS) be added to the other State agencies which comprise the commission.

As you know, HB 566 would create by statute the successor to the present Emergency Response Commission (ERC) which was created by Administrative Order in response to the EXXON VALDEZ oil spill in Prince William Sound last year. While the Department of Public Safety has worked closely with the present ERC, we are not formally a member of it. Considering the limited role that DPS played in the spill cleanup efforts, after the initial response was over, we felt it was not necessary for DPS to be on the oil spill ERC.

The ERC established by HB 566 is of a more general and long term nature, however. Considering the broad responsibilities the new ERC would have, we strongly believe that DPS should be included in the commission. We have discussed this with the Governor's Office and they agree with our position. I respectfully request that, if HB 566 is moved from

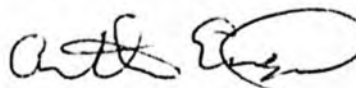
The Honorable Curt Menard -2-

March 14, 1990

committee, a committee substitute which adds DPS to the commission be considered.

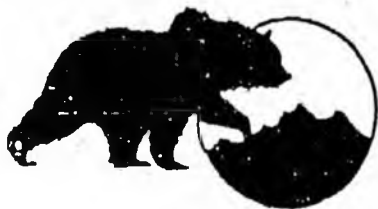
Thank you for your consideration of this request.

Sincerely,

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

Arthur English
Commissioner

cc: Shari Kochman
Legislative Staff Assistant
Office of the Governor



Northern Alaska Environmental Center

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

***** NEWS RELEASE *****

March 9, 1989
Release: Immediately

Contact: Rex Blazer
907-452-5021

HAZARDOUS AND TOXIC WASTES DUMPED, INJECTED INTO PIPELINE.
Environmentalists learned this week that the U.S. Environmental Protection Agency has determined that the NAPCO refinery near North pole, Alaska illegally dumped toxic and hazardous waste into the Alaska pipeline as well as the air, ground, and water of this suburban Fairbanks community.

"While it is legal to re-inject things like dirty fuel and oil into the pipeline, it most definitely is not to inject things like aniline, sodium hydroxide, and hydrogen peroxide" said Carl Reller, hazardous waste coordinator for the Northern Alaska Environmental Center. "These wastes ultimately end up at the Valdez terminal where the water soluble substances go directly into Valdez harbor, while the oil soluble wastes could damage refinery techniques and equipment."

The Alaska Department of Environmental Conservation has found more than a quarter of a million gallons of fuel in the ground under NAPCO thus far.

* MORE *

Only this week did environmentalists learn that on January 6 EPA quietly ordered MAPCO to begin an extensive and costly clean-up that will take nearly three years and require monitoring the ground water for decades. Over 10,000 people live within a three mile radius of the contaminated area, which is on land leased from the state by MAPCO.

Environmentalists called on the state Department of Environmental Conservation and EPA to establish an advisory group as provided for under the Resource Conservation and Recovery Act. "The drinking water wells for North Pole are less than a half mile from the contaminated zone and in the path of the toxic plume, yet the public has had no opportunity to become involved," Reller said. "MAPCO claimed that the public can't even be told the location of their monitoring wells. We feel the people of North Pole have the right to be involved in this critical process."

"The situation at MAPCO is extremely disturbing in light of other serious compliance problems stemming from North Slope oil development." said Rex Blazer, Executive Director of the Northern Alaska Environmental Center, who cited hazardous waste problems at Tesoro's Kenai refinery and a recently leaked EPA report which documented serious environmental damage resulting from improper and careless management of chemical and oil wastes on Alaska's North Slope. "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 Refuge?"

* END *

MAPCO Oil Refinery
Compliance Chronology

July 13, 1984

DEC conducts a Superfund inspection of MAPCO using an independent contractor. Toxic chemicals are present which if spilled or discarded would be hazardous waste.

August 1986

DEC conducts a second Superfund inspection of MAPCO using an independent contractor. Toxic chemicals are present and MAPCO employees explained that when old or used they are dumped into the pipeline.

March 5, 1987

EPA headquarters requests DEC to conduct an official hazardous waste inspection of MAPCO. DEC reports that the injection of hazardous waste into the pipeline is not "disposal". DEC notes that north slope oil production facilities dump waste into the pipeline as do pump stations along the way. DEC verbally asks for a copy of a log book which contained the record of what was injected into the pipeline. MAPCO denies DEC the logbook. DEC labels their conclusions as a "training enforcement exercise".

May 15, 1987

The federal Government Accounting Office (GAO) opened an investigation into allegations that DEC compromised their enforcement at MAPCO.

MAY 15, 1987

EPA orders MAPCO to provide information concerning their hazardous waste management activities.

May 16, 1987

MAPCO states: "One, we do not handle toxic waste at the North Pole refinery. Two, We have not injected toxic waste into the Trans Alaska Pipeline. Three, we have not pumped hazardous waste into the pipeline." DEC denies enforcement of MAPCO was compromised

June 24, 1987

DEC agrees with the Ombudsman's findings that "DEC has not fulfilled the spirit and letter of the law."

July 9, 1987

A special investigator from the GAO office meets with DEC employees.

July 15, 1987

The DEC Commissioner meets with the EPA Administrator in Washington D.C.

Tesoro Oil Refinery
Compliance Chronology

Tesoro Oil Refinery
Compliance Chronology

Tesoro spills over 120,000 pounds of hazardous waste. DEC

August 12, 1980

Tesoro notifies EPA of hazardous waste activities.

September 2, 1980

September 1980 information from Tesoro concerning spills and

DEC inspects Tesoro hazardous waste pits and issues a
Compliance Order requiring Tesoro to stop violating Alaska
law, no record of compliance was found. Hazardous waste

October 8, 1980

Tesoro claims records
Tesoro requests DEC to allow hazardous waste disposal pits
be permitted as normal solid waste landfills, application is
seriously deficient, DEC denies permit.

November 11, 1980

Tesoro files a RCRA part A application for hazardous waste
activity, application is incomplete.

November 14, 1980

Tesoro receives a report from their consultant identifying
pits containing over one million pounds of hazardous waste.

1981-1982

Tesoro claims it does not have an RCRA permit

Tesoro claims DEC provided verbal approvals for hazardous
waste activities, no written records were kept.

January 1982

EPA acknowledges Tesoro's claim that the refinery is
designed to manage up to 30,000,000 pounds of hazardous
waste each day (three types of RCRA waste).

April 14, 1983

Tesoro attempts to use hazardous waste for berm material to
"protect" the hazardous waste pits, request is denied by
EPA.

September 10, 1983

Closure costs are estimated to be \$1,500,000.

November 10, 1983

Tesoro proposes to dump hazardous waste into Cook Inlet via
a ballast water treatment plant, EPA initially denies then
later approves Tesoro's request.

July 5, 1984

EPA meets with Tesoro and informs them of nine hazardous
waste violations.

July 6, 1984

DEC inspects Tesoro and finds unpermitted hazardous waste
activities.

MAPCO Oil Refinery
Compliance Chronology

2

September 2, 1987

The Alaska Ombudsman reviews DEC's comments and restates the problems of lax enforcement and closes the case.

February 23, 1988

EPA and MAPCO agree to resolve hazardous waste violations through an Administrative Order.

April 7, 1988

The GAO with holds the MAPCO/DEC report as "confidential". The DEC Commissioner states, "I can only assume we handled the matter properly."

June 16

August 1 and

September 7, 1988

EPA and MAPCO negotiate the Compliance Order.

July 20, 1988

EPA conducts an intensive hazardous waste investigation of the MAPCO refinery using an independent contractor.

October 23, 1988

EPA and MAPCO complete a draft Compliance Order.

December 1988

EPA determines MAPCO dumped hazardous and toxic waste into the pipeline, into surface waters, and on the ground. MAPCO is declared as having a "RCRA surface impoundment", the most difficult kind of hazardous waste dump to clean up (EPA Docket 1087-12-01-3008a).

January 1989

Tesoro Oil Refinery
Compliance Chronology

2

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 presents a substantial threat to human health

FONM 3/11/89

Mapco to pay fine, changes procedures

By BRIAN O'DONOGHUE
Staff Writer

Mapco Alaska Petroleum Inc. 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 de-

velopment," 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."

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.

HB 566

In general, HB 566 reflects several of the major thrusts of recommendations by the Alaska Oil Spill Commission. Mainly, it brings oil spill response into the state's emergency response network and mandates strong cooperation between those state agencies concerned with emergency response to hazardous substances, including crude oil and refined petroleum products. Most important, it concentrates on establishing immediate response at the local level, something addressed by several of the commission's recommendations, most strongly Recommendations 27 and 49.

Section 1, 2 and 4

Recommendations 52 and 53 address the need for an immediately available oil or hazardous substance response fund. Broadening the use of the 470 fund and providing the governor with the flexibility to use those funds in addressing oil spills and other emergencies is directly consistent with the commission's intent in these recommendations.

Section 3

The problem the commission wrestled with in the relationships between the Department of Environmental Conservation and Division of Emergency Services was ultimately the determination of who would be in charge of a catastrophic spill response and at what level the response authority of DES would be implemented. Our recommendation on the use of the Incident Command System (Recommendation 48) is our major response to this problem. The key element is having an on-scene commander in each emergency response district that has the authority to bring the Incident Command System into operation.

The bill recognized DES expertise in communications, logistics, equipment procurement, manpower and community liaison. This is supported by our Recommendations 50 and 51. DEC expertise in providing measurement and evaluations of environmental conditions is in the bill, but their role in directing initial response and later cleanup is not absolutely clear. The commission believed that use of the ICS would clarify the difference between oversight roles and management in response, beyond the responsibilities outlined in the district contingency plan. In the best of worlds, each district will have a contingency plan that is absolutely clear on what role each party will play. We found that the Incident Command System does the best job of this.

Each district may have different structures that reflect the differences in state agency structure, federal agency structure, local government capabilities and private capabilities. We felt that maximizing the use of existing governmental and private capabilities through the ICS would be the most cost-effective and efficient way to achieve an oil spill response system that can meet the target of responding to a worst-case situation within 72 hours.

The commission did not address the formation of the State Emergency Response Commission. The SERV does carry out the intentions of Recommendations 27 and 49 on local involvement and Recommendations 45 and 50 on allocation of state response authority. Most importantly, it provides the structure for developing effective regional response plans. These plans are the most critical element of the entire response structure because it is in the region that the ability to respond quickly and effectively must be lodged.

HB 567

Section 1

Our Recommendation 55 should be considered. We feel that contingency plans should be based on the ability to respond to a "worst-case spill" within 72 hours. The language in the bill of a "realistic maximum" oil discharge and to remove that discharge

"within the shortest possible time" does not provide a firm mandate for private contingency plans. It does not do enough to mitigate the risk oil shipment imposes on residents of adjacent coasts. It is not in line without overall policy Recommendations 1, 2 and 3.

A "worst case" would be 1.8 million barrels for Prince William Sound and 500,00 barrels for Cook Inlet. The oil industry claims this cannot be recovered. It can, however, be done by a regional response plan which brings in the capabilities of all concerned--industry, state, and federal.

The following have been offered by industry:

Alyeska Contingency Plan submitted the recovery of 10K barrels per hour name plate capacity. Allowing for 35% best case recovery in 72 hours	252,000
ARCO, per recent testimony, with a 24-hour lag to allow for mobilization from West Coast	250,000
Other 5 Alyeska owners	<u>(unknown)</u>
Barrels	502,000

The above figures are for containment and best case recovery situations, ie. less than six foot sea state and no more than 1 knot currents.

ARCO's proposed 70,000 ton skimmer could be built to recover 25,000 barrels per hour based on it having half the capacity to pump oil out of the water that is common at the Valdez terminal for pumping oil into tankers. This would have a capacity of 600,000 barrels per day and allowing for a 35% best case recovery rate, it would recover 630,000 barrels in 72 hours. Our total best 72-hour case recovery is now 1,132,000. Thus the remaining question is how to make up the 670,000 barrel difference. Allowing for 20% evaporation of the light ends during this period, or 360,000 barrels, we can see that we are approaching our goal and have 310,000 barrels remaining for which capability must be demonstrated. Here is where the API/PIRO response may come in, also federal response from the Navy, the Corp of Engineers, the Coast Guard, and if necessary further Alyeska response. In any case, by a combination of new technology already being proposed by ARCO and by accumulation of other sources into a regional response plan, we have come close to a creditable "worst case response" capability.

The next question is why must this response be mounted in 72 hours. If you examine the oil spill simulations in our report, you

will note that it is after 72 hours that the greatest impact on the beaches occurs. Once the oil is on the beach, the Commission considers the battle lost. Therefore, our strong recommendations are on the immediacy of the response efforts.

As our report shows, Exxon Valdez is only 34th on the list of 65 great oil spills. Thus, the possibility of spills where the entire tanker load is lost, 1,800,000 barrels for Prince William Sound or 500,000 barrels for Cook Inlet, is still a very real worst case situation.

There are presently 94 tankers licensed for operation into Alaskan ports. Only 10 are covered by Alyeska's present plan for a "worst case" loss; 43 are covered by combining the Alyeska and ARCO plans, adding the large skimmer as described covers 70 tankers leaving only 24 uncovered.

What are the costs of achieving this level of protection, remembering we are only achieving worst case protection by mechanical containment and recovery in good weather conditions? The costs included here are estimated by me based on our contractors estimates for similar equipment.

One Time Costs

Alyeska Costs (already committed but no cost breakdown yet provided, so this is my estimate based on our contractor's estimates)	\$60,000,000
ARCO Costs (less 4 ERV and 4 other vessels in Alyeska Costs, note that this system serves entire West Coast)	\$ 32,000,000
70,000 Ton Skimmer Costs (\$93 million for new ship by Commission estimate plus \$20 million for skimmer conversion by ARCO estimates)	<u>\$ 113,000,000</u>
1.132.000 barrels in 72 hour recovery	\$ 205,000,000
Full Worst Case, another 310,000 barrels	80,000,000
Full Worst Case Recovery System in good weather	<u>\$ 285,000,000</u>

Annual Costs

Alyeska	\$10,000,000
ARCO	5,000,000

70,000 Ton Skimmer	10,000,000
Additional Recovery	<u>5,000,000</u>
TOTAL	\$30,000,000

Operating costs as above should cover 72 hour initial period but do not cover beach cleanup costs.

Assuming a 10-year depreciation on one time costs, the annual costs for "worst case" mechanical recovery in Prince William Sound are \$58,500,000 or the industry profits on 5 days throughput at the Valdez terminal.

*\$6 X 9,750,000 barrels

*From Deakins Report

Now the question is, what is the cost of "worst case recovery" in bad weather. The present options are burning or dispersants. Future options may include gelling agents as described in cur report. The costs of bad weather treatment are:

Burning, the loss of the ship and cargo	
250,000 T Tanker, new	\$192,000,000
cargo 1.8 million barrels @ \$20	<u>36,000,000</u>
Total	\$218,000,000
70,000 T Tanker, new	\$ 93,000,000
cargo, 500,000 barrels @ \$20	<u>10,000,000</u>
Total	\$103,000,000

The costs of the flights and igniting agents plus recovery of crew	\$ 250,000
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Dispersants: Following the British method of aerial application and the most favorable 1 to 20 crude to dispersant ratio, we require for the worst case 1,800,000 barrels, some 90,000 barrels of dispersant or 3,780,000 gallons @ \$3/gal

	\$ 11,340,000
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Costs of 700 C130 flights of 5 hour duration or 3,500 flight hours @ \$3500 per hour*	\$ <u>12,250,000</u>
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Worst Case by dispersant	\$ 23,590,000
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Gelling agents: This method is untried, untested, and wholly hypothetical. The ratio of 40 to 1, agent to oil, is the best known and the costs are in the ballpark of what is being paid by the US Navy for gelling agents.

Gelling agents 45,000 barrels, 6,250 tons or 1,890,000 gal @ \$12/gal	\$ 22,680,000
Costs of 350 C130 flights of 5 hours duration @ \$3500 per hour*	<u>5,125,000</u>
Total	\$ 28,805,000

* Assumes dispersants or gelling agents are located at Anchorage or Kenai.

Thus, it is true that the costs of a worst case response are large, whatever method is used. The alternative of avoiding it is equally costly in the long run. The size of the worst case scenario for each region will be governed by how much risks the industry places on the region. Exxon Valdez has shown us that the area at risk can be very large if response is not immediate enough to keep the oil from migrating to near and distance beaches.

The requirement that contingency plans be properly implemented is a longstanding loophole that needs to be closed. If private plans are not implemented the government will have to take up the slack or we will have regional response plans whose effectiveness is as suspect as those that failed last March 24.

Section 2

The commission did not address in its report any amounts for financial responsibility. We did make the point in Recommendation 21 that the state should require the shipping industry to insure the state and its citizens against risk and this section carries out that idea in part.

Section 4

Providing DEC with the authority to inspect tankers, terminals, exploration and production facilities is, in many ways, the most important regulatory prevention measure that must be undertaken if the system is to truly improve. We address this in Recommendation 14, with other aspects addressed in Recommendations 11 and 13.

Our report details the sorry history of how the Coast Guard backed off after 1979 when the Alyeska owners' law suit and later legislative action eliminated the state presence on tankers. The Coast Guard budget on marine safety, wherein ship inspections lie, was cut 28% between 1982 and 1989. Allowing for inflation this was a real cut of 40%. The fleet, meanwhile, aged another 7 years, with only two new additions Exxon Valdez and Exxon Long Beach, being added in this period. Thus, inspections dropped as the ships got older. The Coast Guard testified at length about its concerns with increasing hull fatigue before House Resources on January 24. Despite this concern of the Coast Guard, I view the chances of

major budget increases in marine safety as small unless the initiatives come Congress.

RECOMMENDATIONS NOT CONTAINED IN HB 565, HB 566 OR HB 567

Recommendation 9: Tank farm capacity at Valdez.

wants hearings

Recommendation 12: A citizens advisory council to oversee the safe transportation of oil, gas and other hazardous substances.

Recommendation 16: State licensing of private personnel involved in oil transportation.

Recommendation 25: Harbor Administration

Recommendation 47: A system for emergency economic maintenance.

Recommendation 57: In-state research institute.

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 408
PRESENTED TO THE SENATE SPECIAL COMMITTEE ON OIL & GAS

MARCH 5, 1990

MICHAEL S. O'NEARA

P.O. BOX 1125, HOMER, ALASKA 99603

SB 502 CIVIL PENALTIES AND DAMAGE PROVISIONS

Page 2, 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

Senator Zharoff &
~~Local Senator & the~~
~~House Resources~~
~~Committee~~

Please enter into the record my testimony to the _____
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)(1),
(C) \$50.00 per gallon of oil that enters an unconfined salt-
water environment . . . <Pg 3, 1>

Thank you for your time.

Signed: William Bieth
Testifier

myself
Representing (Optional)

1516 clamailow PO Box 1398 KODIAK, AK
Address 99615

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

HE 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.

- 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 Phillipsborn 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?

March 21, 1990
Page Four

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 both 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.

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.

BP Alaska Exploration, Inc.
Testimony Before the Senate Oil and Gas Committee
March 5, 1990

Thank you for giving BP the opportunity to comment on Senate Bills 468, 503 and 504. While most of BP's comments will be directed towards this legislation, it is important to understand that oil spill legislation combined with other state and federal actions, will implement Alaska's total oil spill response program. To accurately judge any piece of legislation, the entire program must be viewed as a whole. Therefore, my comments also address the general subject of laws affecting oil spill response.

Concerning the use of the State's disaster response powers and resources to respond to major oil spills, BP supports the use these powers and the dedication of State resources for the response activities. BP, however, recommends that changes be made in the State's administrative structure so that a clear and effective chain of command exists when the State responds to an oil spill.

Senate Bills 503 and 468

Portions of Senate Bill 503 and Senate Bill 468 attempt to implement recommendations made by the Alaska Oil Spill Commission. BP supports the Oil Spill Commission's recommendation that the Division of Emergency Services be given primary responsibility to respond to an oil spill. The Division of Emergency Services, as part of the Department of Military and Veteran's Affairs, uses a military command structure and has experience in dealing with complicated logistics and supply problems. This type of experience and operational command is exactly what is needed in an oil spill response. Experience plus a clear and effective chain of command will promote prompt decisions and a rapid response to a spill.

While the Department of Environmental Conservation has scientific and technical expertise, it is not as well equipped as the

Division of Emergency Services to deal with the logistics of responding to a spill. Consequently, their services should be used to provide the Division of Emergency Services with scientific and technical direction, in coordination with the applicable facility, regional or state oil spill plan as ultimately developed by the DEC. As the Oil Spill Commission recommended, the Division of Emergency Services should be the lead State Agency for oil spill response.

Senate Bill 504

Senate Bill 504 seeks to strengthen oil spill contingency requirements, increase financial responsibility requirements, and give the Department of Environmental Conservation the authority to inspect the structural integrity of tank vessels and oil barges. Viewed in the abstract, these goals are reasonable. However, when the bill is examined section by section, it becomes increasingly apparent that these new provisions are unreasonable as well as impractical.

1. Delays in Reviewing Oil Spill Contingency Plans. In the past, the DEC has not been able to review or approve oil spill contingency plans in a timely manner. For example, since January 1988, BP has had its Prudhoe Bay and Endicott oil spill contingency plans pending before the DEC, with virtually no response from the agency. If SB 504 was enacted tomorrow, both fields would be required to cease operations because the spill contingency plans had not been approved. While the extensive administrative discretion incorporated in SB 504 might permit waivers to be granted by the DEC, essentially SB 504 relinquishes ~~all decisions~~ about the operation of oil terminal facilities, oil and gas ~~exploration~~ and production facilities and tanker vessels or oil barges ~~to the DEC~~. BP believes that the DEC is not the appropriate agency to exercise such discretion. Further, any legislation which links continued operation of a facility with approval of the oil spill contingency plan should also contain provisions which force approval of submitted plans within a definite time, and which outlines the contents of an acceptable plan.

2. The Cleanup Standard. Subsection (f) of Section .030 requires the permittee to maintain "in its area of operation . . . sufficient oil discharge containment, storage, transfer, and removal equipment, manpower and resources to rapidly contain a realistic maximum oil discharge and remove that discharge within the shortest possible time." A maximum oil discharge is further defined as the DEC's estimate of the maximum and most damaging oil discharge that could occur during the life of a facility. The magnitude of oil produced from North Slope fields and the immense volume of oil transported through TAPS make literal application of this provision impossible. Even though significant changes have occurred in cleanup capability at the Valdez terminal, the concept of maintaining equipment and manpower equal to what was required during the Exxon Valdez disaster along the entire North Slope and along the entire length of the pipeline is simply unworkable.

3. Financial Responsibility. While it is desirable to require proof of financial responsibility for operators of facilities subject to this legislation, the increase in limits and the use of ambiguous language in the legislation combine to make it difficult, if not impossible, to implement the provisions of the bill. For example, the legislation requires that the limits be on a "per incident" basis but the meaning of this phrase is not defined in the bill. The Committee should also be aware that the continued operation of the facilities covered by the legislation is conditioned upon obtaining proof of financial responsibility. Consequently, the feasibility of insurance should be understood before a provision of this nature is adopted.

4. Inspection of Tanker Vessels and Oil Barges. The U. S. Coast Guard currently inspects tanker vessels and oil barges; this legislation would establish a second regulatory regime requiring inspection by the DEC, an agency with no previous experience in this area. Inspection of tanker vessels and oil barges is a specialized, complicated and sometimes dangerous process

requiring entry into the compartments where oil is stored. The legislation provides no guidelines for the methods or frequency of inspections to be provided by DEC. Further there is no evidence of appropriate fiscal or manpower resources within DEC to implement such a program. Rather than renewed testing of the limits of Alaska's jurisdiction in this area, a more constructive approach would be to require close cooperation between the Coast Guard and the DEC concerning the approval of tanker vessels, to establish a specific division within the DEC to monitor available records and inspection reports.

In closing, BP hopes that this committee view the entire oil spill legislative and regulatory program before enacting specific pieces of legislation. BP will continue to help and assist in this process.

Statement of
Jerry A. Aspland
President, ARCO Marine, Inc.
Before the Alaska Senate Special Committee on Oil and Gas
Senate Bill 504
Juneau, Alaska

March 5, 1990

Madam Chair and committee members. My name is Jerry Aspland and I am President of ARCO Marine, inc., the marine transportation subsidiary of ARCO. I am a graduate of the California Maritime Academy and have spent most of my professional career in the marine transportation business. I appreciate this opportunity to appear before you today to express the views of ARCO Marine on Senate Bill 504, Oil Spill Contingency Plans/Requirements.

Before addressing the legislation, I would like to offer a few general comments on oil spill prevention, response and clean-up.

Prevention is the key to avoiding oil spills. I am concerned that most legislation, both federal and state, are concentrating on oil spill clean-up and penalties and not enough is being done on prevention. Vessel traffic system, ratification of the standards of training and watch keeping, new selection and certification criteria of seagoing personnel, are just a few areas of prevention which must be addressed. Prevention is the key to avoiding oil spills and it must be addressed in a logical and rational manner.

ARCO Marine's experience shows that the success of an effective clean-up operation is dependent, not only on the adequacy of resources but, most importantly, on good human interaction and cooperation among industry, government and the members of the community. It is essential that in responding to spills all the elements of this network work together and integrate their efforts to mitigate the problem.

There are two key factors in a successful spill response and clean-up:

The first is sufficient pre-planning aimed at a realistic goal. It is essential to develop an environmental map, identifying environmentally sensitive areas, and to prepare a matrix that prioritizes the level of protection that would be afforded to each of these environmentally sensitive locations. It is also important to prepare, in advance, a list of available equipment, their locations, and the strategy of deploying such equipment. Last, continual training of those directly involved in clean-up is a necessity.

The second factor is the management of the clean-up efforts. This demands decisiveness, experience and expertise in spill response, and the ability to utilize resources efficiently. Without good management all the contingency plans and equipment can not be utilized most effectively.

Madam Chair, while ARCO Marine has many concerns with this legislation, we have decided to state our views on one specific aspect of SB 504 with which we believe compliance is impossible. Section 1 of SB 504, amends AS 46.04.030 (f) to mandate that an applicant for an oil discharge contingency plan demonstrate an ability to rapidly contain a realistic maximum oil discharge, and to remove that discharge within the shortest possible time. This mandate represents a radical policy departure from the existing regulatory requirement that an oil discharge contingency plan provide for containment and removal of the most likely oil spill. Moreover, this mandate is simply impossible to achieve given the current limitations in oil spill response technology. In other words, the requirements to demonstrate a rapid response and removal of a realistic maximum oil discharge, as defined, is rationally meaningless. Environmental eradication of large spills, such as these that are well beyond 10,000 barrels is currently neither technologically nor operationally feasible. With this in mind, I know of no way that ARCO Marine could meet the proposed requirements for obtaining an approved oil discharge contingency plan.

Furthermore, let us assume this legislation passes and we try to meet the intended meaning of the legislation, we will spend considerable amount of resources, along with state officials, and not accomplish much because we will pass the point of no return on mechanical recovery and not be able to finish the job. Therefore we would strongly recommend that the legislation be amended to reflect a target amount of oil spilled to be removed within the shortest possible time and a scenario plan for the maximum amount of oil discharged.

ARCO Marine is already among only a few marine companies that hold approved oil spill contingency plans with the State of Alaska. Additionally, our oil spill response team has demonstrated its ability with its clean-up efforts in the 1985 Port Angeles oil spill and several training exercises, including the 1988 exercise in Valdez. Recently, we were able to provide expertise and assistance in the Huntington Beach oil spill response in Southern California.

If ARCO Marine is incapable of complying with proposed SB 504, I believe that demonstrates a fundamental shortcoming with the legislation.

I would like to thank you for the opportunity of appearing before you today. ARCO Marine, Inc. stands ready to assist your committee in this effort. I would be pleased to answer any questions you might have regarding my statement or any other related subjects.

LEGISLATIVE PROPOSAL

FRANK BAUER
4009 BARTLETT STREET
HOMER, ALASKA 99603

235-5154

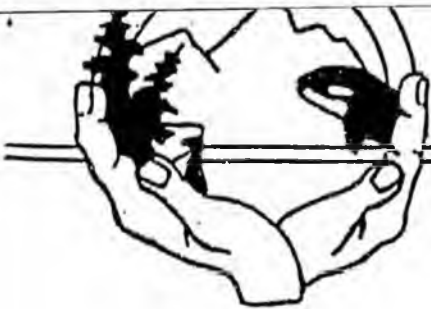
OCTOBER 13, 1989

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



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 polluters.

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.

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 phenomenon 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

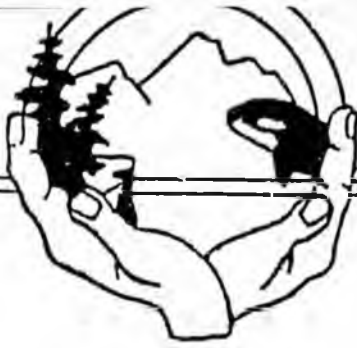
inspected by federal agencies, but the Alyeska facility has never been inspected in 12 years of operation and recent tests for corrosion in the pipeline have revealed extensive problems in 300 of the 800 miles.

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.

700 H Street, #4 Anchorage, Alaska 99501 • (907) 274-3621

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

March 7, 1990

TO: ALASKA SENATE
OIL & GAS COMMITTEE
JUNEAU, AK

FROM: TIM ROBERTSON
BOX 110
SELDOVIA, AK 99663

RE: SB 504

THANK YOU FOR THE OPPORTUNITY TO COMMENT ON SB 504.

THE FOLLOWING ARE MY COMMENTS:

- 1) PREVENTION I suggest that "Oil Discharge Contingency Plan" be changed to "Oil Discharge Prevention and Contingency Plan" everywhere it occurs in the statutes. It is important that oil explorers, producers, and shippers include a section in their C-plans that indicate what they have in place to PREVENT oil discharges as well as how they plan to clean them up. Alyeska has such a section in their new plan. It should be required in other plans also.
- 2) FORCE OF LAW C-plans need to have the force of law and need to be properly implemented. Mr. Williams of Alyeska mentioned to your committee the new policy of not shipping oil in weather and sea conditions when there is no possible chance of cleaning up a spill. However, Alyeska did not put this into their new C-plan. It is an internal company policy that is subject to change. All C-plans need to state that oil will not be shipped when conditions don't allow for a response and these conditions must be defined. The legislature must then give ADEC the authority and resources to make sure the plan is implemented and being followed.
- 3) WORK TOGETHER lets use all our knowledge and resources to make sure we are doing everything possible to prevent and prepare for oil spills. Section 1 (e) of SB 504 calls for review of C-plans by DEC, ADF&G, and DNR. A review by a CITIZENS ADVISORY COMMITTEE should also be required. I serve on the REGIONAL CITIZENS ADVISORY COMMITTEE created for Prince William Sound and we have met over 200 hours since June of 1989. We have completed an extensive review of the Alyeska Oil Spill Prevention and Response Plan. (I will provide you with a overview of that review shortly). The bill needs to be amended to require this type of review for all C-plans. Citizens Advisory Committees can be a strong preventative measure and can insure a vigilance born of concern for the protection of coastal resources by those for which it is most dear.

DEPARTMENT OF ADMINISTRATION

ALASKA OIL SPILL COMMISSION

707A STREET, SUITE 202
ANCHORAGE, AK 99501
PHONE: (907) 258-6545
FAX: (907) 279-4302

Walter B. Parker, Chairman
Esther Wunnicka, Vice Chairman
Margaret J. Hayes
Michael J. Herz
John Sund
Timothy M. Wallis
Edward Wenk, Jr.

March 6, 1990

MEMORANDUM

TO: Chairperson Drue Pearce, Special Committee on Oil & Gas
Committee Members

FROM: Walter B. Parker *WBP*
Chairman

I appreciate the offer to testify at length on the Governor's bills and our recommendations at some future date. After listening to the testimony offered on Monday, March 5, by Alyeska, ARCO and the State, I have the following specific comments:

Ability to Respond to Worse Case Scenarios

Mr. Asplund of ARCO stated a worst case would be 1.8 million barrels for Prince William Sound, exactly the figure I would use. What was not offered by industry was how do we achieve this figure. It can only be done by a regional response plan which brings in the capabilities of all concerned--industry, state, and federal.

The following have been offered:

Alyeska 10K barrels per hour name plate capacity. Allowing for 35% best case recovery in 72 hours	252,000
ARCO, per testimony, with a 24-hour lag to allow for mobilization from West Coast	250,000
Other five Alyeska owners	<u>(unknown)</u>
	Barrels 502,000

The above figures are for containment and best case recovery situations, ie. less than six foot sea state and no more than 1 knot currents.

CORRECTION

**THIS DOCUMENT
HAS BEEN REPHOTOGRAPHED
TO ASSURE LEGIBILITY**

March 7, 1990

TO: ALASKA SENATE
OIL & GAS COMMITTEE
JUNEAU, AK

FROM: TIM ROBERTSON
BOX 110
SELDOVIA, AK 99663

RE: SB 504

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- 2) FORCE OF LAW C-plans need to have the force of law and need to be properly implemented. Mr. Williams of Alyeska mentioned to your committee the new policy of not shipping oil in weather and sea conditions when there is no possible chance of cleaning up a spill. However, Alyeska did not put this into their new C-plan. It is an internal company policy that is subject to change. All C-plans need to state that oil will not be shipped when conditions don't allow for a response and these conditions must be defined. The legislature must then give ADEC the authority and resources to make sure the plan is implemented and being followed.
- 3) WORK TOGETHER lets use all our knowledge and rasources to make sure we are doing everything possible to prevent and prepare for oil spills. Section 1 (e) of SB 504 calls for review of C-plans by DEC, ADF&G, and DNR. A review by a CITIZENS ADVISORY COMMITTEE should also be required. I serve on the REGIONAL CITIZENS ADVISORY COMMITTEE created for Prince William Sound and we have met over 200 hours since June of 1989. We have completed an extensive review of the Alyeska Oil Spill Prevention and Response Plan. (I will provide you with a overview of that review shortly). The bill needs to be amended to require this type of review for all C-plans. Citizens Advisory Committees can be a strong preventative measure and can insure a vigilance born of concern for the protection of coastal resources by those for which it is most dear.

- 4) REALISTIC PREPARATION We now know if we can't put a massive containment and skimming effort on any major oil spill immediately the battle is lost. Section 1 (d) calls the oil industry to prepare for a response to a spill "within the shortest possible time". The maximum response should be within 48 hours. There should be a minimum response within 2 hours. In Europe they can bring 134,000 bbl/hr skimming capacity to bear on an oil spill within 48 hrs. Alyeska can bring 10,000 bbl/hr capacity to bear on a spill and has escort vessels that can begin an immediate response. In Lower Cook Inlet where I live there would be no equipment at the sight of a spill for over 12 hours and less than 2,000 bbl/hr in 48 hrs. There must be cleanup equipment and trained response crews close to a potential oil spill.
- 5) NO VELVET CURTAINS Alyeska has put together an impressive C-plan and organization since the EXXON VALDEZ oil spill. Yet, their plan clearly states that they intend to turn the management of the spill over to the shipper, owner, or Coast Guard within three days. Will the new managers follow the same Plan? Will the new managers have the same level of expertise, training, and experience as Alyeska? Will the new managers have the same local knowledge as a team put together by Alyeska. This bill needs to be amended to made sure that the answer to these questions is YES.
- 6) I strongly support the section of the Bill requiring PROOF OF FINANCIAL RESPONSIBILITY. Everyone must realize that a cost of doing business is protection and preserving our environment. Obviously these costs get passed on to the users as they should.
- 7) I strongly support the section of the Bill allowing for ACCESS AND INSPECTION to facilities and vessels. I encourage you to increase DEC's ability to have access to insure our environment is being protected.

Thank You for considering my comments.

DEPARTMENT OF ADMINISTRATION

ALASKA OIL SPILL COMMISSION

707 A STREET, SUITE 202
ANCHORAGE, AK 99501
PHONE: (907) 258-6545
FAX: (907) 279-4302

Walter B. Parker, Chairman
Esther Wunnicka, Vice Chairman
Margaret J. Hayes
Michael J. Herz
John Sund
Timothy M. Wallis
Edward Wenk, Jr.

March 6, 1990

MEMORANDUM

TO: Chairperson Drue Pearce, Special Committee on Oil & Gas
Committee Members

FROM: Walter B. Parker *WBP*
Chairman

I appreciate the offer to testify at length on the Governor's bills and our recommendations at some future date. After listening to the testimony offered on Monday, March 5, by Alyeska, ARCO and the State, I have the following specific comments:

Ability to Respond to Worse Case Scenarios

Mr. Asplund of ARCO stated a worst case would be 1.8 million barrels for Prince William Sound, exactly the figure I would use. What was not offered by industry was how do we achieve this figure. It can only be done by a regional response plan which brings in the capabilities of all concerned--industry, state, and federal.

The following have been offered:

Alyeska 10K barrels per hour name plate capacity. Allowing for 35% best case recovery in 72 hours	252,000
ARCO, per testimony, with a 24-hour lag to allow for mobilization from West Coast	250,000
Other five Alyeska owners	<u>(unknown)</u>
	Barrels 502,000

The above figures are for containment and best case recovery situations, ie. less than six foot sea state and no more than 1 knot currents.

Memo
Senator Pearce
Mar 6, 1990

ARCO's proposed 70,000 ton skimmer could be built to recover 25,000 barrels per hour based on it having half the capacity to pump oil out of the water that is common at the Valdez terminal for pumping oil into tankers. This would have a capacity of 600,000 barrels per day and allowing for a 35% best case recovery rate, it would recover 630,000 barrels in 72 hours. Our total best 72-hour case recovery is now 1,132,000. Thus the remaining question is how to make up the 670,000 barrel difference. Allowing for 20% evaporation of the light ends during this period, or 360,000 barrels, we can see that we are approaching our goal and have 310,000 barrels remaining for which capability must be demonstrated. Here is where the API/PIRO response may come in, also federal response from the Navy, the Corp of Engineers, the Coast Guard, and if necessary further Alyeska response. In any case, by a combination of new technology already being proposed by ARCO and by accumulation of other sources into a regional response plan, we have come close to a creditable "worst case response" capability.

The next question is why must this response be mounted in 72 hours. If you examine the oil spill simulations in our report, you will note that it is after 72 hours that the greatest impact on the beaches occurs. Once the oil is on the beach, the Commission considers the battle lost. Therefore, our strong recommendations are on the immediacy of the response efforts.

As our report shows, Exxon Valdez is only 34th on the list of 65 great oil spills. Thus, the possibility of spills where the entire tanker load is lost, 1,800,000 barrels for Prince William Sound or 500,000 barrels for Cook Inlet, is still a very real worst case situation.

There are presently 94 tankers licensed for operation into Alaskan ports. Only 10 are covered by Alyeska's present plan for a "worst case" loss; 43 are covered by combining the Alyeska and ARCO plans, adding the large skimmer as described covers 70 tankers leaving only 24 uncovered.

What are the costs of achieving this level of protection, remembering we are only achieving worst case protection by mechanical containment and recovery in good weather conditions? The costs included here are estimated by me based on our contractors estimates for similar equipment.

One Time Costs

Alyeska Costs (already committed but no cost breakdown yet provided, so this is my estimate	\$60,000,000
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Memo
Senator Pearce
March 6, 1990

ARCO Costs (less 4 ERV and 4 other vessels
in Alyeska Costs, note that this system
serves entire West Coast \$ 32,000,000

70,000 Ton Skimmer Costs (\$93 million for
new ship by Commission estimate plus \$20
million for skimmer conversion by ARCO
estimates \$ 113,000,000

1.132.000 barrels in 72 hours recovery \$ 205,000,000

Full Worst Case, another 310,000 barrels 80,000,000

Full Worst Case Recovery System in
good weather \$ 285,000,000

Annual Costs

Alyeska	\$10,000,000
ARCO	5,000,000
70,000 Ton Skimmer	10,000,000
Additional Recovery	<u>5,000,000</u>
TOTAL	\$30,000,000

Operating costs as above should cover 72 hour initial period but do not cover beach cleanup costs.

Assuming a 10-year depreciation on one time costs, the annual costs for "worst case" mechanical recovery in Prince William Sound are \$58,000,000 or the profits on 5 days throughput at the Valdez terminal.

*\$6 X 9,750,000 barrels

*From Deakins Report

Now the question is, what is the cost of "worst case recovery" in bad weather. The present options are burning or dispersants. Future options may include gelling agents as described in our report. The costs of bad weather treatment are:

Burning, the loss of the ship and cargo	
250,000 T Tankers, new	\$192,000,000
cargo 1.8 million barrels @ \$20	<u>36,000,000</u>
Total	\$218,000,000
70,000 T Tanker, new	\$ 93,000,000
cargo, 500,000 barrels @ \$20	<u>10,000,000</u>
Total	\$103,000,000

Memo
Senator Pearce
March 6, 1990

The costs of the flights and igniting agents plus recovery of crew \$ 250,000

Dispersants: Following the British method of aerial application and the most favorable 1 to 20 crude to dispersant ratio, we require for the worst case 1,800,000 barrels, some 90,000 barrels of dispersant or 3,780,000 gallons @ \$3/gal \$ 11,340,000

Costs of 700 C130 flights of 5 hour duration or 3,500 flight hours @ \$3500 per hour* \$ 12,250,000

Worst Case by dispersant \$ 23,590,000

Gelling agents: This method is untried, untested, and wholly hypothetical. The ratio of 40 to 1, agent to oil, is the best known and the costs are in the ballpark of what is being paid by the US Navy for gelling agents.

Gelling agents 45,000 barrels, 6,250 tons or 1,890,000 gal @ \$12/gal \$ 22,680,000

Costs of 350 C130 flights of 5 hours duration @ \$3500 per hour* 6,125,000
Total \$ 28,805,000

* Assumes dispersants or gelling agents are located at Anchorage or Kenai.

Thus, it is true that the costs of a worst case response are large, whatever method is used. The alternative of avoiding it is equally costly in the long run. The size of the worst case scenario for each region will be governed by how much risks the industry places on the region. Exxon Valdez has shown us that the area at risk can be very large if response is not immediate enough to keep the oil from migrating to near and distance beaches.

Need for State Tanker Inspections

Regarding the need for state inspection on board tankers, our report details the sorry history of how the Coast Guard backed off after 1979 when the Alyeska owners' law suit and later legislative action eliminated the state presence on tankers. The Coast Guard budget on marine safety, wherein ship inspections lie, was cut 28% between 1982 and 1989. Allowin for inflation this was a real cut

Memo
Senator Pearce
March 6, 1990

of 40%. The fleet, meanwhile, aged another 7 years, with only two new additions Exxon Valdez and Exxon Long Beach, being added in this period. Thus, inspections dropped as the ships got older. The Coast Guard testified at length about its concerns with increasing hull fatigue before House Resources on January 24. Despite this concern of the Coast Guard, I view the chances of major budget increases in marine safety as small unless the initiatives come Congress.

REGIONAL CITIZEN ADVISORY COMMITTEE

March 12, 1990

Representative Curt Menard
P.O. Box V
Juneau, AK. 99811

Dear Mr. Menard:

Attached is some information about the Regional Citizen's Advisory Committee (RCAC) and a memorandum with regards to our positions on pending State Legislation. Our Legislative Sub-Committee will be working to develop position papers, testimony, and in some cases specific language for oil spill related bills. The fifteen directors of RCAC look forward to working with the legislature as well as the oil industry to put in place the best laws possible to prevent, respond to, and mitigate the impacts from future oil spills.

Thank You.



Tim Robertson
V.P. Oil Spill Prevention & Response

TR/ph
cc: Marilyn Hyman

MAR 09 '90 19:15 CORDOVA CITY HALL

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THE FOLLOWING REPORT, AS CORRECTED, WAS APPROVED BY THE RCAC ON MARCH 9, 1990

Memorandum -- 9 March 1990

To: RCAC

From: Legislative Subcommittee

Your legislative subcommittee recommends RCAC take a supporting position on the following legislation:

1. SB359/Comparable House Measure

Establishes \$10 million within the Sec. 470 funds to support social and economic needs of a municipal response to a spill, through DCRA.

RCAC would support the efforts of the Oiled Mayors. In our statements, we would remind people of our stand that we feel the Alyeska plan, as submitted, is inadequate because it does not address social and economic impact of a spill.

2. SB 497/HB 409

Part of the Governor's oil spill package, the bill strengthens DEC access to terminal facilities, allows for administrative penalties, changes methods for compliance orders and provides for environmental audits.

The bill has passed committees of referral in the House and awaits floor action.

RCAC should support the legislation, as it brings Alaska environmental law in step with the rest of the country and strengthens RCAC's access.

In doing so, we should support proper funding and staffing of DEC for enforcement of this law and laws they already have.

3. SB504/HB567

The bill, submitted by Gov. Cowper and the Oil Spill Commission, would raise the standard for mandatory response plans. RCAC should support the bill with the following additions or caveats:

a. The bill should mandate prevention as well as response in contingency plans.

b. RCAC's should be recognized as a part of both the review of a

MAR 09 '90 19:15 CORDOVA CITY HALL

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RCAC Legislative Subcommittee Report -- page two

plan and as essential to the operation of any plan. This is a good place to further mandate agency cooperation with citizen's advisory committees. We feel this legislation, if sufficiently modified, is the best way to tackle the concerns behind the Resources Committee bill draft that would create RCAC's on the state level.

c. On the bill's most controversial provision, we suggest the RCAC support language which would have a spill contained within 72 hours and picked up within the shortest possible time. Language also implies that immediate response is not required under the law, and we should clarify that language. Finally, on the issue of "realistic maximum discharge" vs. "most probable discharge" we support the former in concept, but believe RCAC should review this specific language further until we better understand the effect it would have on the current plan.

d. We would like to see the bill mandate legal and social and economic provisions of a prevention/response plan, and to see the DEC-Alyeska agreement on handoff of a response to a spiller recognized and clarified in the law.

e. We should note in testimony that several parts of the current law seem not to have been enforced by DEC, and use that to support a strong fiscal note for this provision, including funding of community review of response plans.

4. The RCAC will follow HB 565, SB 502, SB 503, HB 566, HB 315, HB 316 and legislation concerning citizens advisory committees and citizens suits. We will gain committee concurrence before taking a position.

5. Resources required: For the amendments we propose to SB 504/HB 567 we will attempt to have an amendment written by legislative staff but may wish to hire drafting counsel and to bill back some secretarial time. We wish to have the ability for a member of the committee to be in Juneau at immediate notice. We will teleconference with the RCAC as a whole if any change from these positions is required. We do not believe a retained lobbyist is required. We would welcome participation from anyone on the committee not currently on the subcommittee.

Position papers we prepare on these issues will be distributed to RCAC members in advance of use in order to involve our constituents in the process and to keep them up to speed.

Pending approval of Messrs. Walker and Butler, Tim Robertson will serve as co-chair for state legislation. Mead Treadwell will serve as co-chair for federal legislation. RCAC will plan to have someone in Juneau during the session's last week.

REGIONAL CITIZENS ADVISORY COMMITTEE

The Regional Citizens Advisory Committee (RCAC) offers the best chance for the public to influence oil industry operations in this state. The RCAC is The Alaskan version of the successful system of citizen participation in the formulation of oil storage and transportation policy in the remote Shetland Islands of Scotland.

The formation of an interim RCAC, originally named the Alyeska Citizens Advisory Committee (ACAC), was initiated by the Alyeska Pipeline Service Company in June, 1989. Alyeska was responding to the need for citizens' participation in the process of formulating an effective oil spill prevention and response plan for Prince William Sound, as required by Alaska Department of Environmental Conservation in aftermath of the Exxon Valdez grounding.

The 15 committee members represent the communities of Prince William sound, the Kenai Peninsula and Kodiak Island, as well as fishing, conservation, aquaculture and native groups. No member of the committee represents Alyeska or the owner corporations.

As a fully independent entity, this interim committee has vigorously pursued its goals. The RCAC has begun its review of the Alyeska Oil Spill Response and Contingency Plan, and has taken on the additional responsibilities of monitoring the Alyeska Pipeline Terminal in order to help ensure its environmentally correct operation and the safe shipping of North slope Crude through Prince William Sound.

To guarantee the continued existence of a citizens advisory group, the committee is now in the process of developing bylaws and articles of incorporation as a nonprofit corporation, as well as negotiating a contract between RCAC and Alyeska for the permanent committee.

The interim committee has also involved itself in federal oil spill legislation. Most recently, RCAC modified Senate legislative language mandating a citizens advisory committee system, and in November sent a three-member subcommittee to Washington, D.C., to support the inclusion of this language in oil spill legislation before the House of Representatives. The concept of the advisory committee was introduced in the Senate by Senator Murkowski as a section of the oil spill liability bill passed in August.

The advisory committee language supported by RCAC was attached by Representative Young to the Coast Guard appropriations bill passed in October, rather than to the House version of the oil spill liability bill. The advisory committee language was later dropped from the legislation in conference, but Rep. Young's action succeeded in bringing the issue to the fore in the House, which is now on record as strongly supporting the concept. Senate and House members are expected to conference in March on the oil spill bill, chances are good that the Citizen Advisory Legislation will be part of the final bill.

The RCAC legislative subcommittee is planning to work towards better State Legislation related to Oil Spill Prevention and Response as well as Oil Spill Impact Mitigation. With its regional representation and independent status, the RCAC can add legislative refinements based on knowledge gained through real involvement.

The RCAC can act as an effective watchdog to the oil industry in Alaska. The first line of defense against oil spill or oil-related impacts is prevention. This is the field of endeavor which will be actively pursued by the environmental and technical subcommittees to be appointed by the RCAC. In addition, the RCAC will interact with federal and state regulatory agencies on an ex-officio basis.

ACAC MEMBERS

March 1, 1990

3/2

NAME	ADDRESS	PHONE	FAX
GEORGIA BUCK CITY OF WHITTIER	CITY OF WHITTIER P.O. BOX 608 WHITTIER, AK 99893	472-2327(WK)	472-2404
JIM BUTLER PENINSULA BORO. REP	144 N. BINKLEY AVE SOLDOTNA, AK 99689	282-7815(WK) 283-5633(HM)	262-1892
CHARLES CHRISTIANSEN MAYOR LARSEN BAY	BOX 8 LARSEN BAY, AK 99815	847-2203	
WAYNE COLEMAN KODIAK ISLAND BOROUGH	710 MILL BAY RD KODIAK, AK 99615	486-5736	486-2886
CHRIS GATES CITY OF SEWARD VP-PORT OPS/ VT8	5th & ADAMS BOX 187 SEWARD, AK 99664	224-3331(WK) 224-8867(HM)	224-3248
MARILYN LELAND C.D.F.U. SECRETARY	BOX 838 CORDOVA, AK 99574	424-3447(WK) 424-7778(HM)	424-3430
JOHN McMULLEN PSWAC	PWSAC OFFICE CORDOVA, AK 99574	424-7511(WK)	424-7514
STACIE PASCAL CHUGACH ALASKA CORP.	3000 A STREET SUITE 400 ANCHORAGE, AK 99503	563-8866(WK)	563-8402
TIM ROBERTSON CITY OF SELDOVIA VP-O.S.R.	DRAWER B SELDOVIA, AK 99623	234-7469(WK) 234-7491(HM)	234-7430
ANN ROTHE NAT'L WLD. FEDERATION CHAIRPERSON	750 W. 2ND AVE SUITE 200 ANCHORAGE, AK	258-4800(WK)	258-4811
LESLIE SMITH KODIAK CITY	710 MILL BAY RD. KODIAK, AK 99615	486-8642(WK)	486-8600
MARGE TILLION CITY OF HOMER	P.O. BOX 835 HOMER, AK 99603	235-7085(HM) (CITY)	235-7085 235-3140
MEAD TREADWELL VP-SCIENCE	FIRST STREET CORDOVA, AK 99674	424-6200(WK)	424-0000
RHI WALKER CITY OF VALDEZ TREASURER	509 W. 3rd AVE. ANCHORAGE, AK 99501	263-8251(WK) 274-7522(WK)	263-8320
JACOB WELLS VP-TERM/ENV.	P O BOX 849 SELDOVIA, AK 99623	895-4874(WK)	

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

I was very pleased to see the Governor's oil and gas legislative package introduced. It is disappointing, however, that prior to introduction he chose to present the bills to industry alone for critique. This bodes ill for the greater public oversight and participation recommended by the Alaska Oil Spill Commission. Happily, you have taken a step in the right direction by scheduling these teleconferences at a time convenient for the working public. Let me commend you and thank you for the opportunity to express my views.

In a recent presentation to the Homer Chamber of Commerce, Exxon's Don Carpenter explained that it was company policy to comply with the "letter of the law", not the "spirit of the law." High officials from British Petroleum and other corporations have reflected the same commitment on a number of occasions.

If nothing else does, this should bring home the need to reform that body of law governing oil industry operations in Alaska. Some of the legislative reforms which I feel should be enacted are touched upon in the Governor's bills.

1. Increase, broaden, and clarify civil and criminal penalties for parties responsible for chronic and catastrophic spills of petroleum and other hazardous substances.
2. Require effective, coordinated response planning for both industry and government.
3. Require full financial responsibility for operators of oil & gas facilities and vessels.
4. Strengthen and clarify the authority of regulatory agencies to inspect oil & gas facilities and vessels.
5. Improve the ability of regulatory agencies to assure compliance with health, safety, and environmental regulations and lease or permit stipulations.
6. Provide adequate funding for more effective spill prevention and response capabilities.

To the extent that these bills would help realize these reforms, I support them. In reading over them it became obvious that in a number of ways they fall short of doing so, and of course, there are important areas of concern beyond their scope which must be addressed as well. For now I will confine my comments to suggestions regarding the reforms enumerated.

There are a number of important omissions in the Governor's package. At least twelve of the Alaska Oil Spill Commission's recommendations have not been addressed -- as follows:

- 1) Seven day tank farm capacity (PG. 18)
- 2) Establish a harbor administration office (PG. 28)
- 3) Establish state (PG. 21) and Regional advisory councils (PG.29) and they should represent local governments (PG. 29)
- 4) Licensing of all transportation safety personnel (PG. 24)
- 5) Compensation for persons impacted by oil spill who are not protected by unemployment insurance (PG. 44)
- 6) Regional and State oversight council (PG. 21)
- 7) Government space at Alyeska or other major terminals (PG. 24)
- 8) Task force on the environmental safety of pipeline (PG. 27)
- 9) Interstate compact (PG. 25)
- 10) Provision for citizen lawsuits (PG. 23)
- 11) Quick response (PG. 44)
- 12) Plans to cover worst-case scenarios (PG. 52)

Another important area that has not been considered in the present bills is the matter of criminal penalties. The State House has done so with HB 315 and HB 316, and it is my hope that the Senate will be supportive of this issue.

A major flaw in the liability legislation passed last spring was the exemption of refined products. As far as I can tell, the Governor's bills do not correct this error. It seems vital to me that all spill related law include both crude oil and refined product.

Now to specific bills (2/21/90 -- go00510s, go00520s, go00530s)

SB 502 CIVIL PENALTIES AND DAMAGE PROVISIONS

Page 2, 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 is 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.

-- page 5, O'MEARA --

**SB 503 AUTHORIZING USE OF HAZARDOUS SUBSTANCE RELEASE RESPONSE
FUND/ROLE OF ADES/ESTABLISHING EMERGENCY RESPONSE
COMMISSION**

The first thing that this bill should do is increase the size of the response fund to a minimum of \$1 billion.

This bill should incorporate language from HB 421, broadening the uses for the fund to cover many of the costs associated with prevention and response preparedness.

Page 1, Sec. 2, Lines 22-25

This language should be clarified to assure that the fund can be used only for prevention of and response to oil and hazardous substance disasters.

Page 2, Sec. 5, Lines 18, 19, 22, & 23

It is unclear exactly what the role and authority of the Alaska Division of Emergency Services is with respect to the A.D.E.C. and other agencies. This needs to be made clear.

Page 2, Sec. 6, Lines 26-28 and on...

Again, this is all very unclear. We need to have a clear understanding of the relative authority, responsibility, and working structure involving:

1. The Alaska Div. of Emergency Services
2. The Alaska State Emergency Response Commission
3. The A.D.E.C. Oil Spill Response Office, its response corps and depots
4. THE DEPARTMENT OF MILITARY AND VETERANS AFFAIRS

We need to know who is in charge. A single administrative presence with clear authority to direct all response activity is vital. Experience shows that we cannot do this by a committee of peers.

Page 3, Sec. 6, Lines 16-21 and Page 5, Sec. 6, Lines 8-11

Do the "emergency planning districts" correspond to the areas covered by the "regional contingency plans"? Will the commission take over direction of contingency plan and response office development started by A.D.E.C.? This is very confusing and we really need to get it worked out before we have to deal with another emergency.

-- page 6, O'MEARA --

HB 504 CONTINGENCY PLAN REQUIREMENTS/FINANCIAL RESPONSIBILITY/
INSPECTION AUTHORITY

Page 1, Sec. 1, Lines 13, 20, and 23

The bill requires a contingency plan for operation of oil terminals, oil platforms, and tank vessels or barges. I would suggest that it should also require such a plan for operation of refineries, pipelines, and onshore facilities.

Page 2, Sec. 1, Lines 11-16

There should a provision for public as well as agency oversight of contingency plan approval or modification. Citizen oversight and advisory councils as suggested on pages 21 and 29 of the Alaska Oil Spill Commission's executive summary could fulfill that role.

Page 2, Sec. 1, Line 22 and Page 3, Line 3

Requiring response to a spill in the "shortest possible time" is a fine idea, but I think we need to have some clarification as to what that means. It would be helpful if we could tie it down a bit more.

Page 5, Sec. 2, Lines 20 & 21

Given the great costs associated with oil spills, it would seem that demonstration of financial responsibility greater than \$500 million is called for. I would suggest raising the minimum to \$1 billion for tank vessels and barges.

Page 6, Sec. 2, Lines 15-17

There are only two ways to be sure of actual financial responsibility -- through bona fide insurance or by posting bond. These should be the only acceptable proofs of financial responsibility. I suggest all other so-called proofs be deleted from this bill.

Page 8, Sec. 4, Line 9

Clarification of rights of access for regulating agencies is very important and I am pleased to see this language. It does seem related to language in HB 409, and I would suggest adding the more comprehensive provisions from that bill here. I would also repeat my previous suggestion that provisions of this bill apply to refineries, pipelines, and all onshore facilities as well as those already cited in the bill.

PLEASE -- NO LIMITS ON "REALISTIC MAXIMUM OIL DISCHARGE"
OIL IS OIL! WE MUST BE PROTECTED NO MATTER WHO IS
INVOLVED. COST SHOULD NOT BE A FACTOR.

-- page 7, O'MEARA --

That concludes my remarks on these bills for now. Thank you again for your effort in bringing them before the public. I would appreciate being kept apprised of further work on these bills as well as introduction of other legislation dealing with oil and gas reform.

P.S. — I JUST GOT A COPY OF THIS BILL, SOOOO...

SB 408 DUTIES OF —
DEPT. OF MILITARY AND VETERANS AFFAIRS
DEPT. OF ENVIRONMENTAL CONSERVATION
IN RELATION TO OIL, ETC.

IT APPEARS THAT THIS BILL IS AN ATTEMPT TO ORGANIZE A VERY CONFUSING SITUATION
PAGE 1, SECTION 1, LINES 13-17 I AM IN FAVOR OF THAT.

THIS IS CONFUSING. IT SAYS THAT ~~DMVA~~ ADES SHALL ESTABLISH THE OIL AND HAZARDOUS RESPONSE OFFICES — LAST YEAR SB 264 WAS PASSED CHARGING ADEC TO DO THAT. SB 503 SEEMS TO CHARGE ADEC TO DO THAT ALSO, THROUGH FORMATION OF THE ALASKA STATE EMERGENCY RESPONSE COMMISSION. WHO IS IT? WHO IS IN CHARGE. SEE MY COMMENTS ON SB 503.

PAGE 2, SECTION 3, LINES 11-17

IT SEEMS HERE THAT THE DIVISION OF EMERGENCY SERVICES IS THE LEAD AGENCY. IS THAT CORRECT? WHO IS THE ADMINISTRATOR WITH ULTIMATE AUTHORITY TO DIRECT COORDINATED SPILL RESPONSE?

PAGE 3, SECTION 5, LINES 21 AND 26-29

- GOOD THAT PLANS WILL BE SUBMITTED FOR PUBLIC REVIEW.
- GOOD THAT UNANNOUNCED DRILLS WILL BE REQUIRED

PAGE 4, SECTION 7, LINES 10-27

- GOOD THAT YOU WISH TO EXPAND USE OF FUND THIS IS SIMILAR TO LANGUAGE IN SB 503 AND HB 421 — THESE BILLS SHOULD BE COMBINED. SEE MY COMMENTS ON SB 503.

I WOULD SUGGEST THAT THE FUND MIGHT ALSO BE USED TO FUND A STAFF OF DEDICATED MONITORING

4AND
PAGE 5, SECTION, 8

Page 8, P. U. Meara

THIS SEEMS TO FINE TUNE PROVISIONS IN LAST YEAR'S
SB 264. IS THAT TRUE?

NORTH SLOPE BOROUGH**OFFICE OF THE MAYOR**

P.O. Box 69
Barrow, Alaska 99723

Phone: 907-852-2611

George N. Ahmaogak, Sr., Mayor



TO: Garrey Peska, Chief of Staff
Office of the Governor
Rebecha Miller, Director
Fairbanks Executive Office
Office of the Governor
✓ Mike Irwin, Special Staff Assistant
Office of the Governor

TO: Senator Al Adams
TO: Representative Eileen
MacLean

FROM: Dennis Roper, State Government Affairs
Juneau Office

DATE: February 23, 1990

SUBJ: ANAKTUVUK PASS - NORTH SLOPE BOROUGH
DISASTER RELIEF

This will give you early notice that the North Slope Borough intends to request disaster relief from the Governor for the Borough village, Anaktuvuk Pass, for damage resulting from a fuel spill of approximately 40,000 gallons, and possibly for contamination of the village water supply.

At this time, the best estimate for the clean up is approximately \$750,000 and does not include pipe repair.

This notification is for your information prior to Mayor's Ahmaogak's formal request for a Declaration of Disaster.



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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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, I won't have to draw another picture like this for a long, long time.

Thank you.

CORRECTION

**THIS DOCUMENT
HAS BEEN REPHOTOGRAPHED
TO ASSURE LEGIBILITY**



Laurie Ferguson Craig

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