

ALASKA LEGISLATURE COMMITTEE FILES 1991-1992 8672
7162 HOUSE RESOURCES

A BILL TO BE ENTITLED
AN ACT

relating to the prevention of, and the damage, cleanup, costs, and liability for, all spills in coastal waters of the state; providing for adequate response to spills of oil and other pollutants in coastal waters; levying a coastal protection fee; creating the coastal protection fund; amending licensing requirements for pilots in state waters; making an appropriation; and providing civil and criminal penalties.

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

SECTION 1. Subtitle C, Title 26, Natural Resources Code, is amended by adding Chapter 40 in read as follows:

CHAPTER 40. OIL SPILL PREVENTION AND RESPONSE ACT OF 1991

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 40.001. SHORT TITLE. This chapter may be cited as the Oil Spill Prevention and Response Act of 1991.

Sec. 40.002. POLICY. (a) The legislature finds and declares that the preservation of the Texas coast is a matter of the highest urgency and priority. It is the policy of this state to keep its coastal waters, rivers, lakes, estuaries, marshes, tidal flats, beaches, and public lands as pristine as possible, taking into account multiple use accommodations necessary to provide the broadest possible promotion of public and private interests. Spills, discharges, and escapes of crude oil, petroleum, and other such substances resulting from their handling,

storage, and transportation, particularly by vessel, endanger the coastal environment of the state, public and private property on the coast, and the well-being of those deriving their livelihood from marine-related activity in coastal waters. The hazards posed by the handling, storage, and transportation of these substances in the coastal waters are contrary to the paramount interests of the state. These state interests outweigh the economic burdens imposed under this chapter.

(b) The legislature intends by this chapter to exercise the policy power of the state to protect its coastal waters and adjacent shorelines by conferring upon the Commissioner of the General Land Office the power to:

(1) prevent spills and discharges of oil by requiring and monitoring preventive measures and response planning;

(2) provide for prompt response to abate and contain spills and discharges of oil and ensure the removal and cleanup of pollution from each spill and discharge;

(3) provide for development of a state coastal discharge contingency plan through planning and coordination with the Texas Water Commission to protect coastal waters from all types of spills and discharges; and

(4) administer a fund to provide for funding these activities and to guarantee the prompt payment of certain reasonable claims resulting from spills and discharges of oil.

(c) The legislature declares that it is the intent of this

001531
11:11

1 national contingency plan. In responding to the discharge the
 2 commissioner or the state-designated on-scene coordinator shall to
 3 the greatest extent practicable act in accordance with the national
 4 contingency plan and cooperate with the federal on-scene
 5 coordinator or other federal agency or official exercising
 6 authority under the national contingency plan.

7 (f) The commissioner or the state-designated on-scene
 8 coordinator may act independently to the extent no federal on-scene
 9 coordinator or authorized agency or official of the federal
 10 government has assumed federal authority to oversee, coordinate,
 11 and direct response operations.

12 SEC. 40.103. ASSISTANCE AND COMPENSATION. (a) Subject to
 13 the commissioner's authority under this chapter, any person or
 14 discharge cleanup organization may assist in abating, containing,
 15 or removing pollution from any unauthorized discharge of oil. This
 16 chapter does not affect any rights not inconsistent with this
 17 chapter that any such person or organization may have against any
 18 third party whose acts or omissions caused or contributed to the
 19 unauthorized discharge.

20 (b) Any person or discharge cleanup organization that
 21 renders assistance in abating, containing, or removing pollution
 22 from any unauthorized discharge of oil may receive compensation
 23 from the fund for response costs, provided the commissioner
 24 approves compensation prior to the assistance being rendered.
 25 Prior approval for compensation may be provided for in the state

1 coastal discharge contingency plan. The commissioner, on petition
 2 and for good cause shown, may waive the prior approval
 3 prerequisite.

4 SEC. 40.104. QUALIFIED IMMUNITY FOR RESPONSE ACTIONS.

5 (a) No action taken by any person or discharge cleanup
 6 organization to abate, contain, or remove pollution from an
 7 unauthorized discharge of oil, whether such action is taken
 8 voluntarily, or pursuant to the national contingency plan or state
 9 coastal discharge contingency plan, or pursuant to a discharge
 10 response plan required under this chapter, or pursuant to the
 11 request of an authorized federal or state official, or pursuant to
 12 the request of the responsible person, shall be construed as an
 13 admission of responsibility or liability for the discharge.

14 (b) No person or discharge cleanup organization that
 15 voluntarily, or pursuant to the national contingency plan or the
 16 state coastal discharge contingency plan, or pursuant to any
 17 discharge response plan required under this chapter, or pursuant
 18 to the request of an authorized federal or state official, or
 19 pursuant to the request of the responsible person, renders
 20 assistance or advice in abating, containing, or removing pollution
 21 from an unauthorized discharge of oil is liable for response costs,
 22 damages, or civil penalties resulting from acts or omissions
 23 committed in rendering such assistance or advice, except for acts
 24 or omissions of gross negligence or willful misconduct.

25 SEC. 40.105. EQUIPMENT AND PERSONNEL. The commissioner shall

1 establish and maintain equipment and personnel at places the
 2 commissioner determines may be necessary to facilitate response
 3 operations.

4 Sec. 40.106. REFUSAL TO COOPERATE. (a) If a responsible
 5 person, or a person or discharge cleanup organization under the
 6 control of a responsible person, participating in operations to
 7 abate, contain, and remove pollution from any unauthorized
 8 discharge of oil, reasonably believes that any directions or orders
 9 given by the commissioner or the commissioner's designee under this
 10 chapter will unreasonably endanger public safety or natural
 11 resources or conflict with directions or orders of the federal
 12 on-scene coordinator, the party may refuse to comply with the
 13 direction or orders.

14 (b) The party shall state at the time of refusal the reasons
 15 or reasons why the party refuses to comply. The party shall give
 16 the commissioner written notice of the reason or the reasons for
 17 the refusal within 48 hours of the refusal.

18 Sec. 40.107. PRESUMPTION OF NATURAL RESOURCES DAMAGES.
 19 (a) In any action to recover natural resources damages, the amount
 20 of damages established by the commissioner in conjunction with
 21 state-designated natural resources surveys, according to the
 22 procedures and plans contained in the state coastal discharge
 23 contingency plan shall create a rebuttable presumption of the
 24 amount of such damages.

25 (b) The commissioner may establish the rebuttable

1 presumption by submitting to the court a written report of the
 2 amounts computed or expended according to the state plan. The
 3 written report shall be admissible in evidence.

4 Sec. 40.108. DANGEROUS VESSELS AND STRUCTURES. (a) A person
 5 may not leave, abandon, or maintain any structure or vessel
 6 involved in an actual or threatened unauthorized discharge of oil
 7 on public or private lands or at a public or private pier or dock,
 8 in a wrecked, derelict, or substantially dismantled condition,
 9 without the consent of the commissioner.

10 (b) The commissioner may remove any vessel or structure
 11 described in Subsection (a) of this section and may recover the
 12 cost of removal from the owner or operator of the vessel or
 13 structure.

14 Sec. 40.109. REGISTRATION OF TERMINAL FACILITIES. (a) A
 15 person may not operate or cause to be operated a terminal facility
 16 without a discharge prevention and response certificate issued
 17 pursuant to rules promulgated under this chapter.

18 (b)(i) As a condition precedent to the issuance or renewal
 19 of a certificate, the commissioner shall require satisfactory
 20 evidence that:

21 (A) the applicant has implemented a discharge
 22 prevention and response plan consistent with state and federal
 23 plans and regulations for prevention of unauthorized discharges of
 24 oil and abatement, containment, and cleanup of pollution when such
 25 discharge occurs; and

... except for ...
 EQUIPMENT AND PERSONNEL. The commissioner may
 ... willful misconduct.

1 coastal waters or at any other place where, unless controlled or
 2 removed, they may drain, seep, run, or otherwise enter coastal
 3 waters.

4 (8) "Discharge cleanup organization" means any group
 5 or cooperative, incorporated or unincorporated, of owners or
 6 operators of vessels or terminal facilities and any other persons
 7 who may elect to join, organized for the purpose of abating,
 8 containing, removing, or cleaning up pollution from discharges of
 9 oil or rescuing and rehabilitating wildlife or other natural
 10 resources through cooperative efforts and shared equipment,
 11 personnel, or facilities. Any third-party cleanup contractor,
 12 industry cooperative, volunteer organization, or local government
 13 shall be recognized as a discharge cleanup organization, provided
 14 the commissioner properly certifies the organization.

15 (9) "Federal fund" means the Federal Oil Spill
 16 Liability Trust Fund.

17 (10) "Fund" means the coastal protection fund.

18 (11) "Harmful quantity" means that quantity of oil the
 19 discharge of which is determined by the commissioner to be harmful
 20 to the environment or public health or welfare or may reasonably be
 21 anticipated to present an imminent and substantial danger to the
 22 public health or welfare.

23 (12) "Hazardous substance" means any substance, except
 24 oil, designated as hazardous by the Environmental Protection Agency
 25 pursuant to the Comprehensive Environmental Response, Compensation,

1 and Liability Act of 1980 (42 U.S.C. Sec. 9601 et seq.) and
 2 designated by the Texas Water Commission.

3 (13) "Raring terminal" means any terminal facility
 4 used for transferring crude oil to or from vessels.

5 (14) "National contingency plan" means the plan
 6 prepared and published, as revised from time to time, under the
 7 Federal Water Pollution Control Act (33 U.S.C. Sec. 1311 et seq.)
 8 and the Comprehensive Environmental Response, Compensation, and
 9 Liability Act of 1980 (42 U.S.C. Sec. 9601 et seq.).

10 (15) "Natural resources" means all land, fish,
 11 shellfish, fowl, wildlife, biota, vegetation, air, water, and other
 12 similar resources owned, managed, held in trust, regulated, or
 13 otherwise controlled by the state.

14 (16) "Oil" means oil of any kind or in any form,
 15 including but not limited to crude oil, petroleum, fuel oil,
 16 sludge, oil refuse, and oil mixed with wastes other than dredged
 17 spoil, but does not include petroleum, including crude oil or any
 18 fraction thereof, which is specifically listed or designated as a
 19 hazardous substance under Subparagraphs (A) through (F) of Section
 20 101(1) of the Comprehensive Environmental Response, Compensation,
 21 and Liability Act of 1980 (42 U.S.C. Sec. 9601 et seq.) and which
 22 is subject to the provisions of that Act, and which is so
 23 designated by the Texas Water Commission.

24 (17) "Owner" or "operator" means:

25 (A) any person owning, operating, or chartering

SENATE BILL 179

By: Senator Coleman of the 1st, Allen of the 2nd and Hammill of the 3rd

AS PASSE

AN ACT

To amend Chapter 5 of Title 12 of the Official Code of Georgia Annotated, relating to water resources, so as to provide for limited immunity from liability for persons responding to an oil spill or threat of an oil spill; to provide for definitions; to provide for applicability; to provide for certain liability regarding removal costs and damages; to provide for liability with respect to certain responsible parties; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

Section 1. Chapter 5 of Title 12 of the Official Code of Georgia Annotated, relating to water resources, is amended by adding at the end thereof a new article, to be designated Article 7, to read as follows:

"ARTICLE 7

12-5-500. As used in this article, the term:

(1) 'Damages' means damages of any kind for which liability may exist under the laws of this state resulting from, arising out of, or related to the discharge or threatened discharge of oil.

(2) 'Discharge' means any emission, other than natural seepage, whether intentional or unintentional, and includes, but is not limited to, spilling, leaking, pumping, pouring, emitting, emptying, or dumping.

(3) 'Federal on-scene coordinator' means the federal official designated by the United States Environmental Protection Agency or the United States Coast Guard to coordinate and direct federal responses under subpart D or the official designated by the lead agency to coordinate and direct removal under subpart E of the National Contingency Plan.

(4) 'National Contingency Plan' means the National Contingency Plan prepared and published under Section 311(d) of the Federal Water Pollution Control Act, 31 U.S.C. 1321(d), as amended by the federal Oil Pollution Act of 1990, Pub. L. No. 101-380, 104 Stat. 484 (1990).

(5) 'Oil' means oil of any kind or in any form, including, but not limited to, petroleum, fuel oil, sludge, oil refuse, and oil mixed with wastes other than dredged spoil.

(6) 'Person' means an individual, corporation, partnership, association, state, municipality, commission, political subdivision of a state, or any interstate body.

(7) 'Removal costs' means the costs of removal that are incurred after a discharge of oil has occurred or, in any case in which there is a substantial threat of a discharge of oil, the costs to prevent, minimize, or mitigate oil pollution from such an incident.

(8) 'Responsible party' means a responsible party as defined under Section 1001 of the federal Oil Pollution Act of 1990, Pub. L. No. 101-380, 104 Stat. 484 (1990).

12-5-501. (a) Notwithstanding any other provision of law, a person is not liable for removal costs or damages which result from actions taken or omitted to be taken in the course of rendering care, assistance, or advice consistent with the National Contingency Plan or as otherwise directed by the federal on-scene coordinator or by any state official with responsibility for oil spill response.

(b) Subsection (a) of this Code section shall not apply:

(1) To a responsible party;

(2) With respect to personal injury or wrongful death;

(3) If the person is grossly negligent or engages in willful misconduct; or

(4) To a response under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. Section 9601, et seq.).

(c) A responsible party shall be liable for any removal costs and damages that another person is relieved of under subsection (a) of this Code section.

(d) Nothing in this Code section shall affect the liability of a responsible party for oil spill response under any applicable state law."

Section 2. All laws and parts of laws in conflict with this Act are repealed.

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

P.O. Box Y, Juneau, Alaska 99811
(907) 465-3867 or 465-2450
FAX (907) 465-2029

Deliveries to: 240 Main Street
Court Plaza, Room 500
Mail Stop 3101

MEMORANDUM

March 7, 1991

SUBJECT: Response action contractor civil liability - (HB 196)

TO: Representative Bill Hudson

FROM: Michael F. Ford *m f*
Legislative Counsel

The following is a section by section analysis of HB 196:

Section 1 - Findings and Purpose.

Section 2 - Deletes provisions concerning the types of damages for which a person will be strictly liable. These provisions are reinserted in section 3.

Section 3 - Adds a definition of "damages." Provides that damages includes acts or omissions of a response action contractor for which the response action contractor is not liable, under the provisions of AS 46.03.823 or 46.03.825.

Section 4 - Excludes an oil spill response action contractor from the provisions of this section.

Section 5 - Provides that an oil spill response action contractor is not liable for damages resulting from the release or threatened release of oil, unless the liability would exist if the contractor had not responded to the release or threatened release, or the contractor acted with gross negligence or intentional misconduct. Also provides that in the event of a lawsuit to recover for personal injury or death, this section would not apply.

Section 6 - Adds definitions of "response action", "response action contract", and "response action contractor."

STATE OF ALASKA

DEPT. OF ENVIRONMENTAL CONSERVATION

OFFICE OF THE COMMISSIONER
P.O. BOX O, JUNEAU, ALASKA 99811-1800

WALTER J. HICKEL, GOVERNOR

TELEPHONE
(907) 465-2600

March 11, 1991

POSITION PAPER

HB 196

House Bill 196 proposes to shift the liability for simple negligence from an innocent oil spill response action contractor (RAC) to the party responsible for the spill so long as the RAC's act or omission is not contrary to a response plan or an order of the Federal or State on-scene coordinator.

The Department of Environmental Conservation supports HB 196 for the reasons set out in Section One of the Legislation, Findings and Purpose.



John A. Sandor
Commissioner

CORRECTION

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

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Representative Bill Hudson
March 7, 1991
Page 2

Section 7 - Repealer.

Section 8 - Effective date.

MFF:mi
91-047.mai

STATE OF ALASKA

WALTER J. HICKEL, GOVERNOR

DEPT. OF ENVIRONMENTAL CONSERVATION

OFFICE OF THE COMMISSIONER
P.O. BOX O, JUNEAU, ALASKA 99811-1800

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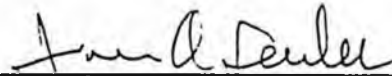
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John A. Sandor
Commissioner

FISCAL NOTE

STATE OF ALASKA
1991 LEGISLATIVE SESSION

BILL NO. HB 196

Revision Date: _____ Department Affected: DEC
 Title: Limited Liability for oil spill BRU: Environmental Quality
response action contractors Component: SPPM
 Sponsor: House Oil & Gas
 Requestor: House Oil & Gas COMPONENT SERIAL NO.

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Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES	0.0	0.0	0.0	0.0	0.0	0.0
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

REVENUE						
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FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

Estimate of current year impact: None

ANALYSIS: (Attach a separate page if necessary.)

Prepared By: Janice Adair Phone: 2600
 Division: Commissioner's Office Date: March 11, 1991
 Approved by Commissioner: *Janice Adair*
 Agency: A-122 Date: 3/11/91

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

A M E N D M E N T

OFFERED IN THE HOUSE BY THE HOUSE SPECIAL COMMITTEE ON OIL AND GAS
TO: HB 196

Page 1, line 3:

Delete "definition"

Insert "definitions"

Page 1, line 3, following "response action":

Insert "and 'response action contractor'"

Page 5, line 11:

Delete "and"

Page 5, line 14, following "contract":

Insert "; and

(C) a person who acts as a volunteer and is engaged in a response action"

A M E N D M E N T

OFFERED IN THE HOUSE BY THE HOUSE SPECIAL COMMITTEE ON OIL AND GAS
TO: HB 196

Page 2, lines 21 - 23:

Delete all material and insert:

"(b) It is the purpose of this Act to

(1) define the liability of oil spill response action contractors in light of the crisis atmosphere in which they operate, and the uniquely severe consequences to the state of inadequate locally available oil spill cleanup capability;

(2) remove the existing deterrent to prompt and sufficient oil spill cleanup in this state;

(3) place this state on an equal competitive footing with other states in attracting oil spill cleanup capability to this state; and

(4) place the liability for good faith response action on the person responsible for the spill, rather than the response action contractor."

A M E N D M E N T

OFFERED IN THE HOUSE BY THE HOUSE SPECIAL COMMITTEE ON OIL AND GAS
TO: HB 196

Page 4, line 10:

Delete "a response plan or"

Insert "an"

Page 4, line 20, following "apply to":

Insert "(1)"

Page 4, line 21, following "death":

Insert "; or

(2) an act or omission contrary to a representation of the response action contractor asserting limited liability under (a) of this section, if

(A) the representation was incorporated into a contingency plan approved under AS 46.04.030 of a person responsible for the release or threatened release under AS 46.03.822; and

(B) the act or omission was the result of gross negligence or intentional misrepresentation"

TELECOPY COVER SHEET

Kennel Peninsula Legislative Information Office

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Fax - (907) 262-1881

TO: LIOUINEAU

ATTN: Margaret FAX: 465 2864 PHONE: 465 4648

FROM: (10 Soldotna PHONE: _____

INSTRUCTIONS: Here's testimony for 91-03-160

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DATE: 4-2 TIME: 6:30
DISCARD ORIGINALS _____ HOLD FOR PICKUP _____

NUMBER OF PAGES (not counting the cover sheet): 1

TRANSMITTED BY: Amme



UCIDA

UNITED COOK INLET DRIFT ASSOCIATION

P.O. Box 4649 KENAI, ALASKA 99611

(907) 283-3600

FAX (907) 283-3306

**UCIDA OPPOSES HB 196 & ITS OBJECTIVE OF LOWERING
FURTHER LIABILITY STANDARDS FOR RAC'S**

April 2, 1991

1. In both 1989 & 1990 the Alaska legislature lowered the standard of liability for RAC's from the normal standard of "strict liability", i.e. liable for whatever injuries the person caused, whether he was negligent or not.

Presently

1. RAC's are ONLY liable if they are negligent or engaged in intentional misconduct.

2. RAC's are ONLY liable when his or her own acts or omissions cause injuries.

3. In 1989 legislature stated that:

"To show negligence by a response action contractor, a claimant must show that the acts or omissions of the contractor under the response action contract were not in accordance with generally accepted professional standards and practices at the time their response action services were performed.

4. Negligence is found ONLY when it would be unreasonable to act as the liable party did, in the circumstances surrounding the response action.

5. As proposed, the RAC would be immunized from liability for rogue actions taken that were contrary to applicable plans and orders of the agency directing the response.

Current standards are sufficient to cover the liability exposure of all RAC's - including fishermen and local communities.

Theo Matthews

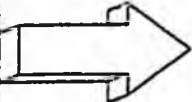
Administrative Assistant, UCIDA

**SPILL RESPONSE CONTRACTOR
LIMITED LIABILITY PROPOSAL**

RESPONSE ACTION CONTRACTOR CURRENT LIABILITY EXPOSURE	PROPOSED LEGISLATION EFFECT
------------------------------------------------------------------------------	--------------------------------------------

GROSS NEGLIGENCE

INTENTIONAL ACTS

SIMPLE NEGLIGENCE 

PERSONAL INJURY

DEATH

REMOVES:

SIMPLE NEGLIGENCE

**And clarifies
that the spiller
is STRICTLY LIABLE
for damages that
are the result of
the limited immunity
granted the
response action
contractor**

**STATES WITH ACTION SINCE
1990
LIMITING THE SPILL RESPONDER
FROM SIMPLE NEGLIGENCE
LIABILITY**

**Delaware:
Senate Bill 6
Enacted 2/91**

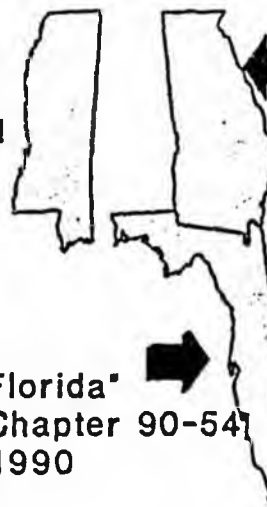


**California:
Provides immunity for
first 60, 90 days
after the spill.
"Lempert-Keene Oil Spill
Prevention & Response Act"
of 1990 (Cal. Code 8670.56.6)**

**Virginia:
Sec.62.1-44.34:18 D.
1990**



**Mississippi:
Bill passed
Senate 2/91**



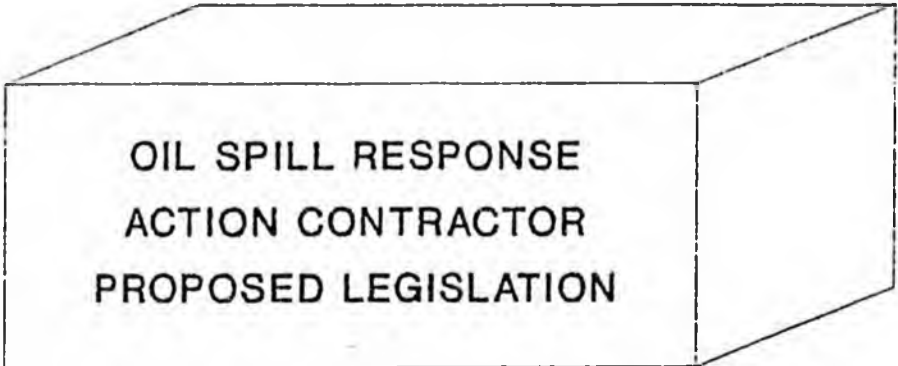
**Georgia:
Passed
Senate
61-0
2/91**

**Hawaii:
Act 298, 1990**



**Florida*
Chapter 90-54
1990**

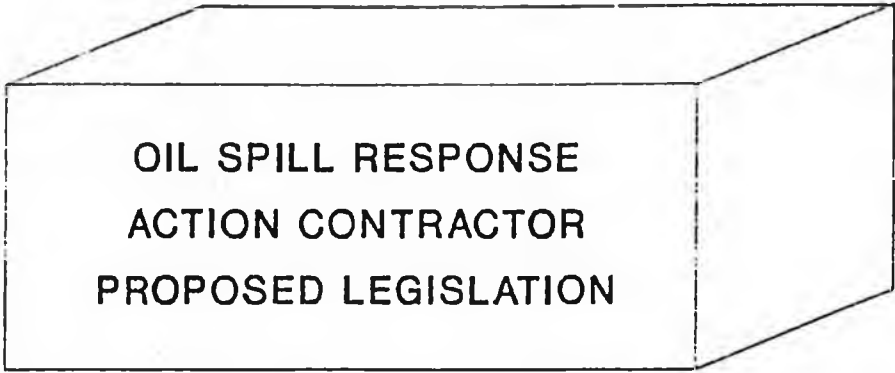




OIL SPILL RESPONSE
ACTION CONTRACTOR
PROPOSED LEGISLATION

WHO DOES THE BILL APPLY TO?

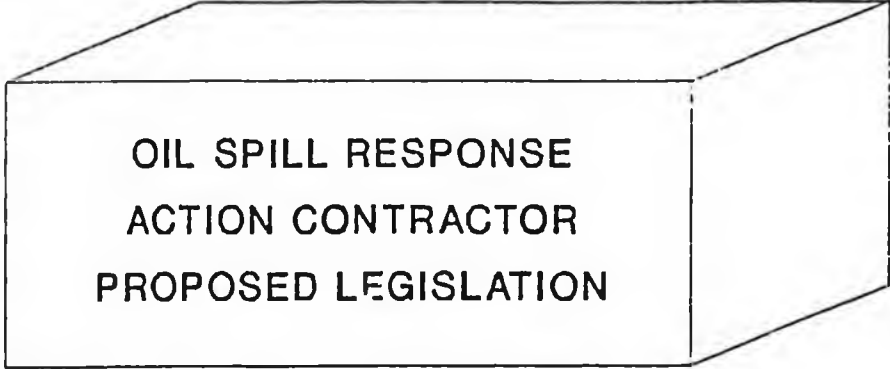
The bill applies only to innocent cleanup contractors --
those who had no involvement in the spill itself.



**OIL SPILL RESPONSE
ACTION CONTRACTOR
PROPOSED LEGISLATION**

DOES THE BILL SOMEHOW LESSEN THE SPILLER'S LIABILITY?

No! The bill makes it absolutely clear that the spiller's liability for damages includes any damages caused by the cleanup contractor's action for which liability is limited under the bill.



**OIL SPILL RESPONSE
ACTION CONTRACTOR
PROPOSED LEGISLATION**

**DOES THE BILL AFFECT A CONTINGENCY PLAN
HOLDER'S RESPONSIBILITIES TO MAINTAIN
CLEANUP EQUIPMENT?**

No. Alaska law on spill contingency plans is unaffected. The plan holder remains liable for penalties and damages if it does not respond to a spill in accordance with the promises made in that plan.

**SPILL RESPONSE CONTRACTOR
LIMITED LIABILITY PROPOSAL**

RESPONSE ACTION CONTRACTOR CURRENT LIABILITY EXPOSURE	PROPOSED LEGISLATION EFFECT
------------------------------------------------------------------------------	--------------------------------------------

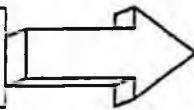
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contractor

**STATES WITH ACTION SINCE
1990**

**LIMITING THE SPILL RESPONDER
FROM SIMPLE NEGLIGENCE
LIABILITY**

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Senate Bill 6
Enacted 2/91



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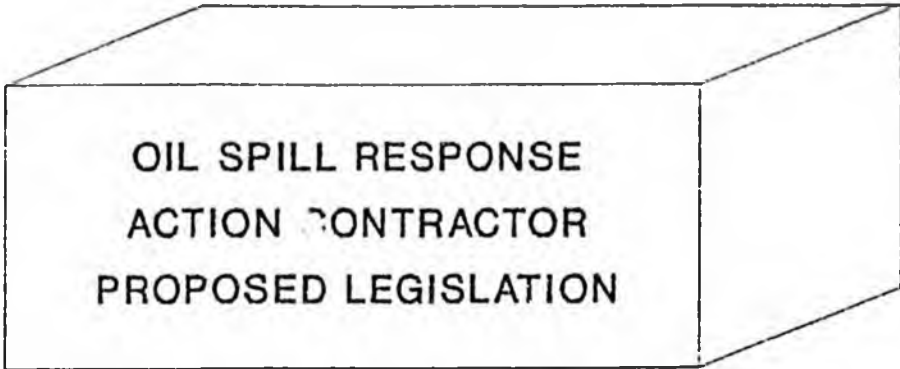
Georgia:
Passed
Senate
61-0
2/91

Hawaii:
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Florida:
Chapter 90-54
1990

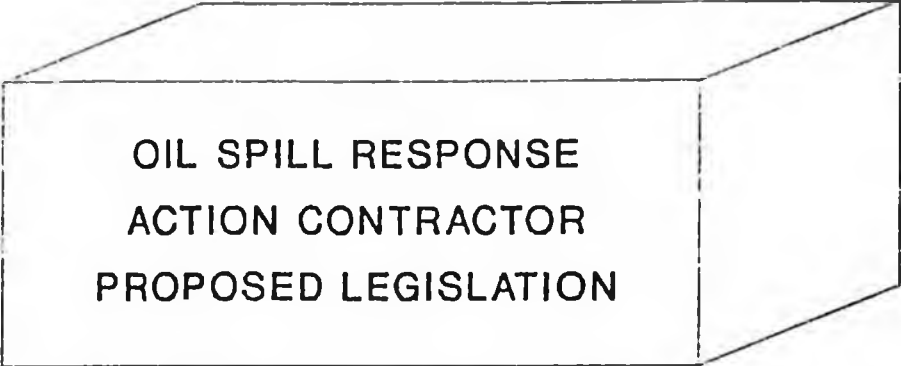




OIL SPILL RESPONSE
ACTION CONTRACTOR
PROPOSED LEGISLATION

WHO DOES THE BILL APPLY TO?

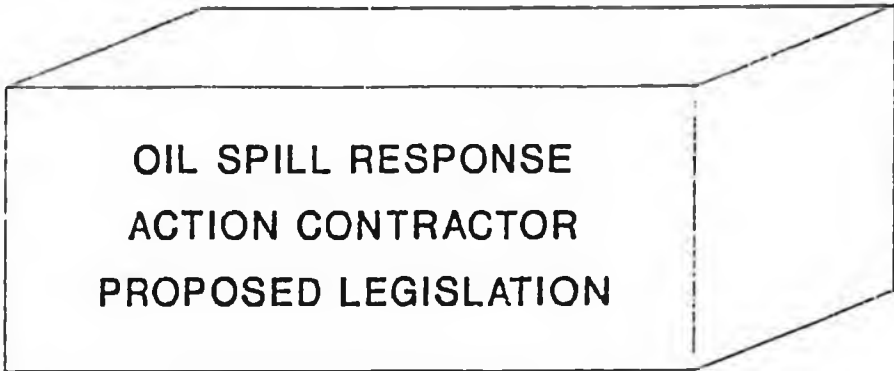
The bill applies only to innocent cleanup contractors --
those who had no involvement in the spill itself.



**OIL SPILL RESPONSE
ACTION CONTRACTOR
PROPOSED LEGISLATION**

DOES THE BILL SOMEHOW LESSEN THE SPILLER'S LIABILITY?

No! The bill makes it absolutely clear that the spiller's liability for damages includes any damages caused by the cleanup contractor's action for which liability is limited under the bill.



**OIL SPILL RESPONSE
ACTION CONTRACTOR
PROPOSED LEGISLATION**

**DOES THE BILL AFFECT A CONTINGENCY PLAN
HOLDER'S RESPONSIBILITIES TO MAINTAIN
CLEANUP EQUIPMENT?**

No. Alaska law on spill contingency plans is unaffected. The plan holder remains liable for penalties and damages if it does not respond to a spill in accordance with the promises made in that plan.

San Francisco Examiner



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Oil spill groups need legal assist

CONSIDER WHAT might occur if a fire department responding to a blaze could be sued for damages resulting from its firefighting. A lawyer might ride on every truck. And a no-fault contract might have to be negotiated before a hose was unrolled.

Of course this would be silly, not to mention counterproductive. Yet such is the problem being confronted by organizations formed to respond to oil spills. Cleanup consortiums such as Clean Bay in the Bay Area and Clean Seas in Southern California remain under the threat of lawsuits. In Sacramento, legislators now are debating proposals that would add so-called Good Samaritan language to protect oil-cleanup groups from litigation except in situations of overt misconduct or negligence.

This dispute pits the oil industry, and environmental groups such as the International Bird Research and Rescue Center and the Coast Guard, against the California Trial Lawyers Association. There are two major oil spill bills now moving toward passage, AB 2603 authored by Assemblyman Ted Lempert, D-San Mateo, and SB 2040 by State Senator Barry Keene, D-Mendocino. Neither addresses this issue. It is essential that "Good Samaritan" sections be added.

The trial lawyers contend that the distinction between spillers and responders is not as clear as portrayed, since the responding organizations often are nonprofit entities created by the oil shippers. It has

been charged that laxness on the part of Alycaka, an oil company-owned cleanup company, contributed to damage caused by the grounding of the Exxon Valdez in Alaska.

That may sound legally sensible, but it is not a practical argument from the public's point of view. Rapid response is one of the keys to successful response. Tims will cause the spill to worsen. Yet the threat of lawsuits may cause delay by cleanup crews until responsibility is made clear.

But while some are oil company-owned, other groups are not. The Ventura County Commercial Fishermen's Association created FORT — the Fisherman's Oil Response Team — to protect the sensitive Channel Islands and nearby coastal communities. Through FORT, fishermen on their own boats can be called upon by clean-up coordinators during an emergency. And they can be on the scene immediately, not days later. But FORT and its fisherman cannot place themselves in a position to accept unlimited liability.

Cleanup firms are willing to accept legal responsibility for willful misconduct, personal injury or wrongful death. They need protection from simple negligence because they must make quick decisions under difficult circumstances. Sometimes they may guess wrong. In most cases, they are not acting on their own, but under Coast Guard authority. The federal government, however, is protected in such circumstances from those seeking targets from which to recoup losses. Cleanup groups are not. They should be





Interoffice Communication

To D. L. Bowler
 From J. S. Haley
 Date February 26, 1991
 Subject Increased Cost to Milne Point Unit due to Alyeska's Oil Spill Response Service Agreement

Pursuant to a request from your office we have attempted to develop the additional costs to Conoco, the Overriding Royalty Interest Owners and the State of Alaska for Milne Point Unit production as a result of Alyeska's Oil Spill Response Agreement. The weighted average additional costs (which reduces the net-back value by an equal amount) are estimated as follows:

	<u>Increased costs/ (Reduced Net Back to Unit)</u>
February 1991	\$3.69/Bbl
March 1991	\$0.39/Bbl
April 1991	\$0.10/Bbl*

*This number is not expected to continue in the future as it reflects a cycle in the markets that may not often be repeated. We expect this number to be higher in May and thereafter even under existing sales arrangements.

The above figures represent the volume weighted increased costs. These numbers represent our best estimate of the increased costs based on current contracts, some of which are tenuous at best, given the circumstances. We have been fortunate in selling our March and April production under terms that closely approximate pre-November 1990 sales. However, if we lost our best surviving market the cost per barrel could increase \$4.00 to \$5.00 per barrel or more over pre-November sales contracts. Our current market is very precarious and may be viewed as only a 30 day arrangement. Thus, it is imperative that we get some relief from the Alaska legislature to have any assurances that net-backs for Milne Point Unit crude are not significantly reduced because of implementation of Alyeska's Oil Spill Response Service Agreement.

The State of Alaska stands to share improved net-backs by the passage of the "Good Samaritan" law for companies shipping oil through Prince William Sound.

J.S. Haley
 JSH:tt

cc: J. R. Svenvold
 D. R. Heinzer

Representative Bill Hudson
January 28, 1991
Page 2

groups in this manner. This may be the kind of distinction that would not survive a court challenge based on the equal protection clause. See Turner Construction Co. v. Scales, 752 P.2d 467 (Alaska 1988).

Please contact me if you have further questions.

MFF:gc
91-039.glc

U.S. Department
of Transportation
United States
Coast Guard



Commander
Eleventh Coast Guard District

Union Bank Bldg.
400 Cosengate
Long Beach, CA 90812-5308
Staff Symbol: (d)
Ph: (213) 499-5201

5090

AUG 28 1990

The Honorable Willie L. Brown Jr.
Speaker, California State Assembly
State Capitol
Sacramento, California 95814

Dear Mr. Brown:

I am writing to you to express concern about legislation that is important to the interests of the United States Coast Guard and the State of California. The legislation, currently being debated in the Assembly, is Senate Bill 2040.

In particular, I support the need for limited immunity for all oil spill responders other than liable parties, to the extent that it may be necessary to encourage such persons to take action promptly. Prompt action after a spill is essential to protect the marine environment of California from oil pollution.

As you know, the Oil Pollution Act of 1990 (P.L. 101-380) was signed by the President on August 18th. That Act provides limited federal immunity for all oil spill responders. The Coast Guard did not object to that provision because we believe that the issue is related to the national interest in promoting quick, effective responses to oil spills and their threats. Effective response requires resources from both the public and private sectors.

A law that does not address responder's concerns about liability exposure, causing them to hesitate in responding to spills, would be counterproductive.

Oil spill response is not an exact science. Decisions often must be made with incomplete and sometimes conflicting information. Moreover, the operational environment is unpredictable. Liability standards must take these factors into account if effective programs are to be put in place.

I urge you to give full consideration to limited immunity provisions for all oil spill responders other than liable parties in your deliberations on SB 2040.

Sincerely,

A handwritten signature in dark ink, appearing to read "M. E. Gilbert".

M. E. GILBERT
Rear Admiral, U.S. Coast Guard
Commander, Eleventh Coast Guard District

FINANCIAL LOSS - STATE OF ALASKA

MILNE POINT ROYALTY - CURRENT STATUTE

Month	Loss M\$
1	0
2	317
3	37
4	10
5	43
6	422
7	436
8	450
9	424
10	432
11	427
12	450
TOTAL	3,448

"(iii) into or on the waters of the exclusive economic zone;

or

"(iv) that may affect natural resources belonging to, appertaining to, or under the exclusive management authority of the United States.

"(B) In carrying out this paragraph, the President may—

"(i) remove or arrange for the removal of a discharge, and mitigate or prevent a substantial threat of a discharge, at any time;

"(ii) direct or monitor all Federal, State, and private actions to remove a discharge; and

"(iii) remove and, if necessary, destroy a vessel discharging, or threatening to discharge, by whatever means are available.

"(2) DISCHARGE POSING SUBSTANTIAL THREAT TO PUBLIC HEALTH OR WELFARE.—(A) If a discharge, or a substantial threat of a discharge, of oil or a hazardous substance from a vessel, offshore facility, or onshore facility is of such a size or character as to be a substantial threat to the public health or welfare of the United States (including but not limited to fish, shellfish, wildlife, other natural resources, and the public and private beaches and shorelines of the United States), the President shall direct all Federal, State, and private actions to remove the discharge or to mitigate or prevent the threat of the discharge.

"(B) In carrying out this paragraph, the President may, without regard to any other provision of law governing contracting procedures or employment of personnel by the Federal Government—

"(i) remove or arrange for the removal of the discharge, or mitigate or prevent the substantial threat of the discharge; and

"(ii) remove and, if necessary, destroy a vessel discharging, or threatening to discharge, by whatever means are available.

"(3) ACTIONS IN ACCORDANCE WITH NATIONAL CONTINGENCY PLAN.—(A) Each Federal agency, State, owner or operator, or other person participating in efforts under this subsection shall act in accordance with the National Contingency Plan or as directed by the President.

"(B) An owner or operator participating in efforts under this subsection shall act in accordance with the National Contingency Plan and the applicable response plan required under subsection (j), or as directed by the President.

"(4) EXEMPTION FROM LIABILITY.—(A) A person is not liable for removal costs or damages which result from actions taken or omitted to be taken in the course of rendering care, assistance, or advice consistent with the National Contingency Plan or as otherwise directed by the President.

"(B) Subparagraph (A) does not apply—

"(i) to a responsible party;

"(ii) to a response under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.);

"(iii) with respect to personal injury or wrongful death; or

"(iv) if the person is grossly negligent or engages in willful misconduct.

"(C) A responsible party is liable for any removal costs and damages that another person is relieved of under subparagraph (A).

"(5) OBLIGATION AND LIABILITY OF OWNER OR OPERATOR NOT AFFECTED.—Nothing in this subsection affects—

"(A) the obligation of an owner or operator to respond immediately to a discharge, or the threat of a discharge, of oil; or

"(B) the liability of a responsible party under the Oil Pollution Act of 1990.

"(6) RESPONSIBLE PARTY DEFINED.—For purposes of this subsection, the term 'responsible party' has the meaning given that term under section 1001 of the Oil Pollution Act of 1990."

(b) NATIONAL CONTINGENCY PLAN.—Subsection (d) of section 311 of the Federal Water Pollution Control Act (33 U.S.C. 1321(d)) is amended to read as follows:

"(d) NATIONAL CONTINGENCY PLAN.—

"(1) PREPARATION BY PRESIDENT.—The President shall prepare and publish a National Contingency Plan for removal of oil and hazardous substances pursuant to this section.

"(2) CONTENTS.—The National Contingency Plan shall provide for efficient, coordinated, and effective action to minimize damage from oil and hazardous substance discharges, including containment, dispersal, and removal of oil and hazardous substances, and shall include, but not be limited to, the following:

"(A) Assignment of duties and responsibilities among Federal departments and agencies in coordination with State and local agencies and port authorities including, but not limited to, water pollution control and conservation and trusteeship of natural resources (including conservation of fish and wildlife).

"(B) Identification, procurement, maintenance, and storage of equipment and supplies.

"(C) Establishment or designation of Coast Guard strike teams, consisting of—

"(i) personnel who shall be trained, prepared, and available to provide necessary services to carry out the National Contingency Plan;

"(ii) adequate oil and hazardous substance pollution control equipment and material; and

"(iii) a detailed oil and hazardous substance pollution and prevention plan, including measures to protect fisheries and wildlife.

"(D) A system of surveillance and notice designed to safeguard against as well as ensure earliest possible notice of discharges of oil and hazardous substances and imminent threats of such discharges to the appropriate State and Federal agencies.

"(E) Establishment of a national center to provide coordination and direction for operations in carrying out the Plan.

"(F) Procedures and techniques to be employed in identifying, containing, dispersing, and removing oil and hazardous substances.

"(G) A schedule, prepared in cooperation with the States, identifying—

(2) does apply only to releases for which notification to the department was provided and received in the manner prescribed under state law.

(c) The defense provided in AS 46.03.822(b)(1)(B) is not available to a potentially liable person with respect to costs or damages caused by an act or omission of a response action contractor.

(d) Except as provided in (c) of this section, this section does not affect the liability under this chapter or under any other state law of a person other than a response action contractor.

(e) This section does not affect the liability of a response action contractor that may arise from the response action contractor's failure to comply with the terms or conditions of a

(1) response action contract or a remedial action plan if one has been approved by the department; or

(2) contingency plan approved by the department where the response action contractor is the plan holder.

(f) This section does not affect the liability of an employer who is a response action contractor with respect to an employee of the employer under any provision of law, including a law related to workers' compensation.

(g) In this section,

(1) "response action" means an action taken in connection with the mitigation or cleanup of a hazardous substance release or threatened release, including investigation, evaluation, plan development, mapping and surveying, engineering, design and construction, removal, and equipment provision;

(2) "response action contract" means a written contract or agreement to provide response action with respect to a release or threatened release of a hazardous substance, entered into by a person with

(A) the department;

(B) another person who has entered into an agreement with the department that provides for response action subject to the department's oversight and control;

(C) a federal agency with jurisdiction over the release or threatened release; or

(D) another person potentially liable for the release or threatened release under state or federal law;

(3) "response action contractor" means

(A) a person who enters into a response action contract with respect to a release or threatened release of a hazardous substance and who is carrying out the contract, including a cooperative organization formed to maintain and supply response equipment and materials that enters into a response action contract relating to a release or threatened release; and

(B) a person who is retained or hired by and is under the control of a person described in (A) of this paragraph to provide services related to

the response action contract. (§ 3 ch 39 SLA 1989; am §§ 3 — 7 ch 191 SLA 1990)

Effect of amendments. — The 1990 amendment, effective June 27, 1990, in subsection (a), inserted "whose acts or omissions are not contrary to a response plan or order by a state or federal agency having jurisdiction over the release or threatened release" near the middle of the

first sentence; rewrote subsection (b); in subsection (a), inserted the designation for paragraph (1) while adding paragraph (2); and, in subsection (g) added subparagraphs (2)(C) and (2)(D) and all the language of subparagraph (3)(A) beginning with "including."

Sec. 46.03.828. Definitions. In AS 46.03.822 — 46.03.828

(1) "act of God" means an act of nature which is unforeseeable in kind or degree;

(2) "economic benefit" means a benefit measurable in economic terms, including but not limited to the gathering, catching, or killing of food or other items utilized in a subsistence economy and their replacement cost;

(3) "facility"

(A) includes a

(i) building, structure, installation, equipment, well, pit, pond, lagoon, impoundment, ditch, landfill, storage container, motor vehicle, rolling stock, aircraft, or pipe or pipeline, including a pipe into a sewer or publicly-owned treatment works;

(ii) site or area at which a hazardous substance has been deposited, stored, disposed of, placed, or otherwise located;

(B) does not include any consumer product in consumer use;

(4) "having control over a hazardous substance" means producing, handling, storing, transporting, or refining a hazardous substance for commercial purposes immediately before entry of the hazardous substance into the atmosphere or in or upon the water, surface, or subsurface land of the state, and specifically includes bailees and carriers of a hazardous substance;

(5) "hazardous substance" means

(A) an element or compound which, when it enters into the atmosphere or in or upon the water or surface or subsurface land of the state, presents an imminent and substantial danger to the public health or welfare, including but not limited to fish, animals, vegetation, or any part of the natural habitat in which they are found;

(B) oil; or

(C) a substance defined as a hazardous substance under 42 U.S.C. 9601(14);

(6) "natural resources" means land, fish, wildlife, biota, air, water, ground water, drinking water supplies, and other such resources belonging to, managed by, held in trust by, appertaining to, or otherwise controlled by the state or a municipality;

zed under 43 U.S.C. 1601 —
t Act) that acquired the facil-

by inheritance or bequest; or
l entity and the state acquired
i08 (Alaska Statehood Act).
o reason to know that the haz-
1, or at the facility, as provided
t have undertaken, at the time
s into the previous ownership
th good commercial or custom-
: liability. For purposes of this
unt all relevant facts, including
experience the person has;
e price to the value of the prop-

v ascertainable information about
e or likely presence of contamina-

nation by appropriate inspection.
h the liability of a person who pre-
ty or vessel and who would other-
ed actual knowledge of the release
is substance at the facility or vessel
ership to another without disclosing
le under (a)(2) of this section, and a
ction is not available to the person.
ish the liability of a person who, by
tributed to the release or threatened
that is the subject of the action relat-

harmless, or similar agreement, or
t effective to transfer liability under
perator of a facility or vessel or from a
r a release or substantial threat of a
subsubsection does not bar an agreement
idemnify a party to the agreement for
his subsection does not bar a cause of
or, or other person subject to liability
antor, has or would have, by reason of
ainst another person.
ality is not liable under this section for
of actions taken in response to an emer-
r threatened release of a hazardous sub-
n a facility or vessel owned by another

person unless the actions taken by the state or municipality constitute
gross negligence or intentional misconduct.

(i) In an action to recover damages and costs, a person otherwise
jointly and severally liable under this section is relieved of joint liabil-
ity and is liable severally for damages and costs attributable to that
person if the person proves that

- (1) the harm caused by the release or threatened release is divisi-
ble; and
- (2) there is a reasonable basis for apportionment of costs and dam-
ages to that person.

(j) A person may seek contribution from any other person who is
liable under (a) of this section during or after a civil action under (a) of
this section. Actions under this subsection shall be brought under the
Alaska Rules of Civil Procedure and are governed by state law. In
resolving claims for contribution under this section, the court may
allocate damages and costs among liable parties using equitable fac-
tors determined to be appropriate by the court. This subsection does
not diminish the right of a person to bring an action for contribution
in the absence of a civil action under (a) of this section. (§ 1 ch 122
SLA 1972; am § 13 ch 220 SLA 1976; am § 2 ch 39 SLA 1989)

Cross references. — For applicability of the 1989 amendment of this section to releases or threats of releases that occurred before May 13, 1989, see § 8, ch. 39, SLA 1989 in the Temporary and Special Acts. For limited immunity from liability under this section, see § 4, ch. 96, SLA 1990 in the Temporary and Special Acts.
Effect of amendments. — The 1989 amendment, effective May 13, 1989, re-wrote this section.

Sec. 46.03.823. Hazardous substance response action contrac-
tors. (a) A person who is a response action contractor with respect to
a release or threatened release of a hazardous substance whose acts or
omissions are not contrary to a response plan or order by a state or
federal agency having jurisdiction over the release or threatened re-
lease is not civilly liable for injuries, costs, damages, expenses, or
other liability that results from the release or threatened release un-
less the release or threatened release is caused by an act or omission
of the response action contractor that is negligent or grossly negligent
or constitutes intentional misconduct. To show negligence by a re-
sponse action contractor, a claimant must show that the acts or omis-
sions of the contractor under the response action contract were not in
accordance with generally accepted professional standards and prac-
tices at the time the response action services were performed.
(b) The liability limitation under (a) of this section
(1) does not apply to a response action contractor who would other-
wise be liable for the release or threatened release under state or
federal law even if that person had not carried out a response action
with respect to the release or threatened release; and

Existing State
Litt

Alaska State Legislature



Legislative Research Agency

P.O. Box Y
Juneau, AK 99811-3100
Phone: (907) 163-3991
Fax: (907) 163-3351

February 26, 1991

MEMORANDUM

TO: Representative Bill Hudson

FROM: Glenn T. Gray ^{GTG}
Legislative Analyst

RE: Oil Spill Response Contractor Liability Laws in Other States
Research Request 91.144

You asked about liability laws in other states concerning oil spill response contractors. Specifically, you requested information about states which have limited liability for contractors and their reasons for doing it. You also asked about states that have considered but rejected such legislation.

We contacted staff attorneys, resource agency officials or legislative staff in 16 states to obtain the information for this memorandum. An attempt was made to contact more than one person from each state to confirm information. For some states it was difficult to locate anyone who had a thorough understanding of the implications of response contractor liability statutes. We also contacted staff from several national organizations: the Coastal States Organization, the National Conference of State Legislatures, and the Marine Spill Response Corporation (MSRC).

This memorandum begins with background information about the effort to limit the liability of response action contractors. A brief description of how various states have dealt with contractor liability follows. The memorandum concludes with a summary of national trends regarding liability regimes for oil spill clean up contractors.

Background

Since the federal Oil Pollution Act of 1990 passed in August, many states report that the Marine Spill Response Corporation (formerly the Petroleum Institute Response Organization) and oil spill response contractors have lobbied them to limit the liability of response action contractors. The federal law limits liability for persons who respond to an oil spill in federal waters as long as they act consistently with the National Contingency Plan [33 U.S.C. 1321 (c)(4)]. Responders are still liable, however, for personal injury and wrongful death, and if they are grossly negligent or engage in wilful

misconduct. The act does not preempt states from enacting more stringent liability regimes [33 U.S.C. 1321(o)(2)].¹

Laws which limit liability for persons who respond to spills of oil or hazardous materials are commonly referred to as good samaritan laws. While some states exempt only people who are not compensated, other states have changed their laws to be consistent with federal law. Rather than holding contractors strictly liable, or liable for simple negligence, such states limit contractor liability to gross negligence, wilful misconduct, personal injury or wrongful death. Definitions of these different standards of liability may be found in Attachment A.

The federal Oil Pollution Act of 1990 requires that owners or operators of tank vessels and oil facilities develop response plans. These plans must show that owners or operators have personnel and equipment to "remove to the maximum extent practicable a worst case discharge . . ." [33 USC 321(j)(5)]. For many facilities and tankers, the MSRC provides the only feasible means to comply with this provision. The MSRC is a nonprofit organization funded by the Marine Preservation Association (MPA), a group of oil industry companies. According to David Larkin, director of government affairs for the MSRC, the organization operates independently from the MPA. The MSRC plans to have five regional response centers and 23 pre-staging areas where equipment will be stored. Mr. Larkin says that because an oil spill can spread across the jurisdictions of many states, it is important to have consistent liability standards. Otherwise, in the event of a spill, contractors would have to respond to different rules in each state. Mr. Larkin also says that insurance costs for unlimited liability are prohibitive, and if a state does not have adequate immunity for the responders, the MSRC will have to consider what its role will be in that state.

The MSRC's involvement in Alaska is unclear. According to Mr. Larkin, the MSRC has no plans to locate a pre-staging area in Alaska, and current liability standards do not provide an incentive to consider this option. The MSRC document in Attachment B does, however, refer to a planned pre-staging area in Alaska. Alyeska Pipeline Service Company currently provides spill response assistance for tankers transporting oil from the TransAlaska Pipeline. According to Gene Burden, a vice-president for Tesoro, Alyeska requires Tesoro to obtain one billion dollars of direct action insurance for it to transport oil in Prince William Sound. Such insurance is difficult, if not impossible to obtain (see Attachment C, Legislative Research Memorandum 90.200). Mr. Burden says that coverage through a Protection and Indemnity (P&I) club would

¹After an oil spill, state and federal authorities may bring separate actions against a contractor based on their individual standards.

not provide direct action and would be cost prohibitive for Tesoro.² Mr. Burden believes that insurance requirements would be reduced if Alaska limits the liability for response action contractors. He also says that frivolous litigation would be reduced by changing the current law.

Arkansas

According to Steve Weaver, chief legal council for the Department of Pollution Control and Ecology, Arkansas holds oil spill response contractors responsible for simple negligence. He says that in 1985 legislation was passed that held contractors responsible for gross negligence, but that the oil industry supported a law passed in 1989 making contractors liable for simple negligence. Mr. Weaver said that Arkansas wants to keep response contractors to as high a standard as possible.

California

The California General Assembly passed a bill last year that includes a provision to limit liability for people who respond to oil spills (other than for gross negligence, wilful misconduct, personal injury, or wrongful death). The law limits liability for people who act in good faith and in accordance with the National Contingency Plan, the state oil spill contingency plan, or at the direction of the on-site coordinator or the United States Coast Guard. The act restricts the limitation of liability for response action contractors for 60 days after they begin cleanup with a possible extension of 30 days.

According to Dr. Jim Rote, principal consultant for the California General Assembly Office of Research, the provision limiting a response contractor's liability to 60 days resulted from a compromise between lobbying efforts of the California trial lawyers and response contractors. Dr. Rote believes that the limitation of liability for response contractors is justified because they respond to emergencies and may be compared to other emergency responders such as ambulance drivers and fire fighters. The 60-day limit encourages contractors not to become careless.

Connecticut

According to Charles Zieminski, principal emergency response coordinator for the Department of Environmental Protection, Connecticut has no cap on liability for negligence. Other than during a few oil spills in the early 1970s, Connecticut has not had much recent experience with response contractors. Mr.

²Direct action means that a claimant could recover costs directly from the insurer without going through Tesoro.

Zieminski says that he is not aware of efforts to change current liability laws for oil spill clean up contractors.

Delaware

The Delaware General Assembly recently passed legislation consistent with federal law concerning liability of response contractors. The legislation is awaiting the governor's signature. According to Shari Wilson, staff attorney for the Attorney General's Office, contractors may be liable for simple negligence if they significantly increase the damage resulting from an oil spill. Contractors may get around this provision if they subcontract with a party who does not receive compensation for spill clean up, such as the MSRC.

Florida

Legislation passed last year by the Florida legislature limits the liability of persons responding to an oil spill as long as they are not grossly negligent (FS 376.09). This provision appears to include response action contractors, although a separate provision (FS 376.319) provides indemnification for response contractors for simple negligence if they have a written contract with the state. Several state officials with whom we spoke were unable to explain why the state would need to indemnify a contractor for simple negligence if the contractor were only liable for gross negligence and wilful misconduct.

Hawaii

The Hawaii legislature passed legislation during 1990 that apparently limits the liability of response action contractors. The law states that no person shall be liable "as a result of actions taken or omitted in the course of rendering care, assistance or advice in accordance with this chapter or at the direction of an on-scene coordinator," unless the actions resulted from gross negligence or intentional misconduct. There is a question whether the legislature intended to limit the liability of contractors because the language modifies section 107(d) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) instead of section 119 of that act (section 119 exempts response action contractors from strict liability for the clean up of hazardous substances).

Louisiana

Louisiana law currently holds response contractors strictly liable for their clean up efforts. MSRC has reportedly said that if Louisiana does not limit liability for response action contractors, the MSRC would reconsider its plans to locate one of its five regional centers in Louisiana.

Maine

Maine's good samaritan law currently limits the liability of people who respond to oil spills as long as they do not receive compensation. Response contractors receiving payment are liable for simple negligence. According to Barbara Foster of the National Conference of State Legislatures, the MSRC said that it would not provide an office in Maine if liability for response action contractors was not limited. The legislature is currently considering a bill to limit liability to gross negligence. Perry Cogburn, an oil and hazardous materials specialist for the Maine Department of Environmental Protection, says that there has not been a problem with response contractors and if the laws are too strict contractors may not respond to spills.

Maryland

Maryland currently does not limit the liability of response action contractors. The legislature is expected to consider a bill this session that has provisions similar to those of the federal government.

Last week during a regional response team drill in Chesapeake Bay, contractors refused to respond to the spill because of Maryland's liability regime.³ The drill proceeded under the assumption that an oil tanker had collided with a container ship carrying hazardous waste. The United States Coast Guard (USCG) took control of the "spill" but could not convince the contractors to respond. The USCG received verbal approval from the Governor of Maryland and written approval from the state's director of the Department of Environment to exempt contractors from liability during the drill. There were, however, concerns about the legality of such an exemption. According to Lt. Commander Shultz, coordinator for the National Response Team, the USCG considered towing the boats into Virginia waters much to the alarm of Virginia authorities. The drill will continue on March 12, with the beginning of the second day of the imaginary spill.

Mississippi

Mr. Charles Chism, director of the Office of Pollution Control, says that Mississippi does not limit the liability for response action contractors. A bill currently being considered by the state legislature would limit contractor liability. Mr Chism says he does not object to such a liability limitation.

³Although there was actually no accident or oil spill, authorities proceeded throughout the drill as if it was real.

New York

Sherry Chrimes, assistant counsel for the Department of Environmental Conservation, says that New York has resisted attempts by the oil industry to limit the liability of response action contractors. The current law holds contractors liable for simple negligence. Ms. Chrimes said that the state often uses response contractors and that the current law is adequate. She says that response contractors should be held to the same standard of liability as other contractors.

North Carolina

Ed Gavin, of the Office of General Council for the Department of Natural Resources and Community Development, says that North Carolina has no limitation for liability for contractors who clean up oil spills. He says that there has not been much effort to change the current law, and that North Carolina has only a few oil terminals, a pipeline and a small oil refinery.

Oregon

Contractors responding to an oil spill currently have unlimited liability. The legislature, however, is considering limiting the liability of response contractors. Bruce Southerland, of the Department of Environmental Quality, said that because Oregon borders the Columbia River with Washington, the states usually try to have compatible oil spill legislation. (Washington currently limits the liability of contractors.)

Pennsylvania

Fred Osman, director of Environmental Emergency Response, says that the Pennsylvania legislature passed an act during November 1990 limiting response action contractor liability to wilful misconduct or gross negligence. He thinks that simple negligence is not a good standard for response action contractors because they respond to emergencies in an effort to prevent damage to the environment and property.

Virginia

David Orms, an environmental program manager for the Department of Environment, says that Virginia has patterned its contractor liability law after the federal Oil Pollution Act of 1990. He does not think that limiting contractor liability to gross negligence poses a problem.

Mr. Orms says that during a regional response team drill he attended last week in Chesapeake Bay, response action contractors refused to respond to the oil

Representative Hudson
February 26, 1991
Page 8

was also cited as a reason for limited liability. The MSRC supports state legislation resembling federal law so that there will be consistency during oil spills that reach the waters of more than one state.

The Federal Oil Pollution Act of 1990, however, permits states to require higher standards. David Slade, general council for the Coastal States Organization, says that while his organization does not recommend how states should respond to the liability question, one option available would be to keep the simple negligence liability standard but to place a cap on the amount of liability. This option would reduce the liability of response action contractors and give them some incentive to operate carefully. The Coastal States Organization expects to release a white paper next month about how states have responded to a number of issues relating to the Federal Oil Pollution Control Act of 1990. A copy of this paper will be forwarded to your office as soon as we receive it.

I hope this information is helpful. Please contact this office if we may be of additional assistance.

Attachments

DIVISION OF LEGAL SERVICES

LEGISLATIVE AFFAIRS AGENCY

STATE OF ALASKA

P.O. Box Y, Juneau, Alaska 99811
(907) 465-3867 or 465-2450
FAX (907) 465-2029

Deliveries to: 240 Main Street
Court Plaza, Room 500
Mail Stop 3101

MEMORANDUM

January 28, 1991

SUBJECT: Response action contractor liability (Work Order 7LS-0552)

TO: Representative Bill Hudson

FROM: Michael F. Ford *M.F.*
Legislative Counsel

You have asked for our opinion on legislation proposed by Tesoro Alaska Petroleum Company, regarding the liability of oil spill response action contractors. The proposed legislation would narrow the potential liability of a response action contractor with respect to a release or threatened release of oil, by eliminating liability for negligence in most instances.

Under AS 46.03.823, the potential liability of a response action contractor is generally limited to negligence, gross negligence and acts of intentional misconduct. This section also establishes a negligence standard that a claimant must show was violated in order to prove liability, and contains several exceptions to the general rule of liability. The exceptions are specific instances in which the legislature has decided that the general rule on liability should not apply.

The proposed legislation would narrow the liability of a response action contractor who responds to a release or threatened release of oil by limiting the liability to (1) gross negligence, (2) intentional misconduct, and (3) acts or omissions that would result in liability, even if the contractor had not carried out a response action. Therefore acts of negligence would not result in liability, unless the act or omission would be negligent even if the contractor had not carried out a response action. Finally, you should note that the proposed new section on oil spill response action contractors does not contain the exceptions to the general rule of liability written into law as AS 46.03.823(b)(2), (c), (d), (e), and (f).

The proposed legislation also raises a constitutional equal protection issue. If the exception for oil spill response contractors was enacted, there would be two different rules of liability, one for oil spill response contractors and one for all other response contractors. While this type of distinction does not always offend the constitutional equal protection clause, there must be a rational reason to distinguish between similar

PACIFIC FISHERIES LEGISLATIVE TASK FORCE



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EXECUTIVE DIRECTOR

Mary Morgan

PACIFIC FISHERIES LEGISLATIVE TASK FORCE RESOLUTION Concerning "Oil Spill Responder's Limited Immunity"

WHEREAS, it is in the interests of the citizens and resources of California, Oregon, Washington, Alaska, and Idaho to ensure that qualified, highly trained oil spill response organizations are in place and ready to respond to oil spills anywhere along our coastlines; and

WHEREAS, the success of the modern-day spill response organization depends upon countless fishermen, subcontractors, veterinarians, and other part-time specialists who must be prepared on an emergency basis to act swiftly and unhesitatingly in the face of adverse circumstances and often with far less than complete information; and

WHEREAS, these responders will be deterred from performing clean-up activities on behalf of the person or persons actually responsible for the spill if they are unduly exposed to unlimited liability in the course of their response activities;

NOW, THEREFORE, BE IT RESOLVED by the Pacific Fisheries Legislative Task Force that the fishermen and other spill responders, who perform under adverse conditions to the best of their trained abilities and following the directions of recognized state and federal authorities, should be afforded limited immunity from lawsuits arising as a consequence of their response activities; and

BE IT FURTHER RESOLVED, that the Pacific Fisheries Legislative Task Force supports and encourages state and federal legislation which grants any person who responds to an oil spill, caused by another, immunity from liability from all costs and damages except in

cases where the responder acts with gross negligence or willful misconduct, or causes personal injury or wrongful death; and

FURTHER BE IT RESOLVED, where limitations on immunity are granted to responders, it is important that victims be fully protected and compensated for damages, and the party responsible for the spill in the first instance shall be liable for any damage caused by responder's simple negligence.

COPIES of this Resolution shall be transmitted to the Honorable George Bush, President of the United States; and Members of the United States Senate and the House of Representatives of Alaska, Washington, Oregon, California, and Idaho.

ADOPTED JUNE 16, 1990,
IN SITKA, ALASKA

HB

1977

House of Representatives

While in Session:
Box V
Juneau, AK 99811
(907)465-4942

P.O. Box 47001
Pedro Bay, Alaska 99647
(907)850-2208



Member:
Finance Committee

Finance
Subcommittee Chair:
Courts
Department of Public Safety

Finance
Subcommittee Member:
Department of Fish and Game

Rep. George Jacko, Jr.

M E M O R A N D U M

TO: Representative *CDH* Davidson, Chair
House Resource Committee

FROM: Representative *GJ* George Jacko, Jr.

SUBJECT: HB 197 "Small Fish Processing"

DATE: April 30, 1991

=====

HB 197 proposes to reduce the surety bond required by the Department of Labor for fish processors. This legislation would reduce the bond requirement from \$10,000 to \$2,000. A small fish processor is defined as producing 30,000 pounds or less. The Department of Labor requires surety bonds for fish processors for wages and claims, and unemployment insurance contributions.

Through the work of the Bering Sea Fishermen's Association and others, technology and financial assistance is being provided to village people who are interested in starting fish processing facilities. An obstacle for many is the funds necessary to begin the business. In order to receive a \$10,000 surety bond, one must file with the Department of Labor a cash deposit or negotiable assets. For many rural Alaskans this is difficult. Lowering the bond requirement to \$2,000 would make a substantial difference for those interested in starting a small fish processing facility.

FISCAL NOTE

STATE OF ALASKA
1991 LEGISLATIVE SESSION

BILL NO. HB 197

Revision Date: _____
Title: Relating to surety bonds required
of certain fish processors
Sponsor: Rep. George Jacko
Requestor: House Resources

Department Affected: DEC
BRU: Environmental Health
Component: Seafood Industry

COMPONENT SERIAL NO.

0	1	6	4	1	9
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EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES	0.0	0.0	0.0	0.0	0.0	0.0
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND&STRUCTURES						
GRANTS,CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL						
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REVENUE						
---------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

Estimate of current year impact: **NONE**

ANALYSIS: (Attach a separate page if necessary.)

Should any new fish processors start up as a result of this legislation, the department should be able to perform all necessary inspections within existing resources.

Prepared by: Janice Adair
Division: Commissioner's Office

Phone: 465-2600
Date: 5/6/91

Approved by Commissioner: _____
Agency: Dept. of Environmental Conservation

Date: 5/7/91

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

FISCAL NOTE

STATE OF ALASKA
1991 LEGISLATIVE SESSION

BILL NO. HB 197

Revision Date: 3/13/91 Department Affected: Fish and Game
 Title: Small Fish Processor BRU: Commercial Fisheries
Surety Bonds Component: Commercial Fisheries
 Sponsor: Rep. Jacko
 Requestor: Governor COMPONENT SERIAL NO.

	4	5	9
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Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL	0	0	0	0	0	0
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REVENUE	0	0	0	0	0	0
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FUNDING: (Thousands of Dollars)

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
TOTAL	0	0	0	0	0	0

POSITIONS:

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

Estimate of current year impact: None

ANALYSIS: (Attach a separate page if necessary.)

Prepared By: Bob Clasby Phone: 465-4210
 Division: Commercial Fisheries Date: 3/13/90
 Approved by Commissioner: RON SOMERVILLE by M&L
 Agency: ADFG Date: 3/18/91

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

House of Representatives

While in Session:
Box V
Juneau, AK 99811
(907)465-4942

P.O. Box 47001
Pedro Bay, Alaska 99647
(907)850-2208



Member:
Finance Committee

Finance
Subcommittee Chair:
Courts
Department of Public Safety

Finance
Subcommittee Member:
Department of Fish and Game

Rep. George Jacko, Jr.

M E M O R A N D U M

TO: Representative *David* Finkelstein, Chair
House Labor and Commerce Committee

FROM: Representative *George* Jacko, Jr.

SUBJECT: HB 197 "Small Fish Processing"

DATE: April 9, 1991

=====

HB 197 proposes to reduce the surety bond required by the Department of Labor for fish processors. This legislation would reduce the bond requirement from \$10,000 to \$2,000. A small fish processor is defined as producing 30,000 pounds or less. The Department of Labor requires surety bonds for fish processors for wages and claims, and unemployment insurance contributions.

Through the work of the Bering Sea Fishermen's Association and others, technology and financial assistance is being provided to village people who are interested in starting fish processing facilities. An obstacle for many is the funds necessary to begin the business. In order to receive a \$10,000 surety bond, one must file with the Department of Labor a cash deposit or negotiable assets. For many rural Alaskans this is difficult. Lowering the bond requirement to \$2,000 would make a substantial difference for those interested in starting a small fish processing facility.

AUG 23 1990

To: Ad Hoc Interagency Working Group on Small Fisheries Development

From: Elstun W. Lauesen II, SEDS
State of Alaska/DCRA

Joe Banta, Development Specialist

Jude Hensler, Project Developer
Bering Sea Fishermen's Association

Date: 07/12/89

Subj: Small Added-Value Fish Processors in Rural Alaska:
Regulatory Reform, Technology Transfer, & Financing

BACKGROUND: Increasing numbers of rural communities, corporations and individuals are turning to the processing of fish as a means of extending both value and productivity of their fishery. Larger units (250,000 \$-plus p.a.) are based upon known technologies and are designed for a captured market (usually "capture" is achieved by exclusive marketing to venture partners like Towa or Whitney-Fidalgo who purchase the product).

Smaller Units (around 50,000\$ p.a. or less) are being looked to by sole proprietorships w/o exclusive markets and are designed to meet a variety of product needs that may change according to the vagaries of supply and demand.

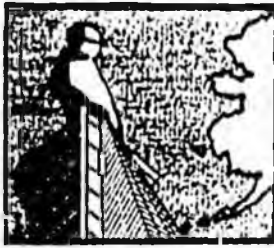
"Doing more with less" requires efficiencies of design and a dedicated program of technology transfer by the small processors and the agencies that work with them.

Currently, both the state and the private sector are working with research, regulations, and financing schemes that are based upon the needs and requirements of larger processors.

The reason for this working group is to focus upon the needs of the smaller processors which will be established in greater numbers in rural Alaska and (1.) determine if alternative approaches to developing, regulating, and capitalizing these ventures are needed, and (2.), if needed, to propose those alternative approaches.

Areas to be considered include (but are not limited to) regulations affecting product QA/QC; regulations in the workplace; Insurance & Bonding; Financing; and Technical Assistance by agencies, non-profits, co-operatives, and others, and Research & Development.

April 9, 1991



Bering Sea Fishermen's Association

725 Christensen Drive
Anchorage, Alaska 99501
(907) 279-6519

Representative George Jacko
Alaska State House of Representatives
Juneau, Alaska 99811

Re: Amending State of Alaska labor bond requirements

Dear Representative Jacko:

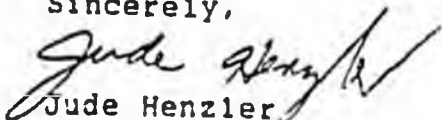
Thank you for this opportunity to speak to you about the work you have done attempting to reduce the present labor bond requirements from the present \$ 10,000.00 for all fish processors to \$ 2,000.00 for small fish processors.

As you know, we here at BSFA do all our work with rural Alaskans who are trying to figure out ways to make a go of it on very little financing. With mostly spit and glue and their own hard work they often can put together small catcher/seller operations and can begin to move up to small time fish smoking and other value adding procedures, but they really have a hard time coming up with either the \$ 10,000.00 cash or collateral now required for them to get into processing ventures. For instance, as just one example, small processors are presently required to put up a \$ 10,000.00 labor bond to protect their payroll even though that amount may well be in excess of their total payroll for a season. Whereas large processors with payrolls of hundreds of thousands of dollars theoretically protect their payrolls with that same \$ 10,000.00 figure. That seems inequitable to us, and a real deterrent to much-needed value adding efforts in bush Alaska. We think that changing the requirement will make it far more possible and far more likely that small rural Alaska entrepreneurs will be interested in trying to make a go of it in fish processing ventures.

Thursday I travel to Dillingham to attend the fish conference and to speak there at a "small-scale value added processing session" on Saturday. I will make a point of airing this issue at that conference and test our opinion that this proposed change in the required labor bond would be welcome and effective.

Thanks again for this opportunity to comment on this issue.

Sincerely,


Jude Henzler

...END...

ET
AUG 23 1990

Representative George Jacko
P.O. V
Juneau, Alaska 99811

August 3, 1990

Dear Representative Jacko,

Bering Sea Fishermen's Association, working in conjunction with the Department of Community and Regional Affairs, has helped form the Inter-Agency Working Group on Small Fisheries Development. This ad hoc group of state agencies along with some private industry advisors is working to streamline and simplify regulations which affect fishermen especially fishermen interested in value adding by doing such things as processing their fish or direct marketing. The goals and objectives of the IAWG as developed in the initial meeting are listed below:

Overall Objectives:

1. To further the economic development of the small processors and resource users of commercial fish throughout the state of Alaska.
* "small" is tailored to resources.
2. Make available a complete set of plans meeting minimum requirements for small processors/smokers.

Specific Goals:

1. Focus on western Alaska/Interior area to streamline regulatory process (later include all of Alaska).
2. Review the various department's regulations and definitions for consistency and attempt to establish definitions that match uniformly across agencies.
3. Review the Department's regulations for waiver systems for the small processor and perhaps try to find more.
4. Focus mainly on the following product types: fresh, frozen, smoked and roe.
5. Effect/Implement technology transfer and networking.
6. Try to provide consistent boundaries/jurisdiction among agencies.
7. Review existing and propose new mechanisms for R & D and financing. ex. (AST&F).

8. Provide floor plans and materials list for a minimal processor and smoker to the general public.

Agendas and meeting notes from the two previous meetings have been enclosed with this packet to provide your office with background information on IAWG activities so far. The second meeting of the IAWG came up with some specific recommendations for regulatory change which are listed on the second page of the IAWG 3/20/90 Meeting Notes under category 3 a) titled Labor Bonding Requirements. These recommended changes involve down-sizing bonding requirements regulated under A.S. 16.10.290, for a category of small processors which process under 30,000 pounds of round weight fish. Category 3 a) discussion notes are listed below:

3. Labor Bonding Requirements:

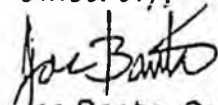
a) Proposed alternatives from the first meeting were discussed and consensus was reached which recommended researching whether or not processors buying under 30,000 lbs of round fish are even being assessed any of the bond forfeitures. It was also agreed to recommend a reduced bond requirement for small processors with a \$2,000 bond required for a processor which processes less than 30,000 lbs. Reporting prior to exceeding the maximum and an x day period to procure bonding at the higher amount would also be part of the changes. It was mentioned that while this \$2,000 bond would not cover all the possible wages and/or fish purchases needed to process 30,000 lbs, a \$10,000 bond doesn't cover all the wages earned by large processors either. These processors may process millions of pounds and produce more than \$10,000 worth of wages and/or fish purchases in a single day let alone an entire season. Another point brought up was that large processors can go and purchase a bond for a couple of hundred dollars while a small processor may not have the capital or assets to purchase a bond and would be required to come up with cash for the full \$10,000 bond amount.

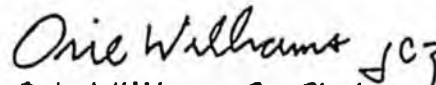
This change is needed because many small business people cannot come up with the financial requirements to provide the large \$10,000 bond now needed. It is especially difficult for residents of rural and western Alaska to come up with collateral like real property for bonding, as they often have a lower income level or they have not yet received clear title to property due to land claims negotiations and/or survey needs. This need is further substantiated by the findings of the Governors December 1989 Conference on Small Business. Insurance and bonding difficulties tied for the number

one problem facing small businesses according to a report from the Conference. In addition, problems with regulations and paperwork tied for the forth worst problem facing small businessmen.

What would be needed to change the labor bonding requirement seems to require statutory address according to the Department of Labor. At this point the IAWG feels it should communicate the recommendations regarding this bonding requirement to you and other legislators to allow time for consideration and drafting of a statute which would best address the problem. Basically, a statute which addresses the concerns listed in Labor Bonding Requirements 3 a) listed above, is what we are recommending. We have drafted an ammendment for your consideration. Please refer to attachment one to see it and the existing statue. We are available for questions at your convenience and would appreciate your assistance in forming these statutes and making it easier for fishermen/processors to develop their businesses.

Sincerely,


Joe Banta, Co-Chair


Orle Williams, Co-Chair

Inter-Agency Working Group

ADC	John Enge
ADCRA	Orle Williams, Elstun Lausen
ADEC	Marie Fried
ADF&G	Eric Smith
ADL	Snova Lockaby-Smith
ADR	Paul Dick, Mark Gruber
BSFA	Joe Banta, Jude Henzler

Attachment One

Sec 16.10.290 Security and Collection of Wages and payment for raw fish.

(b) The amount of the bond shall be \$10,000 unless, during the preceding five years, that amount was insufficient to satisfy a final judgment resulting from a claim asserted against the bond, cash deposits, or other security filed under this section. If \$10,000 was insufficient, the bond shall be \$50,000; if \$50,000 was insufficient, the bond shall be \$100,000. If the commissioner determines that during the preceding five years, a fish processor or primary fish buyer (1) has engaged in the business of fish processor or primary fish buyer in the state while not in compliance with this section and (2) has not yet satisfied a final judgment entered against the processor or fish buyer for payment for labor furnished to, or raw fishery resources purchased by, the processor or fish buyer, then the amount of the bond for the processor or fish buyer shall be \$100,000. In lieu of the surety bond the fish processor or primary fish buyer may file with the commissioner a cash deposit or other negotiable security acceptable to the commissioner in the amount specified for the bond. If no claim is asserted under this section within two years from the date the bond, cash deposit or other security is filed, the term of the bond, cash deposit or other security shall be two years, if a claim has been asserted within two years, the term of the bond, cash deposit or other security shall be for five years.

Suggested changes:

(b) The amount of the bond shall be \$10,000 unless, [1) during the preceding five years, that amount was insufficient to satisfy a final judgment resulting from a claim asserted against the bond, cash deposits, or other security filed under this section, [or 2) the amount of fish processed annually is less than 30,000 lbs.] If \$10,000 was insufficient, the bond shall be \$50,000; if \$50,000 was insufficient, the bond shall be \$100,000. If the commissioner determines that during the preceding five years, a fish processor or primary fish buyer (1) has engaged in the business of fish processor or primary fish buyer in the state while not in compliance with this section and (2) has not yet satisfied a final judgment entered against the processor or fish buyer for payment for labor furnished to, or raw fishery resources purchased by, the processor or fish buyer, then the amount of the bond for the processor or fish buyer shall be \$100,000. [If the amount of fish processed annually is less than 30,000 pounds, then the bond amount shall be \$2,000. If the amount of fish processed goes over 30,000 pounds, the fish processor or primary fish buyer shall immediately notify the Department of Labor, and will then have seven days to increase their bond up from \$2,000 to \$10,000. If the bond is not increased then the

FISCAL NOTE

STATE OF ALASKA
1991 LEGISLATIVE SESSION

BILL NO : HB 197

Revision Date: _____
Title: " An Act relating to surety bonds
required of certain fish processors."
Sponsor: Representative Jacko
Requestor: House Labor & Commerce

Department Affected: Labor
BRU: Labor Standards & Safety
Component: _____
Wage & Hour
COMPONENT SERIAL NO. 345

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND&STRUCTURES						
GRANTS.CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

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

FUNDING: (Thousands of Dollars)

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

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year impact: None

ANALYSIS: (Attach a separate page if necessary)

Prepared by: Robert Libbey, Director Phone: 264-2452
Division: Labor Standards & Safety Date: 3/22/91

Approved by Commissioner: Nancy Bear Usura Date: 3/22/91
Agency: Department of Labor

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

Bill No: House Bill No. 197

Date: April 8, 1991

Title: "An Act relating to surety bonds
of certain fish processors."

Contact: Robert Libbey
264-2452

This bill amends AS 16.10.290(b) to lower the bond from \$10,000 to \$2,000 for fish processors that process less than 30,000 pounds of fish a year. Presently, all fish processors are required to have a \$10,000 bond, without regard to the processor's size.

A processor dealing with less than 30,000 pounds of fish a year is a very small processor (owner-operated and fish wheel operations). Accordingly, the Department does not believe the reduction this bill proposes will adversely affect the individuals the bonding requirements are intended to protect.

The Department supports this bill. It will not have a fiscal impact on the Department.

APPROVED:



Nancy Bear Usera, Commissioner
Department of Labor

POSITION PAPER/Department of Labor

HB

200

FISCAL NOTE

STATE OF ALASKA
1991 LEGISLATIVE SESSION

BILL NO. HB 200

Revision Date: 03/18/91 Department Affected: Fish and Game

Title: Anchorage Coastal Wildlife Refuge BRU: Habitat

Component: Habitat

Sponsor: Representative Gruenberg

Requestor: _____ COMPONENT SERIAL NO.

	4	8	6
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Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES	27.6	27.6	27.6	27.6	23.4	
TRAVEL						
CONTRACTUAL	155.2	172.4	155.7	154.2	118.7	
SUPPLIES	1.6	1.6	2.6	1.6	.6	
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	184.4	201.6	185.9	183.4	142.7	0

CAPITAL	0	0	0	0	0	0
---------	---	---	---	---	---	---

REVENUE	0	0	0	0	0	0
---------	---	---	---	---	---	---

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	0	0	0	0	0	0

POSITIONS:

FULL-TIME	0.6	0.6	0.6	0.6	0.6	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

Estimate of current year impact: no impact on current year

ANALYSIS: (Attach a separate page if necessary.)

Prepared By: Frank Rue, Director Phone: 465-4105

Division: Division of Habitat Date: 3/18/91

Approved by Commissioner: *Don Lomenzo*

Agency: Department of Fish and Game Date: 3/19/91

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

Business Park Wetlands Refuge Addition Budget*

	FY92	FY93	FY94	FY95	FY96
Line 100					
1 F&W Tech. III 6 mo.	\$18,576	\$18,576	\$18,576	\$18,576	\$18,576
1 Carto. II 1 mo.	4,200	4,200	4,200	4,200	-
1 W. Bio. III 1 mo.	4,800	4,800	4,800	4,800	4,800
	<u>\$27,576</u>	<u>\$27,576</u>	<u>\$27,576</u>	<u>\$27,576</u>	<u>\$23,376</u>
Line 200					
Line 300					
Env. Audit (soil & water sampling)	\$1,000	\$16,200	-	-	-
Fencing (5,800' total)	10,000	10,000	10,000	10,000	18,000
Survey	-	2,000	-	-	-
Boardwalk (4,700' total)	140,000	140,000	140,000	140,000	98,000
Interpretive Signs (5 signs)	1,500	1,500	3,000	1,500	-
Vehicle Maintenance	1,200	1,200	1,200	1,200	1,200
Trash Collection	500	500	500	500	500
Office Expenses	1,000	1,000	1,000	1,000	1,000
	<u>\$155,200</u>	<u>\$172,400</u>	<u>\$155,700</u>	<u>\$154,200</u>	<u>\$118,700</u>
Line 400					
Fence Maintenance	600	600	600	600	600
Signposts/Hardware	1,000	1,000	2,000	1,000	-
	<u>\$1,600</u>	<u>\$1,600</u>	<u>\$2,600</u>	<u>\$1,600</u>	<u>\$600</u>
TOTAL	\$184,376	\$201,576	\$185,876	\$183,376	\$142,676

Does not include cost of land acquisition, pond construction, revegetation, or parking. Cost of living and inflation increases over time are not factored in.

State of Alaska

Committees

CO-CHAIR, HOUSE JUDICIARY
VICE-CHAIR, HOUSE LABOR AND COMMERCE
HOUSE HEALTH, EDUCATION
AND SOCIAL SERVICES



P.O. BOX V
JUNEAU, ALASKA 99811
(907) 465-4712
465-4968/4986
(SESSION)

914 CLAY COURT
ANCHORAGE, ALASKA 99503
(907) 276-6847

Representative Max F. Gruenberg, Jr.
District 11
Spenard, Upper Midtown Anchorage

MEMORANDUM

TO: Members of the House Resource Committee
FROM: Representative Max Gruenberg *MAX*
DATE: March 15, 1991
RE: HB 200, Business Park Wetlands Bill

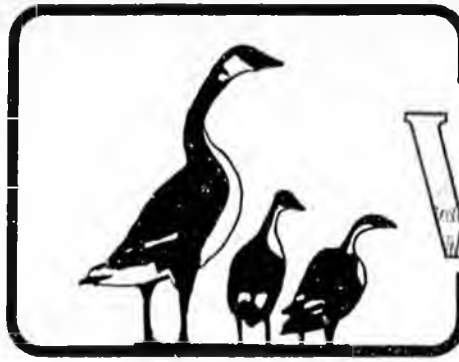
I would very much appreciate your support of HB 200, the Business Park Wetlands bill, which adds approximately 30 acres to the Anchorage Coastal Wildlife Refuge.

The Business Park Wetlands are an incredibly productive nesting area for waterfowl. Funds for the purchase of the property inside the Business Park Wetlands have been donated by such groups as Ducks Unlimited and Exxon Corporation.

Private lands within the Anchorage Coastal Wildlife Refuge cannot be acquired by eminent domain.

If you if have questions concerning HB 200, please contact me or Mark Handley, my Legislative Assistant, at ext.4968.

Thank you very much.



Business Park Wetlands Coalition

The Business Park Wetlands is a 28-acre open space area in Anchorage's highly-developed south midtown. Though located in close proximity to several major thoroughfares, it provides a quiet and surprisingly remote oasis for eating lunch, viewing the abundant waterbird population, or just watching the change of seasons. On many a nice day, area residents or workers can be found walking, jogging, or sitting along the wetlands' perimeter. Greater Anchorage area residents also use the area, especially for viewing wildlife.

THE BUSINESS PARK WETLANDS: AN IMPORTANT NEIGHBORHOOD RESOURCE

What is unusual about the Business Park Wetlands?

It is extremely high in wildlife activity for its relatively small size. In late spring 1989, upwards of 20 pairs of Canada Geese nested in the Business Park Wetlands. The large number of nests is three to four times higher per unit area than other comparable Anchorage Wetlands. In early spring, it is common to see more than 100 ducks and geese at a time on the meltwater ponds. The area is also home to one of four significant Mew Gull colonies remaining in the Anchorage Bowl, as well as many Mallards, Northern Shovelers, American Wigeons, Plovers, Dowitchers, and other birds. Over thirty avian species have been observed in the wetlands during the summer months. Although it is not a developed or even designated park area, the Business Park Wetlands provides an important and well-used open space for neighborhood residents and those working in the adjacent business and industrial areas. Greater Anchorage area residents bring their families to observe the geese and young goslings. On every summer day, many people walk or drive to the west end of West 48th Avenue to eat lunch. Others jog or fitness walk past the wetlands, using the convenient one-mile loop of adjacent public roads. This makes for an interesting outing, as it may involve dodging the harassment of concerned mother gulls and other protective birds.



Photo: Elise Huggins

Anchorage Residents and Area Workers Protect the Business Park Wetlands



Photo: Marideth Sandler

The Business Park Wetlands is owned by four separate private owners. It is largely zoned for high-density residential use and, because the Municipality of Anchorage classified it as developable wetlands in 1982, it can be filled and destroyed with no public input and little regulatory agency review. Despite the threat to its continued existence, the Business Park Wetlands has been adopted by the public. For years, adjacent residents and businesses have kept

intrusive uses and users out of the wetlands. Nearly fifty stray cats and dogs were live-trapped over a three-year period and sent to the shelter where they could find caring owners. "Stray" humans whose actions seem out of character with the more recreational and educational atmosphere that surrounds the wetlands are quickly asked to go elsewhere by the nearby business workers and residents. Because of this overwhelming and active concern for the Business Park Wetlands, a petition drive was mounted six years ago to purchase the area for a park.

Although the drive stopped short of success at that time, the effort has been revived. In 1988, businesses, area residents, environmental and neighborhood groups, and governmental agencies joined together as the BUSINESS PARK WETLANDS COALITION. The Coalition is supported by nearly 1000 Anchorage residents, as evidenced by the success of a recent petition drive. When, in early spring 1989, one of the property owners began filling a portion of the wetlands, the immediate vocal support for this publicly cherished resource resulted in a short-term halt of fill activity.

The goal of the Business Park Wetlands Coalition is to purchase this important area of shrinking open space so that it is retained, enhanced, and managed for recreational, educational, and environmental purposes. The value of this effort is two-fold: the Business Park Wetlands already serves as an important open space and recreational neighborhood improvement for residents and workers alike. Creative design could easily multiply its present benefits. Because of its currently high productivity as a wetlands habitat, the Business Park Wetlands also holds exciting potential for increased wildlife use, if enhanced and managed properly.



Photo: Cami Dalton

The Coalition has made strong progress toward meeting

its goal. The wildlife and other wetlands resources of the area have been, and are continuing to be, documented and photographed. The actions of neighboring residents and businesses to manage these resources, both in the past and at present, are also being recorded. Discussions with area property owners have been underway for several months to ascertain purchase and trade options. Two of these options are in active negotiation with the respective parties. One involves a land trade for a significant portion of the wetlands and the second would result in acquisition of an immediately adjacent area. Together, these transactions will result in preservation of nearly half of the Business Park Wetlands. Fundraising for the project has begun, with a substantial amount already raised from private contributions. The Coalition has an overall fundraising strategy and has developed a concept plan for the area. This includes enhancement of the area to create more open ponds for waterbird rearing and to filter the drainage water entering the wet-

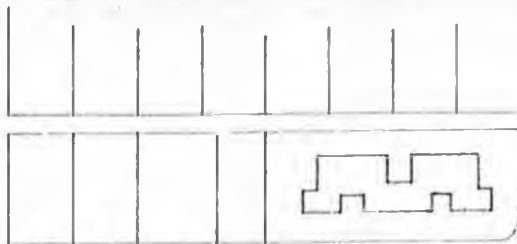
The Future Looks Bright for the Business Park Wetlands

lands from adjacent uses. Other improvements

would facilitate use of the Business Park Wetlands for continued wildlife viewing, as well as jogging and fitness walking.

New and exciting activities could also find a home in the Business Park Wetlands. The uplands portion of the open space area lends itself well as the site for an Audubon-sponsored Urban Nature Center, that would house displays on wetlands habitat and wildlife. Because of the unique oasis feeling of this easily accessible setting, the nature center could be widely used by school and college classes (in addition to other youth and adult groups) to learn about natural wetlands habitat still remaining within Anchorage's urban scene. The planned trail and boardwalk loops are designed with areas for wildlife viewing, fitness stations, outdoor educational displays, and benches. Location of a Nature Center on-site would provide a rare opportunity to combine and bring into focus the Business Park Wetlands' environmental, recreational, educational, and open space potentials.





West Forty Sixth Avenue

Revegetation

Existing vegetation

West Forty Seventh Avenue

Manmade ponds

Uplands

Audubon Nature Center

Parking

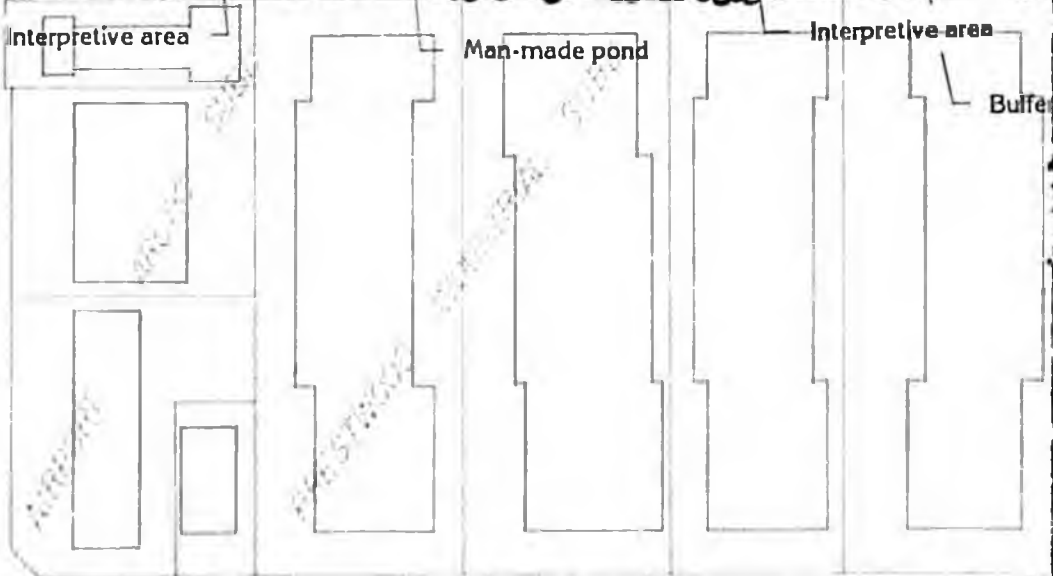
Arctic Boulevard

Interpretive area

Man-made pond

Interpretive area

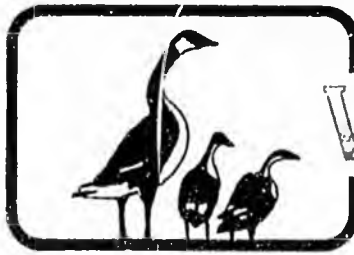
Bufe



Interpretive area

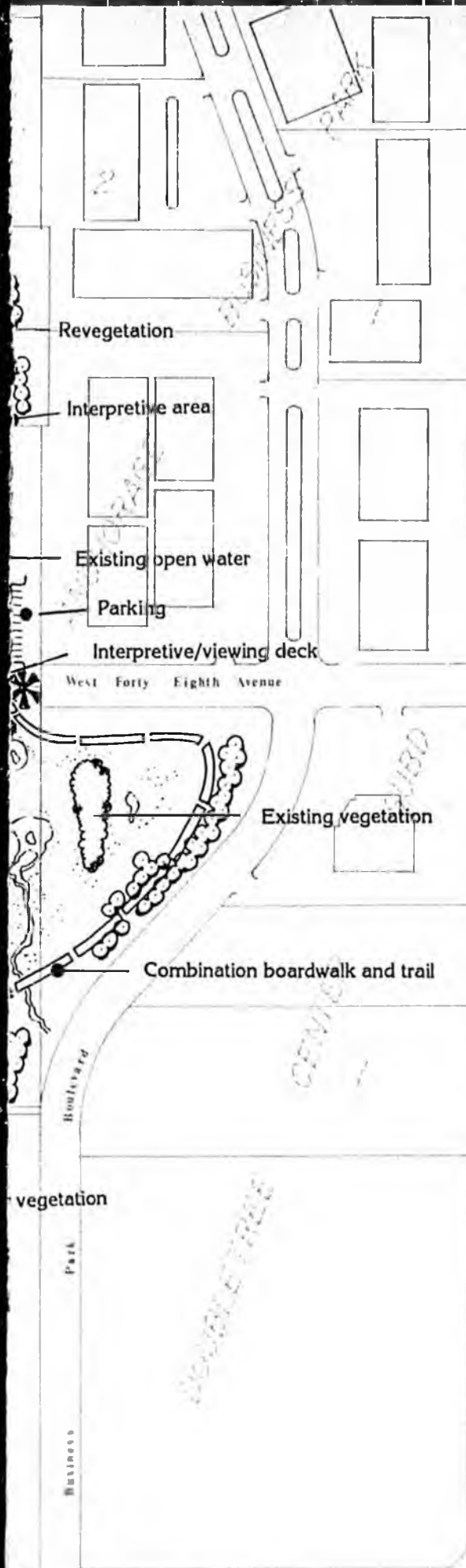
Interpretive area

Bufe



Business Park
Wetlands
Coalition

Conceptual Plan



potential activities

- *Jogging, Running, Walking*
1/4 mile & 3/4 mile loop trail
- *Interpretive Areas* (✱)
- *Audubon Nature Center*
- *Wildlife Viewing*
- *Relaxing/Lunch Stop*
- *Habitat Enhancement*



Plan designed by Earthscape

Business Park Wetlands A Threatened Natural Area

area contained numerous large ponds and a highly diverse and productive mix of habitats. This area was arguably the most extensive and complex patterned ground bog in the Anchorage Bowl.



This isolated, partially disturbed bog is a remnant piece of what was, until the late-1970s, a vast section of interwoven ponds and wetlands habitats known as patterned ground that stretched from near Potter Drive north to the old Fish Creek basin near West 36th Avenue. The original wetlands

The area supports three wetlands plant communities and numerous ponds that contain open water all summer. A small section of mixed birch and cottonwood forest



stands at the area's southwest corner. Most of the wetlands plant communities contain ericaceous species like sweetgale, dwarf birch, leatherleaf, and Labrador tea. Sedges, grasses, rushes, and various mosses are common understory species here. Several wetlands dependent plants survive in the Business Park Wetlands, many of which have become rare or threatened in the Anchorage area from continued wetlands filling.



Of major concern and influence to this site is the local hydrology, which has been altered by adjacent development. Groundwater input to this system is necessary to maintain the wetlands' habitats and open water in critical dry periods.

Any additional change or loss of the area's groundwater will further degrade the wetlands' functions and viability.



Photos provided by John Hyde and Dan Rosenberg, ADF&G

**SUPPORTERS OF
THE BUSINESS PARK WETLANDS
include:**

**Anchorage Audubon Society
Alaska Center for the Environment
Spenard Community Council
Anchorage Waterways Council
Nature Conservancy
American Society of Landscape Architects - Anchorage Chapter
Alaska Department of Fish and Game
Municipality Of Anchorage
- Urban Design Commission
- Parks and Recreation Commission
- Department of Economic Development and Planning
TRF Management
Ott Engineering, Inc.
The Virginia Computer Company
Jim Thiele, Certified Financial Planner
Ashburn and Mason
Earthscape
TimeFrame
AT Publishing
Moore Business Forms**

Project Aerial Photos contributed by Aero Map, U.S.

Nearly one thousand people agree with the many actively-involved businesses, organizations, agencies, and neighborhood residents that the Business Park Wetlands must be preserved now. Join us in our efforts! Use the enclosed envelope to help us acquire as many square feet of wetlands as you wish. Or, you're invited to "purchase" a goose nest to insure that this year's newborn Canada Geese will have a home to which they can return next spring. All contributions are tax deductible to the fullest extent of the law because of the Coalition's affiliation with the Anchorage Audubon Society, a local non-profit organization. If you'd also like to become more involved, there's space for you to let us know that too. Thank you for your support!

For more information, contact:

Marideth Sandler (562-2514-days or 346-2535-evenings)
or Robert Senner (258-4054-days or 345-5891-evenings.)

BIRDS YOU ARE LIKELY TO SEE IN THE BUSINESS PARK WETLANDS

Canada Goose*	Ring-billed Gull
Mallard*	Mew Gull*
Green-winged Teal	Herring Gull*
American Wigeon*	Glaucous-winged Gull
Northern Pintail	Bald Eagle
Northern Shoveler*	Tree Swallow
Greater Scaup	Violet-green Swallow
Semipalmated Plover	Common Raven
Killdeer	Ruby-crowned Kinglet
Lesser Golden-Plover	American Robin*
Greater Yellowlegs	Yellow-rumped Warbler
Lesser Yellowlegs*	Savannah Sparrow*
Spotted Sandpiper	White-crowned Sparrow*
Short-billed Dowitcher*	Lincoln's Sparrow
Common Snipe	Pine Siskin
Least Sandpiper*	Common Redpoll

* Known or probable breeder.

List provided by the Anchorage Audubon Society



4446 Business Park Boulevard Anchorage, Alaska 99503

Non-Profit Org.
U.S. Postage

PAID

Anchorage, Alaska
Permit No. 157

HB

207

ALASKA STATE LEGISLATURE

Representative Georgianna Lincoln

HESS Committee, Co-Chair
Resources Committee, Vice-Chair

Budget Subcommittees
Health and Social Services
Revenue



P. O. Box V
Juneau, Alaska 99811

Phone: (907) 465-3732
FAX: (907) 465-2652

MEMORANDUM

Alatna
Allakaket
Aniak
Anvik
Arctic Village
Beaver
Bettles
Birch Creek
Chalkyitsik
Chuathbaluk
Crooked Creek
Evansville
Fort Yukon
Galena
Grayling
Holy Cross
Hughes
Huslia
Kalskag
Kaltag
Koyukuk
Lake Minchumina
Lime Village
Lower Kalskag
Manley Hot Springs
Marshall
McGrath
Minto
Mountain Village
Nikolai
Nulato
Pilot Station
Pitkas Point
Rampart
Red Devil
Ruby
Russian Mission
Shageluk
Sleetmute
St. Mary's
Stevens Village
Stony River
Taktoma
Tanana
Telida
Tuluksak
Tyonek
Venetie
Wiseman

TO: House Resources Committee
Representative Cliff Davidson, Chair

FROM: Representative Georgianna Lincoln *GL*
House District 24

RE: House Bill 207

DATE: April 16, 1991

House Bill 207, an act relating to the Village Safe Water Program, was introduced at the request of one of the villages in my district. This village has a population of 491, is located in rural Alaska, and has identified water system repairs/improvements as a top priority for funding. However, because this village has incorporated as a First Class City, it does not qualify for funding under the Village Safe Water Program.

House Bill 207 proposes to do only one thing--amend the definition of "village" under AS 46.07.080(2). Changing the definition of "village" will add first class cities with a population of not more than 600 residents to the eligibility list for funding under the Village Safe Water Program.

According to the population list based on the 1990 population and certified by the Department of Community and Regional Affairs, only six additional villages would become eligible for Village Safe Water Program funding under provisions of House Bill 207. These

villages are: Tanana, St. Mary's, Pelican, Yakutat, Hydaburg and Seldovia.

There is a zero fiscal note attached to this bill; no additional funding would be required to implement its provisions. The six villages that would be added to the Village Safe Water Program eligibility list are similarly situated to those already on the list and would be competing for the same funds.

In reviewing historical information pertaining to the Village Safe Water Program, there is no indication as to why small, rural villages incorporated as first class cities were not included. However, in testimony before the House Community & Regional Affairs Committee April 4, 1991, the City Manager for St. Mary's reminded committee members that a number of villages opted to incorporate as first class cities in order to form their own school districts. This took place after the Village Safe Water Program was established by legislation.

Because water and sewer are such basic necessities for these six villages, I am asking your favorable consideration of this bill to add them to the eligibility list for the VSW Program.

STATE OF ALASKA

STEVE COWPER, GOVERNOR

DEPT. OF COMMUNITY & REGIONAL AFFAIRS

OFFICE OF THE COMMISSIONER

- P.O. BOX B
JUNEAU, ALASKA 99811-2100
PHONE: (907) 465-4700
- 949 E. 36TH AVENUE, SUITE 400
ANCHORAGE, ALASKA 99508-4302
PHONE: (907) 563-1072

April 3, 1991

POSITION PAPER

RE: House Bill 207

SPONSOR: Representative Lincoln

Program Effects of the Bill

This bill extends eligibility for the village safe water program to first class cities with populations less than 600. Presently only unincorporated communities with a population less than 600 and second class cities are eligible.

Six cities would be affected by this legislation, they are: Hydaburg, Pelican, Saint Mary's, Seldovia, Tanana, and Yakutat.

Comments

The Department supports this bill because it furthers the concept of making similarly situated communities eligible for the same State benefits.

Remond Henderson for
Edgar Blatchford, Commissioner

FISCAL NOTE

STATE OF ALASKA
1991 LEGISLATIVE SESSION

BILL NO. HB 207

Revision Date: _____ Department Affected: Community & Regional Affairs
 Title: "An Act relating to the Village Safe Water Program." BRU: _____
 Sponsor: Representative Lincoln Component: _____
 Requestor: _____ COMPONENT SERIAL NO.

--	--	--	--

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

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

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

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

Estimate of current year impact: _____

ANALYSIS: (Attach a separate page if necessary.)

Prepared By: Remond Henderson, Director *Remond Henderson* Phone: 465-4708
 Division: Administrative Services Date: 4/1/91
 Approved by Commissioner: Edgar Blatchford *Edgar Blatchford*
 Agency: Community & Regional Affairs Date: 4/1/91

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

FISCAL NOTE

**STATE OF ALASKA
1991 LEGISLATIVE SESSION**

BILL NO. HB 207

Revision Date: _____
 Title: relating to village sewerwater
 Sponsor: Rep. Lincoln
 Requestor: Rep. Lincoln

Department Affected: DEC
 BRU: Facilities, Construction and Operations
 Component: Village Sewerwater

COMPONENT SERIAL NO. 1 6 3 1 8

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES	0.0	0.0	0.0	0.0	0.0	0.0
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND&STRUCTURES						
GRANTS,CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

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

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

Estimate of current year impact: None

ANALYSIS: (Attach a separate page if necessary.)

Prepared by: Janice Adair
 Division: Commissioner's Office

Phone: 465-2600
 Date: 4/3/91

Approved by Commissioner: [Signature]
 Agency: Dept. of Environmental Conservation

Date: 4/3/91

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

City of Seldovia

P.O. Drawer B
Seldovia, Alaska 99663

RECEIVED
APR - 3 P.M.

March 26, 1991

Honorable Georgianna Lincoln
Alaska State Legislature
P.O. Box "V" (MS 3100)
Juneau, Alaska 99811

SUBJECT: House Bill No. 207

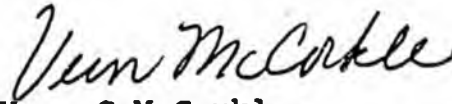
Dear Representative Lincoln:

Thank you very much for sponsoring HB 207. We support passage of it and are writing to all of the members of the referral committees in the affirmative.

Your Bill is one of key significance to the smaller, rural towns. Keep up the good work.

Very truly yours,

THE CITY OF SELDOVIA



Vern C McCorkle
City Manager



CITY OF TANANA
P.O. Box 181
Tanana, Alaska 99777
(907) 366-7159

"NUCHALAWOYYA" - Where the two rivers meet.

April 5, 1991

Rep. Georjianna Lincoln
District 24
Capital Building
Juneau, Alaska 99811

Dear Georjianna:

Thank you for introducing the amendment to HR 207 adding first class cities under 600 population.

Small first-class cities are mandated to provide more services with essentially the same municipal assistance as second class cities and villages, yet are excluded from state-assisted programs such as VSW. Your recognition of this is to be commended.

Along these same lines, would it be possible to sponsor a similar amendment to the funding for the VPSO program? If Tanana was forced to drop the Dept. of Public Safety position due to budget considerations, I am sure that the State troopers would be unable to provide the level of law enforcement necessary.

May I hear from you on this?

Sincerely,

Peter L. Platten, Mayor

Post-It™ brand fax transmittal memo 7671		# of pages > 1	
To	GEORJIANNA LINCOLN REPRESENTATIVE	From	Pete Platten
Co.	Dist 24	Co.	City of Tanana
Dept.	ATTN: PET JACKSON	Phone	366-7159
Fax	465-2652	Fax	366-7249