

ALASKA LEGISLATURE COMMITTEE FILES 1993-1994 8672

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HOUSE RESOURCES

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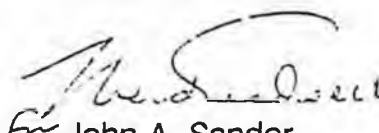
million for FY 95. The state's program is focused on prevention. There are many oil spills every year, but --because of the tough laws Alaska has adopted -- fewer large spills. In even a "small" spill, damages of \$14 million per year are easily reached. As the legislation is now proposed, less than \$10 million per year would be available to run the state's spill prevention and response program from the major source of revenue to the Response Fund. That amount diminishes with crude throughput, but the risks don't diminish in the same manner.

We believe the Fund has been spent responsibly, according to law. We must be cautious, however, in estimating a top limit to the size of the state's spill prevention and response program, given weaknesses that still exist in our overall spill prevention coverage. For example, resource agency coverage on the North Slope is limited (ADEC is there but 12-15 days per month), and the workload is much greater than we are now able to allocate. State coverage at Valdez has diminished in recent years; some has been made up by federal funds supplied by Alyeska directly through the BLM. We have yet to achieve the objective of a 24 hour statewide emergency operations center, joining several agencies, including the Departments of Military and Veterans Affairs and the Department of Public Safety. Spills from unregulated facilities, such as the pipeline in Indian, the Yorktown Clipper incident in Glacier Bay, and the Bethel/BIA fuel tank indicate a need to expand some prevention and oversight activities. Finally, there are many facilities with contingency plans which the state needs to test with organized drills. There is work left to do.

We hope the legislature can give our alternative approach serious consideration in both of your committees.

As always, we are ready, willing and able to work with the legislature to resolve concerns about Alaska's Response Fund and its spill programs. Thank you for your attention to this important matter.

Sincerely,


John A. Sandor
Commissioner

/mt (CO-comm\470.ltr)

cc: The Honorable Rick Halford, President of the Senate
The Honorable Ramona Barnes, Speaker of the House
The Honorable Joe Green, Chairman, House Oil and Gas Committee
Pat Ryan, Chief of Staff, Office of the Governor
Raga Elim, Legislative Liaison, Office of the Governor
Shelby Stastny, Director, Office of Management and Budget



HOUSE RESOURCES COMMITTEE

Currently in Surcharge
Account \$26 M

10.4 = 40% to response
acct

15.6 = 60% to prevention
acct

Currently in Spill Reserve \$38 M

15.2 = 40% to response acct

22.8 = 60% for coys
and depots

Response to Questions About Graphs Comparing Response Fund Restructuring Options

Questions about graph with title, "Net Tax Reduction to Surcharge Payees Over 5 Year"

- 1.) The title probably should read Payors not Payees, good point.
- 2.) All of the analysis performed on the various Response Fund restructuring options begin with the following basic assumptions:
 - All change is measured from where the surcharge payor would be financially if the statute were not changed. As an example, the current surcharge calculation yields a (\$15,105,728) as of November 5, 1994. If this calculation is projected through the end of FY94, the negative balance would be reduced to approximately (\$1,500,000). In the Williams CSHB238(RES) the beginning balance of the Response Fund, which would now be fully applied to the surcharge suspension calculation, would equal approximately \$63,200,000. Since no change in the statute would yield a negative balance of (\$1,500,000) at the beginning of FY95, this represents an initial benefit to the surcharge payor of \$64,700,000. Where before the statute change a negative balance was yielded from the suspension calculation, now there would be a significant improvement for the payor.

The total net cost for the payor would be the total surcharge paid over a five year period less the initial benefit received at the beginning of the five year time period. Therefore, in the Williams proposal the total surcharge payments over five years would be \$74,900,000 less the initial benefit to the surcharge payor of \$64,700,000 which yields \$10,200,000. The difference between this figure and the one in the spreadsheet is due to rounding.
- 3.) The net tax reduction over five years under the "no change" option is zero because after payment of an additional \$122,500,000, the surcharge suspension calculation yields only \$28,800,000. At this

time the Response Fund would actually have a balance of \$104,500,000. So the surcharge never shuts off throughout the entire five year period and no tax reduction is experienced by the surcharge payor.

DEC would project to spend \$75,700,000 over those five years on spill prevention and response programs. This figure includes \$4,000,000 in imminent spill responses which is probably overstated (based on the past five years performance) by \$2,875,000.

Questions about graph with title, "Comparison of Initial Benefit to Surcharge Payee"

- 1.) As described above, the current surcharge suspension calculation would yield a (\$1,500,000) at the beginning of FY95. Since the Williams proposal would immediately change the starting point in the calculation from a negative value to \$63,200,000, this would represent a benefit to the surcharge payor on the first day of FY95 of $\$1,500,000 + \$63,200,000 = \$64,700,000$.

Questions about graph with title, "Total Net Cost to Surcharge Payee - 5 Years (no discount)"

- 1.) The term "no discount" means that the time value of money was not factored into the analysis.
- 2.) As was discussed at the beginning of this response, all analysis was made looking at the current situation under the existing statute. Both of these proposals have very low net cost to the surcharge payors for similar reasons.

CSHB238(RES) "B" yields a very low net cost because it starts with a very high initial benefit to the surcharge payor. This initial benefit comes from applying the entire Response Fund balance and the full amount of surcharge collected in FY94 to the surcharge suspension calculation. This proposal also results in \$46,400,000 in tax credits being generated throughout the five years of this analysis. This option will have a "zero" fiscal note because adequate funding is available to cover the State's current and future spill prevention and response program.

CSSB215(RES) "U" yields a very low net cost because it also starts with a very high initial benefit to the surcharge payor. However, this high initial benefit is only achieved by allocating the entire Response Fund balance of \$37,000,000 and 50% of the surcharge collected in FY94, \$12,900,000, to the spill account to be factored into the surcharge suspension calculation. This has the result of creating an initial balance in the spill account of \$50,300,000 which shuts 50% of the nickel surcharge off for the entire five years of this analysis. This proposal also results in a surcharge reduction of \$61,300,000 over five years.

The analysis of these two versions does not indicate that the entire nickel surcharge is effectively eliminated. The surcharge payor continues to pay a portion of the surcharge throughout these five years. However, the surcharge payor's financial position is so strongly improved under either of these scenarios, that when these factors are "netted out" the result is a very low real cost to the surcharge payors over the five years.

General questions about all of the charts.

- 1.) In all of the "split-nickel" versions analyzed other than CSSB215 "U", the assumption is that the Response Fund balance in FY94 will be split between the two accounts along the same ratio as the nickel is split. The spill reserve simply represents the unexpended and unencumbered balance of the Response Fund. Since approximately \$74,500,000 in general funds and program receipts were appropriated to the Response Fund before the nickel surcharge was established, it is logical to assume that a substantial portion of the balance remaining in the Response Fund came from those general funds as well as the nickel surcharge.

Questions about graphs comparing
RESPONSE FUND RESTRUCTURING OPTIONS

Questions about graph with title, "Net Tax Reduction to Surcharge Payees Over 5 Years"

1. Shouldn't "Payees" say "Payors"?
2. The net tax reduction over 5 years under the Williams proposal is shown to be about \$116 million. Yet total surcharge collections are projected by DEC to be \$129.8 million during that five year period under the 5 cents per barrel surcharge.
 - Does this mean the tax credit provision of the Williams proposal effectively wipes out the surcharge over the next 5 years, yet at the same time the bill will maintain a \$50 million fund balance and provide funds for DEC's ongoing programs over the next 5 years.
 - If so, how is this possible?
3. The net tax reduction over 5 years under the "no change" option is zero.
 - Does this mean that under current law, the 5 cents/bbl tax will not suspend in the next 5 years even though the spill reserve is projected to be \$37.5 million and growing?
Yes
 - Does this mean DEC is going to spend for ongoing programs the entire \$129.8 million projected to be taken in over the next five years by the current 5 cents/bbl surcharge?
This is due to the calculation in law today

Questions about graph with title, "Comparison of Initial Benefit to Surcharge Payee"

1. The term "initial benefit" usually implies a benefit that accrues right away -- not one that would come some years out in the future.
 - How does the Williams proposal give an immediate benefit of \$65 million to the oil producers?
 - Given that projected surcharge collections at 5 cents per barrel will be about \$26 million in FY95 (according to DEC's estimates), and that an immediate outright suspension of the 5 cents per barrel tax (or a full credit of the tax) would only therefore give a benefit of \$26 million, how is the \$65 million derived?

Questions about graph with title, "Total Net Cost to surcharge payee - 5 years (no discount)

1. What does "no discount" mean?

Did not apply time value of money

2. This chart shows a \$10 or \$12 million total net cost to the oil producers under the SB215 "U" version and CSHB 238 "B" version.

1. Compares to - initial benefit.

Given that collections over the next 5 years would be average about \$26 million a year, does this chart mean these two versions effectively wipe out the entire 5 cents per barrel tax?

2. Entire 5¢ is not reduced but large portion is.

If that is the intended result, why not just repeal the 5 cents/bbl surcharge for 4 1/2 years? Wouldn't that be simpler than a tax structure that imposes a tax, but immediately gives most of it back?

General questions about all charts:

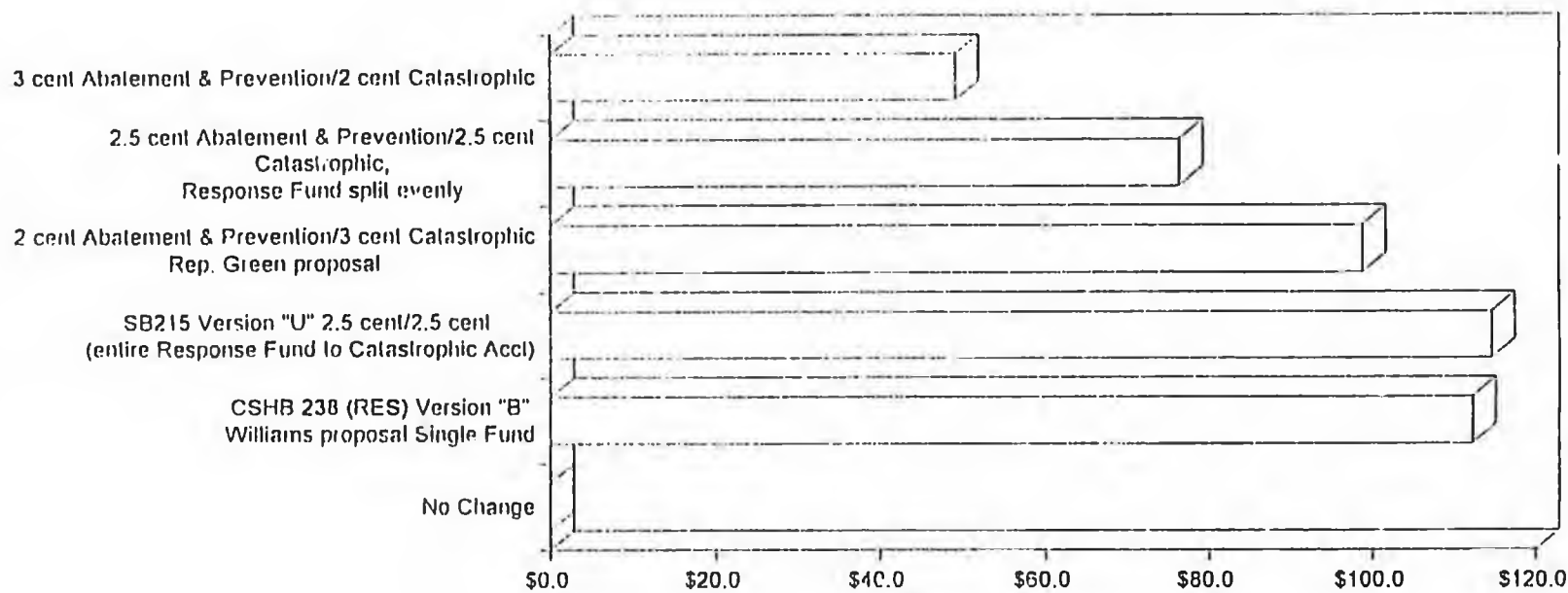
1. Besides the question of how the surcharge should be split (2 cents/3 cents, 2.5 cents/2.5 cents, or 3 cents/2 cents), a comparison of the second bar ("Response Fund Split Evenly") and the fourth bar ("entire Response Fund to Catastrophic Acct"), there is apparently a substantial difference to the as to how the \$37.5 million spill reserve is to be handled during the transition to the new law.

- If the \$37.5 million is in fact a spill reserve -- the amounts left over after funding DEC's ongoing programs -- shouldn't the entire amount be transferred to the new Response Account? Isn't that what the Response Account is for?

- Why should any of the spill reserve be transferred to the contingency and abatement account to be used for DEC's ongoing programs as opposed to being kept as a reserve for spill response?

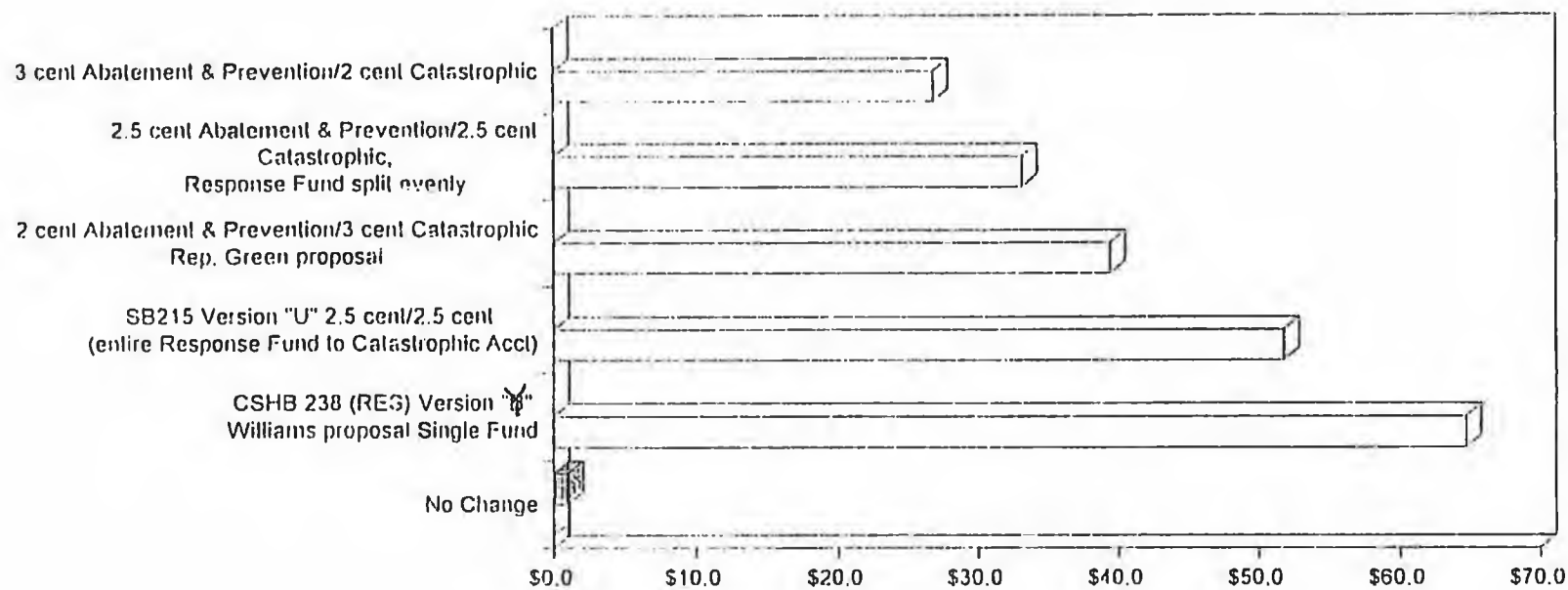
DRAFT

**Response Fund Restructuring Options
Net Tax Reduction to Surcharge Payees Over 5 Years**



DRAFT

Response Fund Restructuring Options
Comparison of Initial Benefit to Surcharge Payee

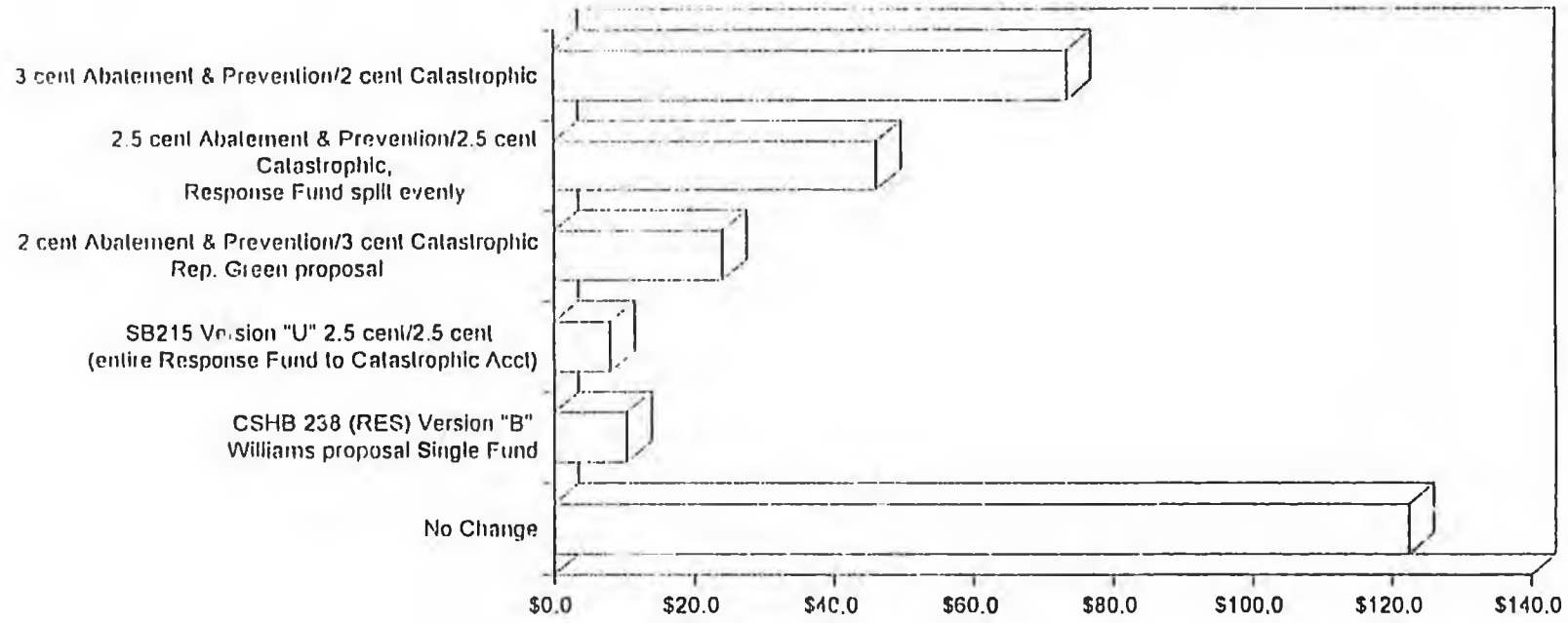


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Chart3

DRAFT

Chart2

^{to surcharge payee}
Total Net Cost - 5 Years (no discount)





Regional Citizens' Advisory Council - 750 W. 2nd Ave., Suite 100 / Anchorage, Alaska 99501-2168 / (907) 277-7222 / FAX (907) 277-4523

"Citizens promoting environmentally safe operation of the Alyeska terminal and associated tankers."

Overview of the Proposed Committee Substitute for House Bill 238 "Y" draft (2/22/94)

The basic tenet of this proposed committee substitute for House Bill 238 is to fix what is generally agreed to be broken---the mechanism for calculating the balance of the Oil and Hazardous Substance Release Response Fund, reduce some expenditures from the fund, and provide for improvements in the administration of the fund. It is commonly understood that when the calculated balance of the fund is \$50 million or greater, the nickel-per-barrel surcharge is suspended. However under current statute, the calculation for suspending and reimposing the surcharge under calculates the actual balance of the fund because it does not take into consideration general fund appropriations made to the response fund to "front end" clean up costs of the *Exxon Valdez* oil spill.

When the Senate Resources Committee reviewed Senate Bill (SB) 215, the Alaska Departments of Environmental Conservation (DEC) and Law proposed language that would change the mechanism for calculating the balance of the response fund. The DEC proposal also provided for additional revenues, especially cost recovery, to be considered part of the fund balance for purposes of suspending the surcharge. Changing the calculation mechanism is worth approximately \$52 million to the North Slope oil producers---this is how much less surcharge would be paid to reach the \$50 million cap.

The DEC offered this calculation proposal as a compromise for not "splitting the nickel" and dividing the fund into two accounts---one to fund catastrophic oil spill response and the other to fund spill prevention and preparedness programs and response to spills less than 4.2 million gallons. Opposition to splitting the nickel is based on 1) the chronic insufficient funding directed toward spill preparedness and prevention programs and 2) the problems imposed by limiting response to subcatastrophic spills which account for most of spills in Alaska. The Senate Resources Committee Substitute for SB 215 adopted the DEC proposed language but also kept the split nickel provisions---together these provisions provide at least a \$74 million tax break to North Slope producers.

The "Y" draft proposal:

- Would also save North Slope oil producers at least \$52 million in surcharge payments through a new method for calculating the fund balance.
- This proposal differs from previous versions of HB 238 and CSSB 215 (RES), in that it does not give surcharge payers an **automatic** additional \$25 to \$30 million tax break (depending on how the nickel is split) through the under funding of state preparedness, prevention and response programs. The

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ability of the legislature to set funding levels for these programs is maintained rather than being determined by splitting the nickel and declining North Slope production levels. However, surcharge payments will probably decline by the same \$30 million through the additional response fund revenue sources in this proposal. **Therefore, the ultimate impact on surcharge payers will be the same but without the spill risks to the public and tying of the hands of legislators.**

- This proposal also differs from previous versions of HB 238 and CSSB 215 (RES) in that it does not jeopardize the state's ability to respond to all but the largest spills--over 4.2 million gallons. The response fund continues to be accessible for response to all spills regardless of size. This takes into consideration timing and location that are equally important as spill size.
- Presents a new mechanism for calculating and maintaining the \$50 million cap on the fund--the nickel-per-barrel surcharge stays on throughout the year but any over payment is refunded to surcharge payers in proportion to the amount of surcharge paid. The refund is provided as a credit against the current tax year's severance tax obligations. This proposal is considered more equitable to producers because the amount of surcharge paid is not affected by quarterly oil production fluctuations (sections 2 and 4). However, to avoid potential unintended impacts on tax obligations, the committee may want to consider a direct refund of surcharge over payments rather than a credit on severance tax obligations.
- Similar to the DEC proposal, the "Y" draft proposal also allows additional revenue sources to be included in the calculation of the fund cap (section 13). These include program receipts and mitigation account money (cost recovery from responsible parties for spill response or oversight) received to the extent that the funds originated from the response fund (section 13). Under current statute, these funds are not included in the balance calculation. Nor are they included in the "incentive" clause that encourages the Legislature to annually appropriate these funds into the response fund---in the "Y" draft proposal mitigation account funds, but not program receipts, fall under the incentive clause (section 5).
- Similar to most of the previous versions of SB 215 and HB 238, this proposal eliminates the requirement to annual revise the state master and regional spill contingency plans. Instead, revision is left to the discretion of the DEC commissioner. Similar to the CSSB 215 (RES), this proposal requires DEC to 1) consult with municipal and community officials and representatives of regional organization and 2) require or schedule unannounced oil spill drills to test the sufficiency of these plans (sections 6 through 10).
- Also similar to the CSSB 215 (RES), this proposal stipulates that the balance of the response fund does not lapse (section 12).
- Also similar to the CSSB 215 (RES), this proposal provides for interest on the fund (general fund dollars) to be appropriated to the fund. In this proposal

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and the CSSB 215 (RES), interest appropriations are not included under the incentive clause. In addition, the legislature currently has the ability to make this appropriation. Therefore, this is a relatively meaningless provision except to "point out" or suggest to the legislature that it has this option (section 13).

- Also similar to the CSSB 215 (RES), this proposal limits to \$10 million per incidence the amount of municipal grants in the event of spills over 2,500 barrels (section 1). Statutory requirements for receiving grants are unchanged.
- A new provision in this proposal is that the DEC may not transfer money to another state agency unless the other agency provides to DEC the information required for annual reporting and auditing of the use of response funds (section 14).
- This proposal identifies specific categories for the annual reporting of expenditures from the response fund. Also similar to the CSSB 215 (RES), other more cumbersome and less meaningful reporting requirements are eliminated (section 15).
- Also new in this proposal is the clarification of the ranking, reporting and selection of contaminated sites for clean up (section 16).
- Sections 18 and 19 pertain to liens on property for state expenditures from the response fund for response to releases or threatened releases. These sections are identical to the CSSB 215 (RES) and the HB 238 "M" draft proposal.



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"Citizens promoting environmentally safe operation of the Alyeska terminal and associated tankers."

Sectional Analysis of the Proposed Committee Substitute for House Bill 238 "Y" Draft (2/22/94)

Section 1 limits to \$10 million per incidence the amount of municipal grants in the event of spills over 2,500 barrels. Statutory requirements for receiving grants are unchanged.

Section 2 provides for excess surcharge payments to be credited toward a surcharge payers current calendar year severance tax obligations.

Section 3 carries forward the current provisions relating to the levy and collection of the oil conservation surcharge, but makes them applicable to the renamed response fund---the Oil and Hazardous Substances Release Response *and Prevention* Fund.

Section 4 sets forth a new mechanism for calculating the balance of the fund---provides for quarterly calculation of the fund balance by the commissioner of administration based on the current cash balance minus outstanding appropriations, encumbrances, and liabilities, plus the surcharge collections and the mitigation account balance available for appropriation into the fund. If this amount exceeds \$50 million, the amount of additional surcharge collected is reported to the commissioner of revenue to be credited to surcharge payers in proportion to the amount of surcharge paid.

The nickel-per-barrel surcharge stays on throughout the year but any over payment is refunded to surcharge payers. The refund is provided as a credit against the current tax year's severance tax obligations. This proposal is considered more equitable to producers because the amount of surcharge paid is not affected by quarterly oil productions fluctuations. However, to avoid potential unintended impacts on tax obligations, the committee may want to consider a direct refund of surcharge over payments rather than a credit on severance tax obligations.

Section 5 is a modified incentive or blackmail clause similar to that in current statute. It provides that the surcharge is suspended if surcharge proceeds are not annually appropriated to the response fund. This section amends current statute to include mitigation account proceeds collected as a result of expenditures from the fund. These mitigation funds are used in the calculation of the fund balance and thus reduces surcharge obligations.

Section 6 removes the requirement to annually revise the state master oil and hazardous substance discharge prevention and contingency plan. This is the plan that was obsolete and ineffectual when the *Exxon Valdez* oil spill occurred. The inability to respond in a timely and efficient manner to the *Exxon Valdez* was

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directly related to the lack of a well reviewed and drilled master contingency plan. Plan revision is left to the discretion of the DEC commissioner rather than requiring revision.

Section 7 eliminates public and government agency review in the annual review of the state master plan but requires 1) that the DEC consult with municipal and community officials, and other representatives of affected regional organization and 2) require or schedule unannounced oil spill drills to test the sufficiency of these plans.

Section 8 allows for public and SERC review when a revision is made to the state plan. Current statute allows for public input during the annual review and revision process.

Section 9 essentially does for regional plans what section 6 did to the state master plan. Again, plan revision occurs at the discretion of the commissioner of DEC.

Section 10 is a technical amendment that incorporates the changes made in section 8 for master plans to the regional plan changes in section 9.

Section 11 reflects the renaming of the response fund.

Section 12 provides that appropriations into the fund do not lapse.

Section 13 pertains to the financing of the response fund. Funds available for appropriation include federal, state, or privately donated funds; cost recovery of funds expended from the account; fines, penalties or damages recovered from spills in which response was paid from the fund; interest on the fund; oil and hazardous substance release response and prevention mitigation account funds; and program receipts for contingency plan review, review of financial responsibility filings, the certification of laboratories and response action contractors.

Section 14 does not allow the DEC to transfer money to another state agency unless the other agency provides DEC with the information required for annual reporting and auditing of the use of response funds.

Section 15 provides more specific guidelines for reporting of response fund usage while reducing some of the more trivial auditing requirements of uses of the fund.

Section 16 clarifies the process for ranking, reporting and selection of contaminated sites for clean up.

Section 17 requires the DEC to adopt regulations for the contaminated sites identification process set forth in section 16.

Sections 18 and 19 pertain to liens on property for state expenditures from the response fund for state response to releases or threatened releases.

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These sections are identical to the CSSB 215 (RES) and the HB 238 "M" draft proposal.

Section 20. Repealer section including:

- repeals of the Conservation Surcharge on Oil replaced by this bill, AS 43.55.200-240;
- repeals section 3 of Senate Bill 260 passed in 1989; to ensure the \$50 million balance is achieved, this section makes ineffective the blackmail clause that suspends the surcharge if the legislature fails to appropriate surcharge proceeds to the response fund until the balance of the fund reaches \$50 million. Similar language, however, is added back in section 23 of this bill.

Section 21 is a note to the reviser of statutes to change the name of the response fund in other sections of law as appropriate.

Section 22. This section clarifies how appropriations, if any, made to the spill reserve fund mentioned within the context of former AS 29.60.510(b), are to be treated for purposes of determining the suspension or re imposition of the surcharge. The section states that appropriations to the former spill reserve in AS 29.60.510(b), are not expenditures.

Section 23 prevents the incentive or blackmail clause from suspending the surcharge if the legislature fails to appropriate surcharge proceeds until the balance of the fund reaches \$50 million.

Section 24 is the effective date clause of July 1, 1994.



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"Citizens promoting environmentally safe operation of the Alveksa terminal and associated tankers."

March 15, 1994

Representative Bill Williams, Chair
House Resources Committee
State Capitol
Juneau, Alaska 99801

Dear Representative Williams:

Following testimony by Prince William Sound Regional Citizens' Advisory Council (RCAC) on March 9, some members of the House Resources Committee requested more information on the budget chart prepared by the Exxon Corporation. Attached is a copy of the chart. Below are bullets that point out the inconsistencies and inaccuracies of this information.

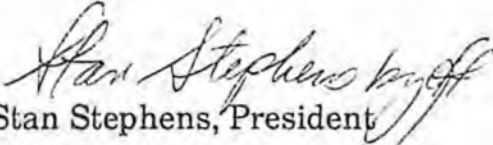
- The chart cites a report completed by BCSB Marketing for RCAC in December 1992 as its source. This suggests that the chart was produced by BCSB. This is not accurate; the chart was produced by the Exxon Corporation.
- The BCSB report provides information on annual appropriations for Alaska Department of Environmental Conservation (DEC) core spill prevention and response programs for the fiscal years (FY) 91 through 93. There is no information on FY 90 and 94. The purpose for showing the FY 91-93 appropriation levels in the BCSB report was to illustrate that despite the availability of response funds, the level of funding for core programs has remained relatively constant during those years.
- In the report, no attempt was made to analyze the adequacy of appropriations to these DEC programs---most of which have not been fully implemented.
- The most glaring error of the Exxon Corporation chart, however, is that it inaccurately compares "apples and oranges" and "credits" the poor analysis to another author. Specifically, the chart line "actual appropriations" includes appropriations for all authorized uses of the response fund. The line "original fiscal notes" includes only a select few fiscal notes---primarily those from the "spill bill package" passed in 1989 and additional legislation passed in 1990. These include SB 261, state and regional contingency planning; SB 264, response corps and depots; and HB 566 and 567, contingency planning and financial responsibility filings. These are only a subset of authorized uses of the response fund.

Prince William Sound Regional Citizens' Advisory Council

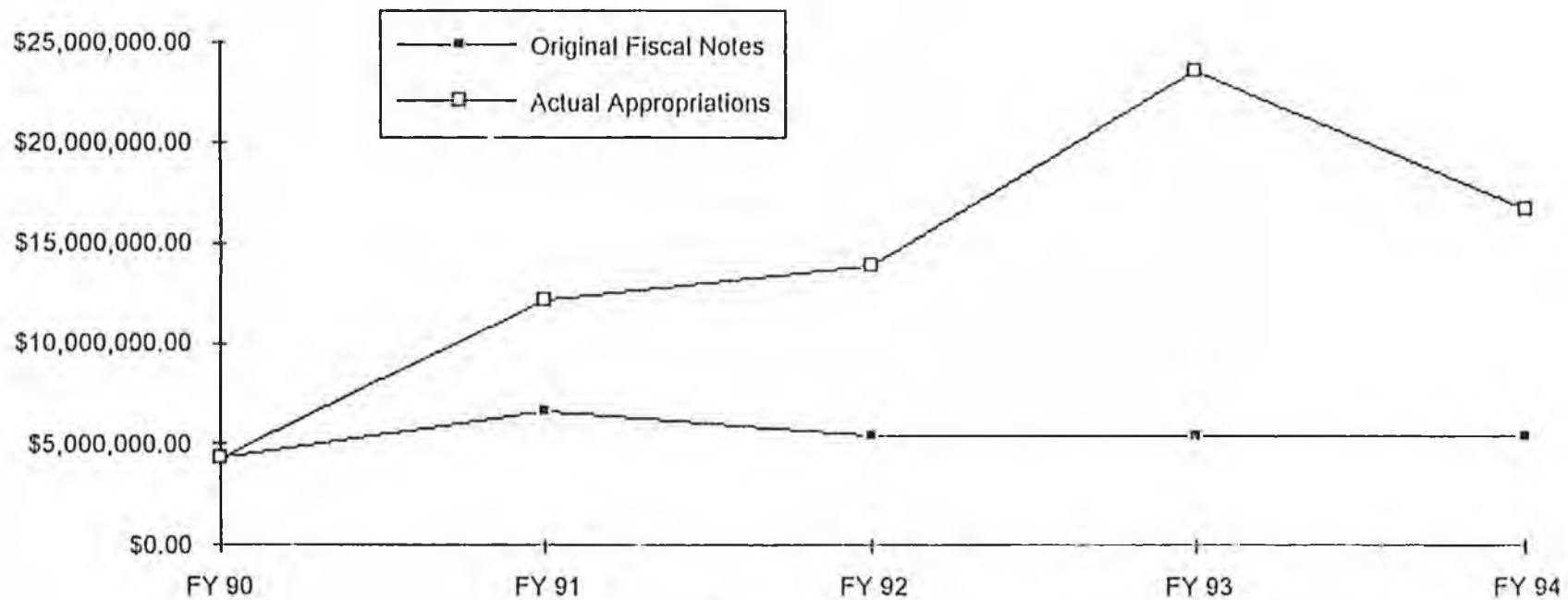
- Conspicuously absent from the analysis is the fiscal note for the Alaska Marine Highway Ferry which causes a jump in the appropriation line in FY 93. The fiscal note line does not include the fiscal note that accompanied that authorizing piece of legislation. When this issue was raised before the Senate Finance Committee on March 1, Senator Drue Pearce also noted this inconsistency and remembered that the Exxon Corporation had not testified in opposition to the legislation that authorized use of the response fund for the ferry.

As stated in RCAC's March 9 testimony, it is extremely unprofessional to produce false information and cite another entity as the source. At the very least, the Exxon Corporation owes RCAC an apology and should withdraw this misinformation from the legislative record.

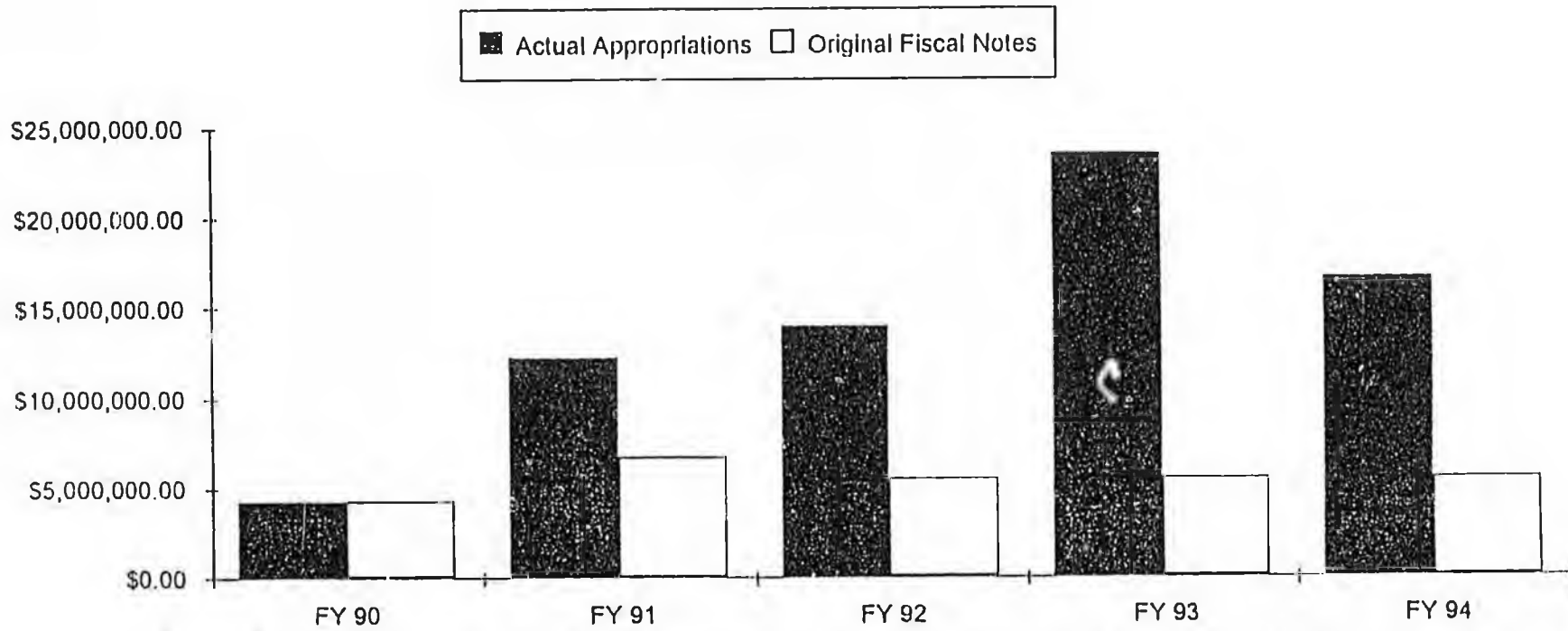
Sincerely,


Stan Stephens, President

Attachment



Source: "Alaska's Oil & Hazardous Substance Release Response Fund", Report by BCSB Marketing for Prince William Sound Regional Citizen's Advisor Council, Oil Spill Prevention and Response Committee, December 1992



Source: "Alaska's Oil & Hazardous Substance Release Response Fund", Report By BCSB Marketing for Prince William Sound Regional Citizen's Advisor Council, Oil Spill Prevention and Response Committee, December 1992.

2 CENT BUDGET - PREVENTION RESPONSE PROGRAMS

	DEC/OMB FY 95 Budget Request
DEC - Spill Prevention and Response, Director	980.70
Government Preparedness	4,067.40
Industry Preparedness	2,351.90
Underground Storage Tanks	108.30
Fund Administration and Support	746.50
Director's Office	123.00
Laboratory Operation and Maintenance	186.50
DCRA - SERC	13.50
DMVA/DES - SERC	11.00
DMVA/DES - Response Preparedness & Planning	210.00
DOA - PWS Communication System Maintenance	186.50
DOT/PF - SERC	6.50
DF&G - SERC	6.50
DF&G - Industry Contingency Plan Reviews	45.40
DF&G - State & Regional Master Plan	140.20
DH&SS Response Training	12.00
Labor - SERC	50.00
LAW - Regional & Central Office	9.50
LAW - Assistance to Exxon Valdez Private Plaintiffs	151.60
LAW - SERC Guidance	330.00
LAW - RP Identification, Enforcement & Cost Recovery	25.00
DNR - SERC	655.20
DNR - Industry Contingency Plan Reviews	9.50
DNR - State & Regional Master Plan	92.50
DPS - Enviromental Crimes	124.60
DPS - SERC	50.00
U of A Research	200.00
TOTAL EXPENDITURES	10,727.30
Revenues on 2 Cent per Barrel (per ADEC Estimate)	10,400.00
Interest on Spill Reserve (50m, 5%)	2,500.00
Exxon Valdez Reimbursements to Mitigation Account (\$28 million through the year 2001 - Annual amounts may vary)	3,500.00
MINIMUM TOTAL REVENUES AVAILABLE	16,400.00

2 CENT BUDGET - PREVENTION RESPONSE PROGRAMS AND CONTAMINATED SITES PROGRAM

	DEC/OMB FY 95 Budget Request
Contaminated Sites	2,747.30
DEC - Spill Prevention and Response, Director	980.70
Government Preparedness	4,067.40
Industry Preparedness	2,351.90
Underground Storage Tanks	108.30
Fund Administration and Support	746.50
Director's Office	123.00
Laboratory Operation & Maintenance	186.50
DCRA - SERC	13.50
DMVA/DES - SERC	11.00
DMVA/DES - Response Preparedness & Planning	210.00
DOA - PWS Communication System Maintenance	40.00
DOA - Two-way Radio Equipment Maintenance	20.00
DOT/PF - SERC	6.50
DF&G - SERC	6.50
DF&G - Industry Contingency Plan Review	45.40
DF&G - State & Regional Master Plan	140.20
DH&SS - Response Training	12.00
Labor - SERC	50.00
LAW - Regional & Central Office	9.50
LAW - Assistance to Exxon Valdez Private Plaintiffs	151.60
LAW - SERC Guidance	330.00
LAW - RP Identification, Enforcement & Cost Recovery	25.00
DNR - SERC	655.20
DNR - Industry Contingency Plan Reviews	9.50
DNR - State & Regional Master Plan	92.50
DPS - Enviromental Crimes	124.60
DPS - SERC	50.00
U of A Research	200.00
TOTAL EXPENDITURES	13,514.60
Revenues on 2 Cent per Barrel (per ADEC Estimate)	10,400.00
Interest on Spill Reserve (50m, 5%)	2,500.00
Exxon Valdez Reimbursements to Mitigation Account (\$28 million through the year 2001 - Annual amounts may vary)	3,500.00
MINIMUM TOTAL REVENUES AVAILABLE	16,400.00

2.5 CENT BUDGET - PREVENTION RESPONSE PROGRAMS

	DEC/OMB FY 95 Budget Request
DEC - Spill Prevention and Response, Director	980.70
Government Preparedness	4,067.40
Industry Preparedness	2,351.90
Underground Storage Tanks	108.30
Fund Administration and Support	746.50
Director's Office	123.00
Laboratory Operation and Maintenance	186.50
DCRA - SERC	13.50
DMVA/DES - SERC	11.00
DMVA/DES - Response Preparedness & Planning	210.00
DOA - PWS Communication System Maintenance	186.50
DOT/PF - SERC	6.50
DF&G - SERC	6.50
DF&G - Industry Contingency Plan Reviews	45.40
DF&G - State & Regional Master Plan	140.20
DH&SS Response Training	12.00
Labor - SERC	50.00
LAW - Regional & Central Office	9.50
LAW - Assistance to Exxon Valdez Private Plaintiffs	151.60
LAW - SERC Guidance	330.00
LAW - RP Identification, Enforcement & Cost Recovery	25.00
DNR - SERC	655.20
DNR - Industry Contingency Plan Reviews	9.50
DNR - State & Regional Master Plan	92.50
DPS - Environmental Crimes	124.60
DPS - SERC	50.00
U of A Research	200.00
TOTAL EXPENDITURES	10,727.30
Revenues on 2.5 Cent per Barrel (per ADEC Estimate)	13,000.00
Interest on Spill Reserve (50m, 5%)	2,500.00
Exxon Valdez Reimbursements to Mitigation Account (\$28 million through the year 2001 - Annual amounts may vary)	3,500.00
MINIMUM TOTAL REVENUES AVAILABLE	19,000.00

2.5 CENT BUDGET - PREVENTION RESPONSE PROGRAMS AND CONTAMINATED SITES PROGRAM

	DEC/OMB FY 95 Budget Request
Contaminated Sites	2,747.30
DEC - Spill Prevention and Response, Director	980.70
Government Preparedness	4,067.40
Industry Preparedness	2,351.90
Underground Storage Tanks	108.30
Fund Administration and Support	746.50
Director's Office	123.00
Laboratory Operation & Maintenance	186.50
DCRA - SERC	13.50
DMVA/DES - SERC	11.00
DMVA/DES - Response Preparedness & Planning	210.00
DOA - PWS Communication System Maintenance	40.00
DOA - Two-way Radio Equipment Maintenance	20.00
DOT/PF - SERC	6.50
DF&G - SERC	6.50
DF&G - Industry Contingency Plan Review	45.40
DF&G - State & Regional Master Plan	140.20
DH&SS - Response Training	12.00
Labor - SERC	50.00
LAW - Regional & Central Office	9.50
LAW - Assistance to Exxon Valdez Private Plaintiffs	151.60
LAW - SERC Guidance	330.00
LAW - RP Identification, Enforcement & Cost Recovery	25.00
DNR - SERC	655.20
DNR - Industry Contingency Plan Reviews	9.50
DNR - State & Regional Master Plan	92.50
DPS - Enviromental Crimes	124.60
DPS - SERC	50.00
U of A Research	200.00
TOTAL EXPENDITURES	13,514.60
Revenues on 2.5 Cent per Barrel (per ADEC Estimate)	13,000.00
Interest on Spill Reserve (50m, 5%)	2,500.00
Exxon Valdez Reimbursements to Mitigation Account (\$28 million through the year 2001 - Annual amounts may vary)	3,500.00
MINIMUM TOTAL REVENUES AVAILABLE	19,000.00



Cordova District Fishermen United

P.O. Box 939
Cordova, Alaska 99574
(907) 424-3447 FAX (907) 424-3430

February 25, 1994

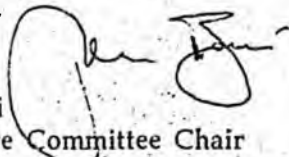
Representative Bill Williams, Chair
House Resources Committee
Room 124
State Capitol
Juneau, AK 99801-1182

Dear Representative Williams:

On behalf of Cordova District Fishermen United (CDFU), I wish to express support for your proposed committee substitute to House Bill 238. CDFU believes this is the only approach to resolving problems with the 470 Fund that is fair to both the people of Alaska and the oil industry. Without this proposed committee substitute, the lessons of the Exxon Valdez oil spill disaster are forgotten and the efforts of organizations throughout the state to prevent pollution and implement response programs are undermined. Your substitute can result in savings to the oil industry by placing a cap on the fund without curtailing the state's ability to respond to the day-to-day spills. In short, this is a win-win compromise by any definition and one that the membership of CDFU can live with.

Thank you for your consideration.

Sincerely,


John Bocci
Legislative Committee Chair

cc: House Resources Committee
Senator Lincoln
Representative Olberg



Regional Citizens' Advisory Council / 750 W. 2nd Ave., Suite 100 / Anchorage, Alaska 99501-2168 / (907) 277-7222 / FAX (907) 277-4523

"Citizens promoting environmentally safe operation of the Alyeska terminal and associated tankers."

Testimony to the House Resources Committee on the Proposed Committee Substitute for House Bill 238, "Y" draft (3/2/94)

My name is Wayne Coleman. I am a member of the executive committee of the Regional Citizens' Advisory Council of Prince William Sound. Thank you for the opportunity to testify. I especially want to thank you for giving the public of Alaska another option to consider. The "Y" draft is a significant improvement over the previously proposed drafts of HB 238 and the CSSB 215 (RES) which is now in the Senate Finance Committee.

The RCAC supports the basic tenet of this proposed committee substitute for House Bill 238 which is to fix what is generally agreed to be broken---the mechanism for calculating the balance of the Oil and Hazardous Substance Release Response Fund, reduce some expenditures from the fund, and provide for improvements in the administration of the fund.

We are opposed to "splitting the nickel" and dividing the response fund into two accounts---one to fund catastrophic oil spill response and the other to fund spill prevention and preparedness programs and response to spills less than 4.2 million gallons. Opposition to splitting the nickel is based on 1) the chronic insufficient funding directed toward spill preparedness and prevention programs and 2) the problems imposed by limiting response to subcatastrophic spills which account for most of spills in Alaska. Despite rhetoric to the contrary by proponents of the split nickel legislation, CSSB 215 (RES) and other HB 238 proposals do little, if anything, to improve how the response fund functions. Instead, these are special interests legislation that provide at least a \$74 million tax break to North Slope producers.

One factor that seems to be lost in this debate is that North Slope oil is a public resource that belongs to Alaskans. If Alaskans choose to assess a nickel-per-barrel surcharge on this resource to ensure adequate spill prevention and response programs, it is indeed our prerogative. As this debate continues, it is beginning to be at best insulting to have representatives of the Exxon Corporation tell the public and elected officials of Alaska what is an "adequate" level of funding for these programs---what they are "willing to pay."

Since the HB 238 "Y" draft proposal was released, it has been attacked as "radical." Let's also keep in mind that Commissioner Sandor, Deputy Commissioner Treadwell, and Representative Williams, who not long ago had the environmental community up in arms for their appointments as commissioners of DEC and chair of the House Resources Committee because of their pro-development philosophies. They may now be considered "radical environmentalists" by some people, as they voice concerns about the impacts of

Regional Citizens' Advisory Council of Prince William Sound

these various proposals. Concerns which for the most part, coincide with those emphatically expressed by many citizens in opposition to HB 238 and CSSB 215 (RES).

Put in perspective the "Y" draft proposal is still extremely generous to industry, but not a complete industry giveaway. Consider the following:

- Would also save North Slope oil producers at least \$52 million in surcharge payments through a new method for calculating the fund balance.
- This proposal differs from previous versions of HB 238 and CSSB 215 (RES), in that it does not give surcharge payers an **automatic** additional \$25 to \$30 million tax break (depending on how the nickel is split) through the under funding of state preparedness, prevention and response programs. The ability of the legislature to set funding levels for these programs is maintained rather than being determined by splitting the nickel and declining North Slope production levels. However, surcharge payments will probably decline by the same \$30 million through the additional response fund revenue sources in this proposal. **Therefore, the ultimate impact on surcharge payers will be the same but without the spill risks to the public and tying of the hands of legislators.**
- The "Y" draft proposal also allows additional revenue sources to be included in the calculation of the fund cap. These include program receipts and mitigation account money (cost recovery from responsible parties for spill response or oversight) received to the extent that the funds originated from the response fund.

This proposal, however, does differ from previous versions of HB 238 and CSSB 215 (RES) in that it does not jeopardize the state's ability to respond to all but the largest spills--over 4.2 million gallons. The response fund continues to be accessible for response to all spills regardless of size. This takes into consideration timing and location that are equally important as spill size.

Chairman Williams and House Resources Committee Members:

I am Jim Carlton, the Mayor of the Ketchikan Gateway Borough, and I would like to speak in support of the current House Resources draft of House Bill 238.

There seems to be a general understanding among those knowledgeable of the so-called 470 Fund that the accounting mechanism embodied in the current law is indeed broken. It was the original intent to provide a fund of \$50 million to pay for spill response, preparedness and prevention programs. This draft attempts to fix those accounting problems and leaves the other working provisions of the fund in place.

This legislation takes into consideration concerns that coastal communities had expressed last year regarding loss of the community impact grants and funding for local emergency planning committees. That funding remains intact in this draft. Also intact are provisions which require the annual review of the state master plan to include public and legislative review. In addition, the legislature's ability to set funding levels for spill prevention programs within the Department of Environmental Conservation is maintained. I am also ^{Very} pleased that the language pertaining to funding of an oil response ferry remains intact in this draft.

I agree with comments made ~~in the Senate Finance Committee~~ by Commissioner John Sandor, that ~~the~~ other versions of this legislation, ~~that split the funds per barrel charge~~ may leave the state's spill prevention and response programs underfunded. As a mayor of a coastal community, I would rather see these programs funded to the fullest extent possible. We need to be pro-active and prepared in our communities response to possible spills, not reactive, as we were with the Exxon Valdez disaster. In addition,

this draft still allows the fund to be used to respond to smaller spills, which do occur much more often than a spill of the magnitude experienced in Prince William Sound.

It is my understanding that although this legislation does not go as far as ~~what the oil industry~~ the oil industry would like, savings of many tens of millions of dollars would still be realized by these companies. In addition, any amount over what is needed to maintain the spill reserve and ~~the~~ fund the important prevention and preparedness programs, would be refunded to the oil industry.

This legislation seems to be a fair compromise between all the draft bills which attempt to address the 470 Fund. The main thing to keep in mind as you review this legislation is whether it fulfills the original intent of the legislation which states that, "funds for the abatement of a release of oil or a hazardous substance will always be available."

Thank you for the opportunity to testify.

Jim Carlton

*Testimony given
at 3/2/94 Hearing*

**POSITION OF THE
ALASKA OIL AND GAS ASSOCIATION
ON
HB 238, OIL & HAZARDOUS SUBSTANCE RELEASE RESPONSE FUND
FOR PRESENTATION TO THE
HOUSE RESOURCES COMMITTEE
March 2, 1994**

The Alaska Oil and Gas Association (AOGA) is a non-profit industry trade association. Its 18 member companies account for the majority of oil and gas exploration, production, refining, marketing and transportation activities in Alaska.

The AOGA position specifically states that:

- AOGA supports the proposal to split the current nickel per barrel surcharge on oil production into two accounts; a two cents per barrel "oil spill preparedness account", to be funded through a permanent two cents per barrel tax, and a three cents per barrel "catastrophic oil discharge account".
- AOGA believes this proposal will ensure that there is a separate and secure independent source of \$50 million available to the state and local communities in case of an emergency.
- AOGA believes the two cents per barrel tax will ensure a permanent and secure source of funding for state prevention and preparedness programs as long as oil is being produced in Alaska. The permanent two cents per barrel tax would provide over \$10 million per year for state prevention and preparedness programs, more than the \$6.5 million projected in the original fiscal notes from the 1989 and 1990 sessions.
- AOGA supports continuing the policy of using mitigation account reimbursement money to fund the state's share of the underground storage tank cleanup assistance program. Future Exxon Valdez settlement reimbursement payments should provide ample funding for the underground storage tank program.

AOGA supports the two-cent/three-cent split as proposed by Representative Green.

AOGA MEMBERS:

Amerada Hess Corporation
Anadarko Petroleum Corporation
ARCO Alaska, Inc.
BP Exploration (Alaska), Inc.
Chevron U.S.A. Inc.
Cook Inlet Region, Inc.
Exxon Company, U.S.A.
MAPCO Alaska Petroleum Inc.
Marathon Oil Company

Mobil Oil Corporation
Petrofina Delaware, Inc.
Petro Star, Inc.
Phillips Petroleum Company
Rowan Companies, Inc.
Shell Western E&P Inc.
Texaco Inc.
Union Texas Petroleum Alaska Corp.
UNOCAL

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To	(H) Resources
Co.	HB 238 Testimony
Dept.	For TC 40447
Fax #	465-3793



**WILDLIFE
FEDERATION
OF ALASKA**

Involving Alaskans with Wildlife,
Habitat and Conservation

memo 7571	# of pages + /
From	ANCH LIO
Co.	
Phone #	
Fax #	

March 9, 1994

TO: House Resources Committee

FROM: Jim Glaspell *Jim Glaspell*
President, Wildlife Federation of Alaska

SUBJECT: HB 238 (An Act relating to the oil and hazardous substance release fund ...)

Good morning Mr. Chairman and members of the House Resources Committee. My name is Jim Glaspell, and I would like to provide testimony on behalf of the Wildlife Federation of Alaska, the state affiliate of the National Wildlife Federation. Our organization is particularly interested in protecting the fish and wildlife habitat resources of Alaska, and in this objective we would like to offer our comments concerning HB 238.

The best approach to protection of resources from the effects of oil and hazardous substance spills is to plan effectively to minimize spill incidents through prevention measures, to be prepared to respond to a spill incident through timely and appropriate response and cleanup activities (Oil Spill Contingency Plan procedures), and if necessary, to restore fish and wildlife habitats which have been adversely impacted. The bill before you today seeks to make changes to a program which was originally intended to address just these issues, and we are at a loss to rationalize why HB 238 is necessary. The existing program as administered by the Alaska Department of Environmental Conservation has admittedly had some problems, but it is our understanding that the difficulties have been dealt with as internal administrative matters within the agency and appropriate corrections are now in place.

If any legislative action is necessary at all, we do not support the current "S" version as offered by Representative Green. As a compromise approach, we are more supportive of the "Y" version offered by Representative Williams since it clarifies intent and focuses on areas of perceived problems. We are particularly supportive of the fact that Representative Williams "Y" version does not propose to remove "...restoration of the environment..." from the scope of containment and cleanup.

Thank you for the opportunity to provide these comments on HB 238 for the Wildlife Federation of Alaska.

Thea Thomas

Date: Mar. 9, '94

Box 1566

Cordova, AK 99574

Occupation: Commercial Fisherman

I am speaking on HB 238. First of all, I would like to say that I do not think it is necessary for any Legislative action concerning the 470 Fund. The present system works, why try to fix what is not broken. But if the Legislature finds it absolutely necessary to provide tax relief for the oil companies, then Representative Williams' proposed committee substitute is the only fair and balanced option concerning this issue. Williams' bill addresses the oil industries request for tax relief while maintaining the state's ability to prevent, prepare for and respond to oil and hazardous substance spills. This bill also provides an atmosphere of cooperation and compromise between the oil industry and the people of the State of Alaska. Thank you.



P.O. Box 1352
Valdez, AK 99686
Phone: 907-835-4300
Fax: 907.835.5679

Honorable Bill Williams
Alaska State Legislature
State Capitol (MS 3100)
Juneau, Alaska 99801-1182

February 25, 1994

RE: HB 238 — 470 Fund Bill

Dear Representative Williams:

The Alaska Wilderness Recreation and Tourism Association does not believe any legislation is needed to change the management or funding of the 470 Fund. However, if the legislature is determined to pass a bill, we thank you for introducing the House Resources Committee Substitute for HB 238.

CS HB 238 goes along way towards continuing to adequately fund the State's spill prevention and response program while addressing concerns raised by the oil industry. As you have heard AWRTA testify on previous occasions, the law does not give tourism businesses legal standing to file for economic damages sustained as a result of a spill. Therefore, strong spill prevention and response programs are the tourism industry's only protection. We would prefer a stronger, not weaker, program.

AWRTA is particularly concerned about spill prevention and cleanup of contaminated sites in rural Alaska. There are not many jobs for people living in rural Alaska. A growing number of rural communities have contacted AWRTA for information on ecotourism in hopes of beginning ecotourism type businesses. However, contaminated sites and the potential for oil spills pose problems for their development. I give three examples. First, drinking water contaminated by fuel spills poses problems for some communities. For example, because of a fuel spill, a restaurant in Cbitina is importing water. Second, the village of Chenega Bay inherited a contaminated site when it was relocated following the 1964 Earthquake. The village is located in an area with tremendous tourism potential, but before it can develop tourism facilities, it must cleanup the contaminated site. Third, in rural Alaska, there are many aging fuel storage areas which are often located adjacent to rivers. Funding is needed to repair or replace them before they cause spills which will create economic, social and environmental disasters for the local residents, communities downstream, and tourism businesses using those streams. The 470 fund provides funding for the cleanup of contaminated sites and the prevention of oil spills. It makes good economic sense for the state to continue the present funding mechanism for this program.

Sincerely,

Nancy R. Lethcoe

Testimony of Kenneth M. Reither
on behalf of Exxon Company, U.S.A.
House Resources Committee
March 16, 1994
HB 238

1. The Tax Suspension Mechanism Doesn't Work.

Despite testimony last week to the contrary, the tax suspension mechanism in the current 470 fund law doesn't work. DEC agrees. The nickel surcharge is supposed to suspend when the 470 fund reaches \$50 million. Even though the spill reserve is \$37.4 million, the latest calculation to determine whether the \$50 million target has been reached shows as follows:

Oil surcharge cumulative revenue	\$115 million
Cumulative expenditures	(128 million)
Difference	(\$13 million)

If the tax suspension provision was working properly, the difference would equate to the \$37.4 million spill reserve, not to a negative \$13 million.

2. What does industry seek?

We are not seeking some sort of tax break from the state. We are instead seeking two things:

- A. First, a mechanism that provides a stable source of revenue for ongoing spill prevention and response programs, and
- B. Second, a fix to the tax suspension mechanism so that funds available for spill response build to \$50 million as intended, but then part of the tax suspends unless and until there is a draw-down below the \$50 million target level.

3. There is no "immediate benefit" from any of the proposals under consideration.

DEC has published graphs that purport to show an "immediate benefit" to industry from the proposals under consideration ranging from \$26.8 million to \$64.7 million. These amounts were derived by comparing the negative \$13 million yielded by the suspension formula that doesn't work, against the result that a fixed suspension formula would yield under the various proposals.

We believe that comparison is invalid. The proper way to calculate benefit is to compute the difference between the tax the industry would pay under present law versus the tax it would pay

under the proposals.

Measured properly, there is no immediate benefit to industry from any of the proposals. The earliest that any benefit can come about is mid FY95 due to a partial suspension or credit taking effect at that time. That benefit is no where close to \$26.8 to \$64.7 million.

4. Splitting the Nickel

One of the reasons why splitting the nickel makes sense is that the 470 fund has in reality become a dual purpose fund, trying to meet two separate and distinct needs. First, it is used to fund ongoing spill preparation and prevention programs -- needs that continue each year. Second, it is used as a storehouse of moneys available to respond to catastrophic and other spills.

Splitting the nickel into two separate surcharges - one to take care of the ongoing needs and the other to build the fund - seems to us to be a sensible and workable approach. This is the approach taken in Representative Green's proposal.

How would it work? The numbers are really simple. Exhibit A shows how it would work if the nickel is divided into a 2 cent permanent tax for ongoing programs and a 3 cent suspending tax to build the \$50 million fund.

As shown in Exhibit A, funds are available for DEC's ongoing spill planning, prevention and oversight programs at a level at least equal to DEC's own recent projections. At the same time, 3 cents of the nickel surcharge suspends January 1, 1995 after the balance available for spill response grows to about \$58 million.

What happens if the Legislature adopts a 2.5 cents/2.5 cents split instead? Exhibit B describes the result, but the only basic differences are:

- A. More dollars are available for appropriation to DEC for ongoing programs in future years (\$16.1 million or more vs. DEC's projected need of \$13.5 million), and
- B. The buildup of the \$50 million fund is not quite as fast as under the 2 cents/3 cents proposal.

Both raise the fund above \$50 million, but how fast you get there is different between the proposals.

5. DEC's 3 cents/2 cents proposal.

This proposal is quite different in a couple of areas. In addition to advocating 3 cents for DEC's ongoing programs instead of 2 or 2.5 cents, DEC advocates taking 60 percent of the \$37.4 million spill reserve and appropriating that amount to DEC in a non-lapsing appropriation to be spent for ongoing programs. The result is \$38 million appropriated to DEC for ongoing programs, compared to DEC's projected need of \$13.5 million.

This proposal also reduces the spill reserve to \$25.4 million and it would take 2 1/2 years for the fund to build to \$50 million. Compare this approach to the 2 cents/3 cents split -- or to the 2.5 cents/2.5 cents split -- where the fund will exceed \$50 million by the middle of the coming fiscal year.

Exhibit C is an analysis of this proposal.

6. HB238 "Y": Retain the nickel surcharge; credit part back to producers

Now I would like to turn to the proposed tax credit solution, as described in HB 238 work draft "Y". Under this proposal, the nickel surcharge would remain in place. A tax credit would supposedly come into play when the amount reached for spill response got to \$50 million or more.

I tried to prepare a detailed analysis of how version "Y" would work, Exhibit D, but didn't get very far before I ran into problems due to ambiguities as to how it would work. In addition, although the tax credit mechanism appears simple in theory, in practice it would create a large tax compliance problem for DOR and the producers.

Here are some of the problems I found:

- The accounting problem is not fixed. In section 4 of the bill, which contains the calculation to see whether \$50 million target has been reached, the bill subtracts reserves for outstanding appropriations at page 2, line 28, then subtracts "total appropriations" at page 3, line 14, which appears to be a double subtraction of appropriations. I have reviewed amendment "Y.1", which confirms this observation.
- In the "Y" work draft, a taxpayer is entitled to a credit against the tax imposed by AS 43.55.011-150. This appears in Sec 2 at lines 6 - 13. The following problems are observed in this area:
 - A. AS 43.55.011-150 includes both the oil production tax (AS 43.55.011) and the gas production tax (AS 43.55.013), which are two separate taxes. Against which tax is the credit to be taken? Presumably it would be against the oil production tax, but the bill should be more precise in this

area. If passed as drafted, I suppose DOR would have to pass a regulation attempting to clarify this point.

- B. Under version "Y", the credit may be taken only during a tax year in which the credit is calculated and reported. But under neither tax is there a "tax year". These taxes are calculated and paid monthly, not annually. It is therefore unclear what this limitation means.
- C. Under "Y", the surcharge would be segregated into a separate account in the general fund. At the end of the year, the Legislature would appropriate the nickels collected into the 470 Fund. But since the credit is allowed against production taxes (which are paid into the general fund), that credit effectively comes out of the general fund, not the 470 fund. Thus the 470 fund would continue to grow, funded indirectly by the general fund, and not by the surcharge itself.

Amendment "Y.4" changes the credit to be against the surcharge itself, which solves problems A and C mentioned above. But "Y.4" allows the credit only during the state fiscal year in which the credit is calculated and reported. Consider activity during the 4th quarter of the state fiscal year.

- By 4/30, the Commissioner of Administration must make the calculation and by 5/14 must report same to DOR.
- DOR (within no specified time limit) calculates the amount of credit by taxpayer and notifies each taxpayer how much each is entitled to.
- But the next tax return before the end of the quarter is due June 20 and delinquent June 30. That leaves only 45 days for DOR to make the calculation, notify taxpayers of the amount of credit, and the taxpayers to fold the credit into their return -- otherwise the credit is apparently lost.

What if there's an amended return filed later in which a taxpayer pays more or claims an overpayment of surcharge -- or an up or down audit adjustment in a later year -- that affects the amount of surcharge due.

- During those quarters when the credit is more or less than the full amount of the surcharge paid, DOR cannot calculate with precision the amount of credit due unless it waits until the periods are closed for ALL taxpayers.
- Example. Suppose the amount of credit is \$3.0 million and suppose the surcharge collected was \$6.5 million. Initially the credit is 46.15% of the tax paid. So far, so good. But suppose next year an adjustment is made in

one taxpayer's return resulting in total pre-credit surcharge due of \$6.55 million. Now the applicable credit is 45.80%, not 46.15% and an adjustment is due every other taxpayer. Multiply this by the 14 or so producers in Alaska.

This is a real concern. There is an issue now of whether Natural Gas Liquids are gas or oil. Should the DOR prevail in it's claim that they are oil, then amended returns will be required which change the number of barrels reported and accordingly the surcharge due. Depending on when this issue is resolved, and it could be five to ten years from now, the burden of going back and recalculating the tax credit could be very large.

- No taxpayer can verify the accuracy of the amount of credit calculated by DOR without knowing the total amount of surcharge collected from the other taxpayers (as adjusted after audits are closed -- 10 or more years later).
- Page 5, lines 7-15. These lines may not be appropriate to this bill since they refer a situation where the tax is to be reimposed. But this bill has a tax credit mechanism, not a suspension/ reimposition mechanism.

Now, I have no doubt that DOR can write regulations and make any calculation required under just about any law that is passed. But as I mentioned earlier, the tax credit mechanism appears to be easy in theory, but in practice it would create a very large tax compliance burden for both DOR and the producers.

It seems to us to be much simpler to split the nickels instead. Then, when the \$50 million cap is reached, all DOR would have to do is send a form letter to the producers, notifying them of the suspension or reinstatement of the surcharge. DOR would have nothing to calculate.

Summary

To summarize, we do not support the tax credit solution to this problem. Although some of the problems I have described could be cured through amendment, these facts remain:

1. You still end up with one fund trying to do two jobs;
2. The effort required by DOR and the taxpayers to make and keep up with the calculations seems out of line with the objectives that are being sought.
3. The far simpler approach is to split the tax into two parts -- one to fund ongoing programs and the other to build the \$50 million fund.

Under the split nickel proposal we have supported, only part of the nickel tax suspends -- and only after full funding of DEC's ongoing programs -- and only after the full \$50 million fund is built up for response to catastrophic and other spills to be addressed out of that fund.

Thank you for the opportunity to testify.

KMR:lm

Exhibit A

SB 215 / HB 238

2 cent Permanent Tax for Ongoing Programs
3 cent Suspending Tax for \$50 million Fund
(\$ million - all numbers approximate)

6/30/94 Spill Reserve 37.4 Million
FY94 collections from 5 cents/bbl surcharge 26.0 Million

Transition and FY95 Funding

	13.5	Appropriated to the new <u>contingency and abatement account</u> in the 470 fund for use by DEC for ongoing spill prevention and response preparedness programs.
26.0 FY94 nickels	-----	
	12.5	Appropriated to the new <u>spill response account</u> in the 470 fund for use by DEC to respond to catastrophic and other spills for which the account may be used.
	37.4	Appropriated from the former spill reserve to the <u>spill response account</u> .
	<u>49.9</u>	Total balance in <u>spill response account</u> available for emergency response to catastrophic and other spills.

During First Quarter FY95

30 days into Quarter, Commissioner of Administration adds:

0.0	Collected during the prior quarter under the 3 cent <u>spill response surcharge</u> (None because law has just taken effect).
0.0	Prior quarter recoveries in the spill response mitigation account. (None, same reason.)
49.9	Unreserved and unobligated balance in the <u>spill response account</u> of the 470 fund.
<u>49.9</u>	Total. Spill response surcharge remains in effect for next quarter.

Note closeness to \$50 million target -- in reality, the tax might suspend at the end of the quarter if the total came out higher.

Meanwhile, during that quarter,

2.6 million is collected from the permanent 2 cents surcharge and segregated in a separate account in the general fund.

3.9 million is collected from the spill response 3 cents surcharge and segregated in a separate account in the general fund.

During Second Quarter FY95

30 days into the quarter, Commissioner of Administration adds

3.9	Amount collected through the prior quarter under the <u>spill response surcharge</u> .
0.1	Amount collected through the prior quarter as recoveries to the spill response mitigation account.
49.9	Unreserved and unobligated balance in the <u>spill response account</u> of the 470 fund.
<hr/>	
53.9	Total. The spill response 3 cents surcharge is suspended, beginning next quarter.

These numbers assume that no catastrophic or other spill has taken place causing a reduction of the unobligated balance in the response account.

The Commissioner of Administration notifies Department of Revenue of result. Department of Revenue in turn notifies the oil producers that the 3 cents surcharge is suspended as of the third quarter (1/1/95).

Meanwhile, during that Second Quarter,

2.6 million is collected from the permanent 2 cents surcharge and segregated in a separate account in the general fund.

3.9 million is collected from the spill response 3 cents surcharge and segregated in a separate account in the general

fund (because that surcharge is not suspended until the beginning of the next quarter).

Third Quarter FY95

30 days into the quarter, the Department of Administration updates the calculation and notifies Department of Revenue of the result:

7.8	Amount collected through the prior quarter under the <u>spill response surcharge</u> .
0.2	Amount collected through the prior quarter as recoveries to the spill response mitigation account.
49.9	Unreserved and unobligated balance in the <u>spill response account</u> of the 470 fund.
<hr/>	
57.9	Total. The spill response 3 cents surcharge remains suspended.

If the result is less than \$50 million, the surcharge is reinstated at the beginning of the next quarter.

Fourth Quarter FY95

The Department of Administration updates the calculation and notifies Department of Revenue of the result. If the result is less than \$50 million, the surcharge is reinstated at the beginning of the next quarter.

Beginning of FY96

AS TO ONGOING PROGRAMS FOR SPILL PREPAREDNESS

The following is available for appropriation to the "contingency and abatement account" in the 470 fund for DEC's use for ongoing spill prevention and response preparedness programs:

- 10.4 Amount collected during FY95 from the 2 cent permanent surcharge (4 quarters of \$2.6 million each).
- 0.4 Cost recoveries, fines, penalties and other funds in the "contingency and abatement mitigation account".
- 2.7 Approximate amount of interest accrued during the year on the (1) balance in the 470 fund and (2) amount collected under the spill response surcharge during the prior year.
- ??? Registration and certification fees collected.
- 13.5 or more (DEC's projected need.)

AS TO THE SPILL RESPONSE ACCOUNT

The spill response account grows above \$50 million:

- 3.9 1st quarter collections from 3 cents spill response tax.
- 3.9 2nd quarter collections from 3 cents spill response tax.
- 0.4 Estimated recoveries.
- 49.9 Prior balance in spill response account.
- 58.2 New balance in spill response account.

OVERALL RESULT AFTER FIRST YEAR OF OPERATION UNDER NEW LAW

Funds are available for DEC's ongoing spill planning, prevention, and oversight programs, sufficient according to DEC's own projections. At the same time, the 3 cents spill response surcharge suspends as of January 1, 1995 and the balance in the 470 fund for spill response grows to over \$58 million.

Note: The \$58 million would vary depending on when the suspension took place, which could be earlier or later depending on the exact 6/30/94 balance in the spill reserve and the exact amounts collected during FY 94 from the surcharge.

There is no "immediate benefit" to oil producers. The only benefit to producers is due to a suspension of 3 cents of the total 5 cents in surcharges half way during FY95 after funds available for spill response grows above the \$50 million target -- the target intended when the nickel surcharge was enacted.

OVERALL RESULT FOR FUTURE

Sufficient funds continue to be available through the 2 cents permanent surcharge, interest, recoveries and other sources for ongoing spill planning, prevention, and oversight programs by DEC.

At least \$50 million is banked and available for spill response.

Exhibit B

SB 215 / HB 238

2.5 cent Permanent Tax for Ongoing Programs
2.5 cent Suspending Tax for \$50 million Fund
(\$ million - all numbers approximate)

6/30/94 Spill Reserve 37.4 Million
FY94 collections from 5 cents/bbl surcharge 26.0 Million

Transition and FY95 Funding

	13.5	Appropriated to the new <u>contingency and abatement account</u> in the 470 fund for use by DEC for ongoing spill prevention and response preparedness programs.
26.0 FY94 nickels	-----	-----
	12.5	Appropriated to the new <u>spill response account</u> in the 470 fund for use by DEC to respond to catastrophic and other spills for which the account may be used.
	37.4	Appropriated from the former spill reserve to the <u>spill response account</u> .
	<u>49.9</u>	Total balance in <u>spill response account</u> available for emergency response to catastrophic and other spills.

During First Quarter FY95

30 days into Quarter, Commissioner of Administration adds:

0.0	Collected during the prior quarter under the 2.5 cent <u>spill response surcharge</u> (None because law has just taken effect).
0.0	Prior quarter recoveries in the spill response mitigation account. (None, same reason.)
49.9	Unreserved and unobligated balance in the <u>spill response account</u> of the 470 fund.
<u>49.9</u>	Total. Spill response surcharge remains in effect for next quarter.

Note closeness to \$50 million target -- in reality, the tax might suspend at the end of the quarter if the total came out higher.

Meanwhile, during that quarter,

3.25 million is collected from the permanent 2.5 cents surcharge and segregated in a separate account in the general fund.

3.25 million is collected from the spill response 2.5 cents surcharge and segregated in a separate account in the general fund.

During Second Quarter FY95

30 days into the quarter, Commissioner of Administration adds

3.25	Amount collected through the prior quarter under the <u>spill response surcharge</u> .
0.1	Amount collected through the prior quarter as recoveries to the spill response mitigation account.
49.9	Unreserved and unobligated balance in the <u>spill response account</u> of the 470 fund.
<hr/>	
53.25	Total. The spill response 2.5 cents surcharge is suspended, beginning next quarter.

These numbers assume that no catastrophic or other spill has taken place causing a reduction of the unobligated balance in the response account.

The Commissioner of Administration notifies Department of Revenue of result. Department of Revenue in turn notifies the oil producers that the 2.5 cents surcharge is suspended as of the third quarter (1/1/95).

Meanwhile, during that Second Quarter,

3.25 million is collected from the permanent 2.5 cents surcharge and segregated in a separate account in the general fund.

3.25 million is collected from the spill response 2.5 cents surcharge and segregated in a separate account in the general fund (because that surcharge is not suspended until the beginning of the next quarter).

Third Quarter FY95

30 days into the quarter, the Department of Administration updates the calculation and notifies Department of Revenue of the result:

6.5	Amount collected through the prior quarter under the <u>spill response surcharge</u> .
0.2	Amount collected through the prior quarter as recoveries to the spill response mitigation account.
49.9	Unreserved and unobligated balance in the <u>spill response account</u> of the 470 fund.
<hr/>	
56.6	Total. The spill response 2.5 cents surcharge remains suspended.

If the result is less than \$50 million, the surcharge is reinstated at the beginning of the next quarter.

Fourth Quarter FY95

The Department of Administration updates the calculation and notifies Department of Revenue of the result. If the result is less than \$50 million, the surcharge is reinstated at the beginning of the next quarter.

Beginning of FY96

AS TO ONGOING PROGRAMS FOR SPILL PREPAREDNESS

The following is available for appropriation to the "contingency and abatement account" in the 470 fund for DEC's use for ongoing spill prevention and response preparedness programs:

- 13.0 Amount collected during FY95 from the 2.5 cent permanent surcharge (4 quarters of \$3.25 million each).
- 0.4 Cost recoveries, fines, penalties and other funds in the "contingency and abatement mitigation account".
- 2.7 Approximate amount of interest accrued during the year on the (1) balance in the 470 fund and (2) amount collected under the spill response surcharge during the prior year.
- ???
- 16.1 or more (DEC's projected need is 13.5) Registration and certification fees collected.

AS TO THE SPILL RESPONSE ACCOUNT

The spill response account grows above \$50 million:

- 3.25 1st quarter collections from 2.5 cents spill response tax.
- 3.25 2nd quarter collections from 2.5 cents spill response tax.
- 0.4 Estimated recoveries.
- 49.9 Prior balance in spill response account.
- 56.8 New balance in spill response account.

OVERALL RESULT AFTER FIRST YEAR OF OPERATION UNDER NEW LAW

Funds are available for DEC's ongoing spill planning, prevention, and oversight programs, sufficient according to DEC's own projections. At the same time, the 2.5 cents spill response surcharge suspends as of January 1, 1995 and the balance in the 470 fund for spill response grows to over \$56 million.

Note: The \$56 million would vary depending on when the suspension took place, which could be earlier or later depending on the exact 6/30/94 balance in the spill reserve and the exact amounts collected during FY 94 from the surcharge.

There is no "immediate benefit" to oil producers. The only benefit to producers is due to a suspension of 2.5 cents of the total 5 cents in surcharges half way during FY95 after funds available for spill response grows above the \$50 million target -- the target intended when the nickel surcharge was enacted.

OVERALL RESULT FOR FUTURE

More than sufficient funds continue to be available through the 2.5 cents permanent surcharge, interest, recoveries and other sources for ongoing spill planning, prevention, and oversight programs by DEC.

At least \$50 million is banked and available for spill response.

Exhibit C

SB 215 / HB 238
3 cent Permanent Tax for Ongoing Programs
2 cent Suspending Tax for \$50 million Fund
(\$ million - all numbers approximate)

6/30/94 Spill Reserve 37.4 Million
FY94 collections from 5 cents/bbl surcharge 26.0 Million

Transition and FY95 Funding

1. Appropriation to Contingency and Abatement Account for use by DEC for ongoing programs.

15.6 60% of FY94 nickels collected.
22.4 60% of Spill Reserve.
38.0 Total appropriated to DEC for ongoing programs.
(13.5) DEC's projected need.
25.5 Excess over need.

2. Appropriation to Reserve Account for spill response.

10.4 40% of FY94 nickels collected
15.0 40% of Spill Reserve
25.4 Total appropriated to spill response account

During First Quarter FY95

30 days into Quarter, Commissioner of Administration adds:

0.0 Collected during the prior quarter under the 2 cent spill response surcharge (None because law has just taken effect).
0.0 Prior quarter recoveries in the spill response mitigation account. (None, same reason.)
25.4 Unreserved and unobligated balance in the spill response account of the 470 fund.

25.4 Total. Spill response surcharge remains in effect for next quarter.

Meanwhile, during that quarter,

3.9 million is collected from the permanent 3 cents surcharge and segregated in a separate account in the general fund.

2.6 million is collected from the spill response 2 cents surcharge and segregated in a separate account in the general fund.

During Second Quarter FY95

30 days into the quarter, Commissioner of Administration adds

2.6	Amount collected through the prior quarter under the <u>spill response surcharge</u> .
0.1	Amount collected through the prior quarter as recoveries to the spill response mitigation account.
25.4	Unreserved and unobligated balance in the <u>spill response account</u> of the 470 fund.
28.1	Total. The spill response 2 cents surcharge is not suspended.

Meanwhile, during that Second Quarter,

3.9 million is collected from the permanent 3 cents surcharge and segregated in a separate account in the general fund.

2.6 million is collected from the spill response 2 cents surcharge and segregated in a separate account in the general fund (because that surcharge is not suspended until the beginning of the next quarter).

Third Quarter FY95

30 days into the quarter, the Department of Administration updates the calculation and notifies Department of Revenue of the result:

5.2	Amount collected through the prior quarter under the <u>spill response surcharge</u> .
0.2	Amount collected through the prior quarter as recoveries to the spill response mitigation account.
25.4	Unreserved and unobligated balance in the <u>spill response account</u> of the 470 fund.
31.0	Total. The spill response surcharge remains in place.

Fourth Quarter FY95

The Department of Administration updates the calculation and notifies Department of Revenue of the result. As with the prior quarter, the suspending 2 cents surcharge remains in place.

Beginning of FY96

AS TO ONGOING PROGRAMS FOR SPILL PREPAREDNESS

The following is available for appropriation to the "contingency and abatement account" in the 470 fund for DEC's use for ongoing spill prevention and response preparedness programs:

15.6	Amount collected during FY95 from the 3 cent permanent surcharge.
0.4	Cost recoveries, fines, penalties and other funds in the "contingency and abatement mitigation account".
2.7	Approximate amount of interest accrued during the year on the (1) balance in the 470 fund and (2) amount collected under the <u>spill response surcharge</u> during the prior year.
???	Registration and certification fees collected.
18.7	or more (6.2 over DEC's projected need of 13.5).
6.2	Excess appropriation this year.
25.5	Excess to need appropriated prior year.
31.7	Cumulative excess.

AS TO THE SPILL RESPONSE ACCOUNT

The spill response account doesn't yet reach \$50 million:

10.4	4 quarters of collections of spill surcharge
0.4	Estimated recoveries.
25.4	Prior balance in spill response account.
36.2	New balance in spill response account.

OVERALL RESULT AFTER FIRST YEAR OF OPERATION UNDER NEW LAW

Funds available for DEC's ongoing spill planning, prevention, and oversight programs greatly exceed need (by tens of millions).

At the same time, the 2 cents spill response surcharge remains in place during the fiscal year. The spill response fund itself is reduced initially from 37.4 million to 25.4 million, and increased by year end to 36.2 million.

It will take at least 6 more quarters before the \$50 million target is reached and the 2 cents tax is suspended.

Exhibit D

HB 238 Work Draft Y
Retain 5 cent/bbl surcharge
Allow tax credit when fund exceeds \$50 million

6/30/94 Spill Reserve	37.4 million
FY94 collections from 5 cent surcharge	26.0 million

Transition and FY95 Funding

26.0	FY94 nickels collected are appropriated to the 470 fund, 13.5 of which is appropriated for ongoing DEC programs and 12.5 to the spill reserve.
<u>37.4</u>	6/30/94 spill reserve balance.
63.4	New balance in 470 fund, of which 49.9 would be in the spill reserve (12.5 plus 37.4).

During 1st Quarter FY95

30 days into the quarter, the Commissioner of Administration adds:

49.9	Unreserved and unobligated balance in the 470 fund (63.4 total minus 13.5 reserved for appropriations)
0.0	Cumulative nickels collected through prior quarter (would be zero since the prior quarter collections have already been appropriated to the 470 fund)
<u>0.0</u>	Balance of the mitigation account (also zero)
49.9	

And subtracts:

<u>(13.5)</u>	Total appropriations from the 470 fund
36.4	

Thus despite the fact that the spill reserve is 49.9 million, the formula yields 36.4 million.



Regional Citizens' Advisory Council / 750 W. 2nd Ave., Suite 100 / Anchorage, Alaska 99501-2168 / (907) 277-7222 / FAX (907) 277-4523

"Citizens promoting environmentally safe operation of the Alveska terminal and associated tankers."

March 15, 1994

Representative Bill Williams, Chair
House Resources Committee
State Capitol
Juneau, Alaska 99801

Dear Representative Williams:

Following testimony by Prince William Sound Regional Citizens' Advisory Council (RCAC) on March 9, some members of the House Resources Committee requested more information on the budget chart prepared by the Exxon Corporation. Attached is a copy of the chart. Below are bullets that point out the inconsistencies and inaccuracies of this information.

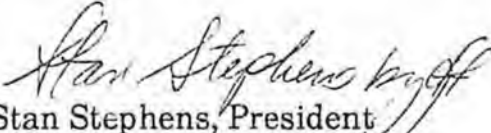
- The chart cites a report completed by BCSB Marketing for RCAC in December 1992 as its source. This suggests that the chart was produced by BCSB. This is not accurate; the chart was produced by the Exxon Corporation.
- The BCSB report provides information on annual appropriations for Alaska Department of Environmental Conservation (DEC) core spill prevention and response programs for the fiscal years (FY) 91 through 93. There is no information on FY 90 and 94. The purpose for showing the FY 91-93 appropriation levels in the BCSB report was to illustrate that despite the availability of response funds, the level of funding for core programs has remained relatively constant during those years.
- In the report, no attempt was made to analyze the adequacy of appropriations to these DEC programs---most of which have not been fully implemented.
- The most glaring error of the Exxon Corporation chart, however, is that it inaccurately compares "apples and oranges" and "credits" the poor analysis to another author. Specifically, the chart line "actual appropriations" includes appropriations for all authorized uses of the response fund. The line "original fiscal notes" includes only a select few fiscal notes---primarily those from the "spill bill package" passed in 1989 and additional legislation passed in 1990. These include SB 261, state and regional contingency planning; SB 264, response corps and depots; and HB 566 and 567, contingency planning and financial responsibility filings. These are only a subset of authorized uses of the response fund.

Prince William Sound Regional Citizens' Advisory Council

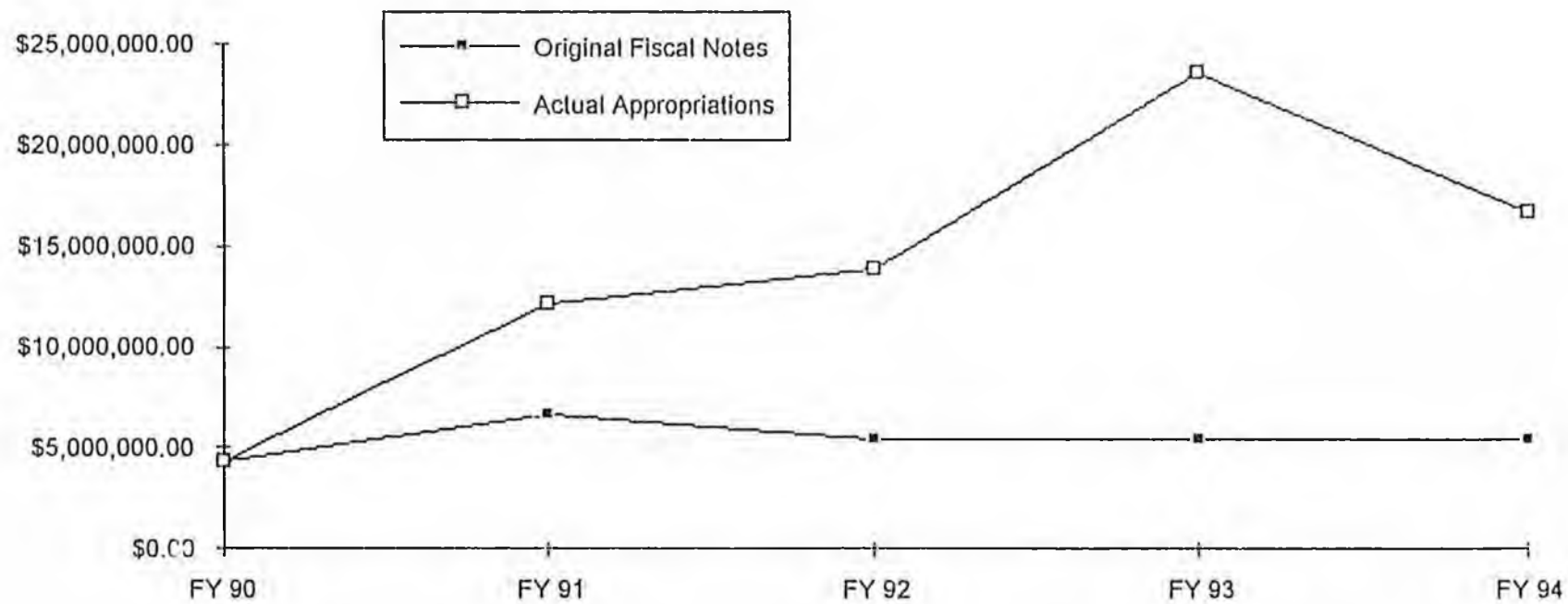
- Conspicuously absent from the analysis is the fiscal note for the Alaska Marine Highway Ferry which causes a jump in the appropriation line in FY 93. The fiscal note line does not include the fiscal note that accompanied that authorizing piece of legislation. When this issue was raised before the Senate Finance Committee on March 1, Senator Drue Pearce also noted this inconsistency and remembered that the Exxon Corporation had not testified in opposition to the legislation that authorized use of the response fund for the ferry.

As stated in RCAC's March 9 testimony, it is extremely unprofessional to produce false information and cite another entity as the source. At the very least, the Exxon Corporation owes RCAC an apology and should withdraw this misinformation from the legislative record.

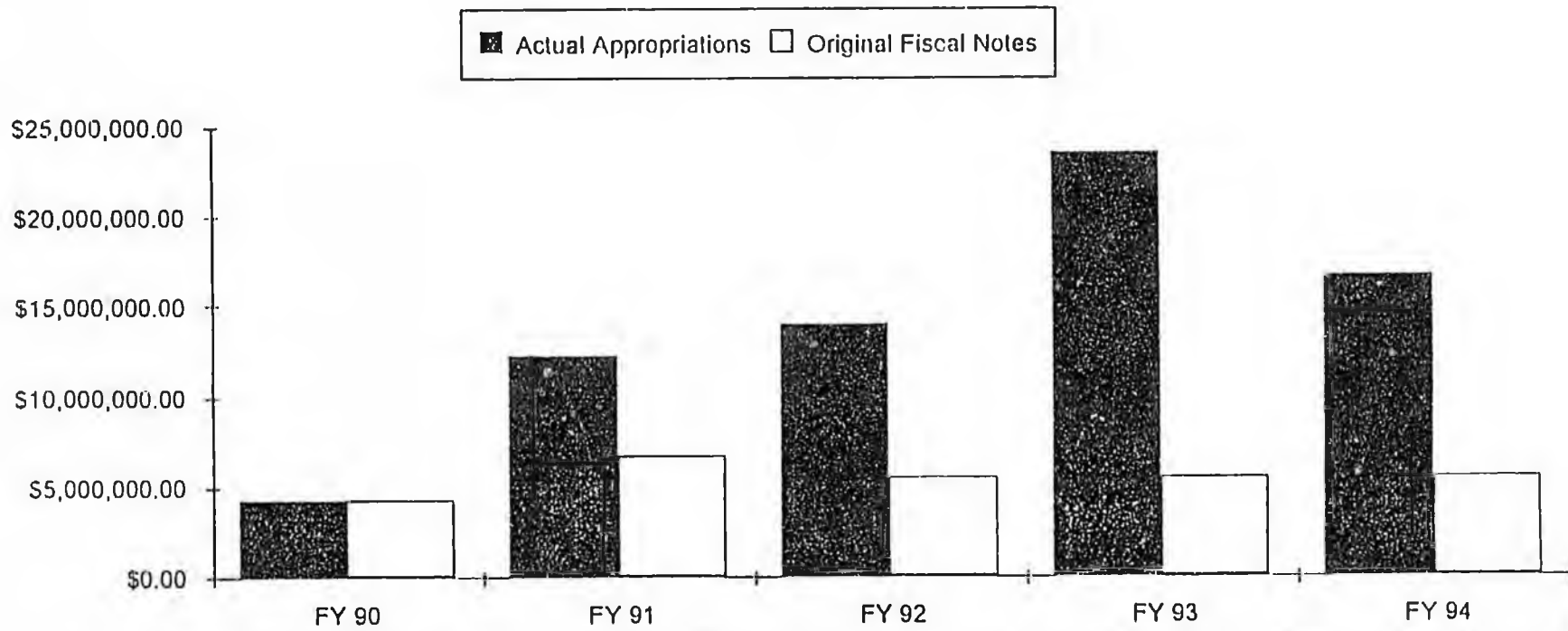
Sincerely,


Stan Stephens, President

Attachment



Source: "Alaska's Oil & Hazardous Substance Release Response Fund", Report by BCSB Marketing for Prince William Sound Regional Citizen's Advisor Council, Oil Spill Prevention and Response Committee, December 1992



Source: "Alaska's Oil & Hazardous Substance Release Response Fund", Report By BCSB Marketing for Prince William Sound Regional Citizen's Advisor Council, Oil Spill Prevention and Response Committee, December 1992.

2 CENT BUDGET - PREVENTION RESPONSE PROGRAMS

	DEC/OMB FY 95 Budget Request
DEC - Spill Prevention and Response, Director	980.70
Government Preparedness	4,067.40
Industry Preparedness	2,351.90
Underground Storage Tanks	108.30
Fund Administration and Support	746.50
Director's Office	123.00
Laboratory Operation and Maintenance	186.50
DCRA - SERC	13.50
DMVA/DES - SERC	11.00
DMVA/DES - Response Preparedness & Planning	210.00
DOA - PWS Communication System Maintenance	186.50
DOT/PF - SERC	6.50
DF&G - SERC	6.50
DF&G - Industry Contingency Plan Reviews	45.40
DF&G - State & Regional Master Plan	140.20
DH&SS Response Training	12.00
Labor - SERC	50.00
LAW - Regional & Central Office	9.50
LAW - Assistance to Exxon Valdez Private Plaintiffs	151.60
LAW - SERC Guidance	330.00
LAW - RP Identification, Enforcement & Cost Recovery	25.00
DNR - SERC	655.20
DNR - Industry Contingency Plan Reviews	9.50
DNR - State & Regional Master Plan	92.50
DPS - Enviromental Crimes	124.60
DPS - SERC	50.00
U of A Research	200.00
TOTAL EXPENDITURES	10,727.30
Revenues on 2 Cent per Barrel (per ADEC Estimate)	10,400.00
Interest on Spill Reserve (50m, 5%)	2,500.00
Exxon Valdez Reimbursements to Mitigation Account (\$28 million through the year 2001 - Annual amounts may vary)	3,500.00
MINIMUM TOTAL REVENUES AVAILABLE	16,400.00

2 CENT BUDGET - PREVENTION RESPONSE PROGRAMS AND CONTAMINATED SITES PROGRAM

	DEC/OMB FY 95 Budget Request
Contaminated Sites	2,747.30
DEC - Spill Prevention and Response, Director	980.70
Government Preparedness	4,067.40
Industry Preparedness	2,351.90
Underground Storage Tanks	108.30
Fund Administration and Support	746.50
Director's Office	123.00
Laboratory Operation & Maintenance	186.50
DCRA - SERC	13.50
DMVA/DES - SERC	11.00
DMVA/DES - Response Preparedness & Planning	210.00
DOA - PWS Communication System Maintenance	40.00
DOA - Two-way Radio Equipment Maintenance	20.00
DOT/PF - SERC	6.50
DF&G - SERC	6.50
DF&G - Industry Contingency Plan Review	45.40
DF&G - State & Regional Master Plan	140.20
DH&SS - Response Training	12.00
Labor - SERC	50.00
LAW - Regional & Central Office	9.50
LAW - Assistance to Exxon Valdez Private Plaintiffs	151.60
LAW - SERC Guidance	330.00
LAW - RP Identification, Enforcement & Cost Recovery	25.00
DNR - SERC	655.20
DNR - Industry Contingency Plan Reviews	9.50
DNR - State & Regional Master Plan	92.50
DPS - Enviromental Crimes	124.60
DPS - SERC	50.00
U of A Research	200.00
TOTAL EXPENDITURES	13,514.60
Revenues on 2 Cent per Barrel (per ADEC Estimate)	10,400.00
Interest on Spill Reserve (50m, 5%)	2,500.00
Exxon Valdez Reimbursements 'to Mitigation Account (\$28 million through the year 2001 - Annual amounts may vary)	3,500.00
MINIMUM TOTAL REVENUES AVAILABLE	16,400.00

2.5 CENT BUDGET - PREVENTION RESPONSE PROGRAMS

	DEC/OMB FY 95 Budget Request
DEC - Spill Prevention and Response, Director	980.70
Government Preparedness	4,067.40
Industry Preparedness	2,351.90
Underground Storage Tanks	108.30
Fund Administration and Support	746.50
Director's Office	123.00
Laboratory Operation and Maintenance	186.50
DCRA - SERC	13.50
DMVA/DES SERC	11.00
DMVA/DES - Response Preparedness & Planning	210.00
DOA - PWS Communication System Maintenance	186.50
DOT/PF - SERC	6.50
DF&G - SERC	6.50
DF&G - Industry Contingency Plan Reviews	45.40
DF&G - State & Regional Master Plan	140.20
DH&SS Response Training	12.00
Labor - SERC	50.00
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DNR - Industry Contingency Plan Reviews	9.50
DNR - State & Regional Master Plan	92.50
DPS - Environmental Crimes	124.60
DPS - SERC	50.00
U of A Research	200.00
TOTAL EXPENDITURES	10,727.30
Revenues on 2.5 Cent per Barrel (per ADEC Estimate)	13,000.00
Interest on Spill Reserve (50m, 5%)	2,500.00
Exxon Valdez Reimbursements to Mitigation Account (\$28 million through the year 2001 - Annual amounts may vary)	3,500.00
MINIMUM TOTAL REVENUES AVAILABLE	19,000.00

2.5 CENT BUDGET - PREVENTION RESPONSE PROGRAMS AND CONTAMINATED SITES PROGRAM

	DEC/OMB FY 95 Budget Request
Contaminated Sites	2,747.30
DEC - Spill Prevention and Response, Director	980.70
Government Preparedness	4,067.40
Industry Preparedness	2,351.90
Underground Storage Tanks	108.30
Fund Administration and Support	746.50
Director's Office	123.00
Laboratory Operation & Maintenance	186.50
DCRA - SERC	13.50
DMVA/DES - SERC	11.00
DMVA/DES - Response Preparedness & Planning	210.00
DOA - PWS Communication System Maintenance	40.00
DOA - Two-way Radio Equipment Maintenance	20.00
DOT/PF - SERC	6.50
DF&G - SERC	6.50
DF&G - Industry Contingency Plan Review	45.40
DF&G - State & Regional Master Plan	140.20
DH&SS - Response Training	12.00
Labor - SERC	50.00
LAW - Regional & Central Office	9.50
LAW - Assistance to Exxon Valdez Private Plaintiffs	151.60
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TOTAL EXPENDITURES	13,514.60
Revenues on 2.5 Cent per Barrel (per ADEC Estimate)	13,000.00
Interest on Spill Reserve (50m, 5%)	2,500.00
Exxon Valdez Reimbursements to Mitigation Account (\$28 million through the year 2001 - Annual amounts may vary)	3,500.00
MINIMUM TOTAL REVENUES AVAILABLE	19,000.00

Representative Bill Williams
State Capitol
Juneau

3. 3. 94.

Dear Representative Williams.

I have the honor of representing the citizens of Seward on the Prince William Sound Regional Citizens Advisory Council.

With regard to your Y version of HB 238, I wish to tell you that both myself and I am sure most of the citizens of this community are fully in support of your modifications to the House Bill.

It is obvious that you have put a great deal of work and thought into this complex issue, and you appear to have struck a workable compromise which we hope will be acceptable to all the parties concerned.


This community of Seward is the headquarters for administration and visitor handling of tourists visiting the Kenai Fjords National Park. After Denali we are rapidly becoming one of the major visitor attractions in the State. Literally thousands of our residents are becoming reliant upon the tourist industry to earn a livelihood, and since we would certainly be in the path of any future oil spills in PWS, those livelihoods could be placed in jeopardy.

We must be increasingly vigilant, since as the years go by, and the tankers and terminal equipment in Valdez ages, then the potential for accidents is also increasing.

When we look at the overall costs of over 2 billion dollars for the Exxon Valdez clean up, even the present proposed cap of 50 million dollars is only two and a half percent of the cost of a major clean up operation, and would only be of token value in the case of the next major spill.

In summary we applaud your efforts on behalf of the residents of the oil spill affected areas, and hope that your fellow representatives are able to recognize all the good points of your modified "Y" version of HB 238. We would be very obliged if your secretary could Xerox copies of this letter to the other Representatives concerned with 238 and so assure them of the strong support for your version of the bill in this and the other oiled communities.

Yours Very Sincerely;



Dennis Lodge. Seward RCAC representative.

From the desk of **Richard A. Fineberg**
Ester, Alaska 99725

P.O. Box 416
 Phone / Fax (907) 479-7778

(Via Fax)

February 26, 1994

Rep. Bill Williams, Chair
 House Resources Committee
 Alaska State House of Representatives
 Juneau, Alaska 99801-1182

Re: SB 215 / SB 238 ("470" Fund)

Dear Rep. Williams:

Once again you are being asked to consider bills modifying the oil spill response "470" fund on behalf of the oil industry. I am strongly opposed to any attempt to restructure or reduce the "470" fund and its mission without clear recognition of two things:

- ==> the crucial importance of prevention in the State's oil spill prevention program; and
- ==> the incredible magnitude of North Slope profits.

Regarding the first point, I find it strange that less than five years after the Exxon Valdez ran aground, unleashing what was arguably the worst oil spill in this nation's history, citizens are once again have to remind the Legislature that foolish complacency and misplaced trust played major roles in causing that spill. Although the Senate Resources Committee blatantly ignored the testimony from others in opposition to changing the "470" fund at this time, I believe that strong and well-grounded testimony covered the first point; I turn therefore to the second.

Spread across all North Slope oil production, the so-called "nickel-per-barrel" surcharge actually amounts to less than three cents per barrel after taxes. According to the Dept. of Revenue's Feb. 9 letter to Senator Zharoff, there are two principal reasons for this: First, the surcharge does not apply to royalty barrels, and, secondly, on the remaining 7/8 of production to which the surcharge applies, it is deductible from federal income tax. In simplified form, the true cost of the nickel per barrel would look like this:

\$0.05	surcharge on taxable (non-royalty) barrels
x 0.875	approximate equity (non-royalty) fraction
= \$0.04375	pre-tax surcharge spread across all barrels
x 0.65	35% federal income tax allowance for the \$0.0375 per-barrel payment
= \$0.02843	(2.483 cents per barrel) cost of the nickel-per-barrel after consideration of royalty and federal income tax effects

That's less than one percent of CY 1993 after-tax Alaska North Slope production and pipeline profits of approximately \$2.96 per barrel. That per-barrel profit produced an annual profit in excess of \$1.7 billion for the industry. This estimate, incidentally, fully recognizes the industry's poor fourth-quarter performance. Even on those few dark days in December when prices were at the \$10.00 per-barrel level, it appears that North Slope profits were still running on the order of \$400,000.00 per day.

To determine whether this 2.8 cents per barrel significantly affects oil industry operations, let's consider these profits in terms of what an investor might earn

*Fineberg / Rep. Bill Williams
2/26/94 (Page 2)*

elsewhere. If North Slope production and pipelining were controlled by one company instead of three, that firm's 1993 profits would have ranked on a par with the seventh most profitable firm on the Fortune 500 list of the nation's most profitable companies in 1992. Clearly, North Slope investors would be hard-pressed to duplicate their North Slope profits anywhere else in the nation. The Fortune listing from 1992 is attached to demonstrate that North Slope operations rank among the most profitable enterprises in the nation.

It is also noteworthy that compared to Fortune 500 leaders in other industries, the North Slope is remarkably constant in its profits. Between 1987 and 1992, I estimate that North Slope production and pipelining profits exceeded \$2 billion in every year. By comparison, during those years, Fortune 500 powerhouses such as GM and IBM vanished from the ranks of the most profitable, racking up huge losses for several years in a row when they encountered hard times. In contrast, the costs of the Exxon Valdez didn't even knock Exxon out of the top five in 1989, while the oil market's travails in late 1993 only put a relatively small dent in the profitability of Alaskan operations for the year.

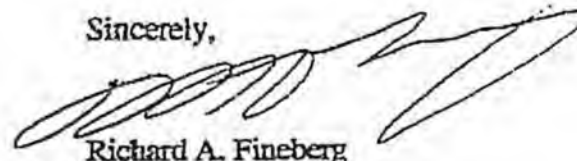
The spreadsheet on which my 1993 profit estimates are based is attached. The right-hand column identifies the sources for the data I have used. These are all published sources, and perhaps the most surprising thing is that the industry's ongoing public relations campaign has been so effective that these numbers are not widely discussed. Those of you who are familiar with the estimates I did in 1992 in a report to the Senate Finance Committee will recognize that I have revised my estimates to reflect new production cost data released by the Department of Revenue and published last fall by the Legislative Research Agency.

Clearly, \$0.03 per barrel is at most a minute fraction of North Slope profits. Moreover, this surcharge is virtually irrelevant to long-term industry profitability models, which typically forecast price changes in the \$2.00- to \$5.00-per-barrel range. Those models indicate that the North Slope should produce similarly strong profits into the next century, with or without alteration to the "470" fund.

I can think of several reasons why the oil industry might wish to divert the Legislature into wasting time on this red herring. But I can see no good reason why you, as our elected representatives, should fall for this industry ploy. In my estimation, your time during a 120-day session is too valuable to waste on this excursion. Your services are badly needed in other areas.

If I can provide additional information, please let me know. In the meantime, I close with best wishes in your efforts to resolve the far more pressing administrative and budget problems facing you.

Sincerely,



Richard A. Fineberg

enc.

ANS Profits Worksheet (Research Associates 2/94)

North Slope Profit Analysis: ALL FIELDS	Line	CY 93 ANS Avg. (9881)	Notes	(2/16/94) LRA 993 final data
		Gulf Coast	West Coast	
1	Average Price for ANS (Spoc)	\$16.36	\$15.45	ADOR (bdu Nov.; Dec. = BP postpay)
2	Quality Adjusted Price			(n.a.)
3	Production / Disposition			ADOR (ADMS; BreviNews)
	a. Production (mm bbls. yr. / day)			ADOR (avg. thru Nov.)
	b. Volume to East / West Coast (%)	13.80%	86.20%	
4	Feeder Pipeline Tariffs			Weighted avg. sum of items 4a thru 4g (1992 data)
	a. Operating & capital costs	(\$0.10)	(\$0.10)	Alaska Dept. of Law (ADL; 7/29/92) line 4b
	b. State & local property tax (pipelines)	(\$0.04)	(\$0.04)	30% of total property tax * (feeder tariff / TAPS tariff)
	c. State income tax (pipelines)	\$0.00	\$0.00	4d * (eff. state tax rate / eff. fed. tax rate)
	d. Federal income tax (pipelines)	(\$0.01)	(\$0.01)	ADL (7/29/92) line item 4c
	e. After-tax margin	(\$0.02)	(\$0.02)	ADL (7/29/92)
	f. Recovery of deferred return	(\$0.01)	(\$0.01)	*
	g. DR&R allowance	\$0.00	\$0.00	*
5	TAPS Pipeline Tariff			From ADOR Shortfall
	a. Operating & capital costs	(\$2.92)	(\$2.92)	Line 5 - (Lines 5b thru 5g)
	b. State & local property tax (pipelines)	(\$0.97)	(\$0.97)	30% of total property tax
	c. State income tax (pipelines)	(\$0.16)	(\$0.16)	5d * (eff. state tax rate / eff. fed. tax rate)
	d. Federal income tax (pipelines)	(\$0.09)	(\$0.09)	ADL (7/29/92) line item 4c
	e. After-tax margin	(\$0.60)	(\$0.60)	ADL (7/29/92)
	f. Recovery of deferred return	(\$0.56)	(\$0.56)	*
	g. DR&R allowance	(\$0.49)	(\$0.49)	*
	h. Pumpability Charge	(\$0.05)	(\$0.05)	*
6	State Share (Feeder Lines)	(\$0.01)	(\$0.01)	Sum of items 4b, 4c
7	Federal Share (Feeder Lines)	(\$0.01)	(\$0.01)	Item 4d
8	Industry Profit (Feeder Lines)	\$0.03	\$0.03	Sum of items 4c, 4f
9	State Share (TAPS)	(\$0.25)	(\$0.25)	Sum of items 5b, 5c
10	Federal Share (TAPS)	(\$0.60)	(\$0.60)	Item 5d
11	Industry Profit (TAPS)	\$1.05	\$1.05	Sum of items 5c, 5f
12	Taxes (to Gulf / West Coast)	(\$3.42)	(\$4.11)	ADOR (from USFRA/ATRA thru July)
13	Wellhead value	\$9.92	\$11.32	Sum of items 1, 4, 5, 12
14	State Royalties, Production & Property Taxes			Sum of items 14a thru 14d
	a. Royalty	(\$2.78)	(\$3.12)	Item 15 less field costs * est. field royalty
	b. Severance tax	(\$1.17)	(\$1.54)	Item 13 * 5.75 * nominal severance * FIF
	c. Spill Response & Conservation Tax	(\$1.19)	(\$1.56)	3.054 * 875
	d. State & local property tax (production)	(\$0.05)	(\$0.05)	70% of total property tax (from ADOR Spc. 93, p. 6)
15	Production costs	(\$0.37)	(\$0.37)	Sum of items 15a, 15b (assumed = FY 1993)
	a. Lifting Costs	(\$5.17)	(\$5.17)	From Leg. Res. Agency FY 93 (Sept. 93)
	b. Depreciation, Depreciation & Amortization	(\$1.89)	(\$1.89)	*
16	Net Revenue (production)	(\$3.31)	(\$3.31)	Sum of items 13, 14, 15
17	State Income Tax (production)	\$1.98	\$3.03	ADOR Full 93 forecast less items 4c, 5c
18	Federal Income Tax (production)	(\$0.17)	(\$0.17)	Est. 33.0% of items 16 + 17
19	Industry Profit (production)	(\$0.05)	(\$0.94)	Sum of items 16 thru 18
20	Total State Share (production + pipelines)	\$1.24	\$1.98	Sum of items 6, 9, 17
21	Total Federal Share (production + pipelines)	\$3.15	\$3.49	Sum of items 7, 10, 13
22	Total Industry Profit (production + pipelines)	\$1.23	\$1.55	Sum of items 8, 11, 19
23	CY 93 Industry Avg. per-barrel ANS Profit	\$2.39	\$3.06	
24	Est. CY 93 Industry Profit (\$ = >> \$1.735.5 billion	\$2.96		(Gulf [line 22 + line 3b]) + (W. C. [line 22 + line 3b]) (Line 23 * line 3a)

500

RANK 1991	1991	COMPANY
1	1	GENERAL MOTORS Detroit
2	2	EXXON Irving, Texas
3	3	FORD MOTOR Dearborn, Mich.
4	4	INTL. BUSINESS MACHINES Armonk, N.Y.
5	5	GENERAL ELECTRIC Pittsfield, Conn.
6	6	MOBILE Oilfield, La.
7	7	PHILIP MORRIS New York
8	8	E.I. DU PONT DE NEMOURS Wilmington, Del.
9	9	CHEVRON San Francisco
10	10	TEXACO White Plains, N.Y.
11	11	CHRYSLER Highland Park, Mich.
12	12	BOEING Seattle
13	13	PROCTER & GAMBLE Cincinnati
14	14	AMOCO Chicago
15	15	PIPERCO Purchase, N.Y.
16	16	UNITED TECHNOLOGIES Hartford
17	17	SHELL Oil, Houston
18	18	CHELSEA Omaha
19	19	EASTMAN KODAK Rochester, N.Y.
20	20	BOY SCHEMCEL Highland Park, Mich.
21	21	XEROX York, Conn.
22	22	ATLANTIC RICHFIELD Los Angeles
23	23	SIDDONNELL DODDLE St. Louis
24	24	HEWLETT-PACKARD Palo Alto, Calif.
25	25	UNION Carbide, N.Y.
26	26	ROX NABISCO HOLMES New York
27	27	SPRINT EQUIPMENT Weymouth, Mass.
28	28	BEVERLY OSA RUMING & H.P.O. St. Paul
29	29	JANSEN & JOHNSON New Brunswick, N.J.
30	30	TEBODCO Houston
31	31	INTERNATIONAL PAPER Purchase, N.Y.
32	32	INDUSTRIAL PAPER Schenectady, N.Y.
33	33	MARCA LUX Chicago
34	34	COCA-COLA Atlanta
35	35	WESTINGHOUSE ELECTRIC Pittsburgh
36	36	ALLIED-SIGNAL Morris Township, N.J.
37	37	PHILLIPS PETROLEUM Bartlesville, Okla.
38	38	GOODYEAR TIRE & RUBBER Akron
39	39	GEORGIA-PACIFIC Atlanta
40	40	BRISTOL-MYERS SQUARE New York
41	41	ANHEUSER-BUSCH St. Louis
42	42	IBM Orléans, Ohio
43	43	ROCKWELL INTERNATIONAL San Diego, Calif.
44	44	CATERPILLAR Peoria, Ill.
45	45	LOCKHEED California, Calif.
46	46	COASTAL Houston
47	47	MERCK Whitehouse Station, N.J.
48	48	ASHLAND Oil, Ashland, Ohio
49	49	ALUMINUM CO. OF AMERICA Pittsburgh
50	50	ABBOTT BACHELOR MIDLAND Director, Ill.

The data, names, abbreviations, and addresses underlying the figures in this

*** END ***



Alaska State Legislature

Please enter into the record my testimony to the House Resources
 committee name
 committee on HB 238 dated 3/2/94
 bill/subject

Thank you for the opportunity to testify. I would like to express my opposition to Congressman Joe Green's version of HB 238. The serious reduction in funding for state oil spill prevention and response programs that this bill would cause is a great danger to the health & well being of our natural systems. Even though I don't think any changes should be made to the 470 Fund; I do think that Bill Williams' version of HB 238 is preferable to version 5 by Joe Green. I appreciate Congressman William's more reasonable version which seems to take into consideration many of my concerns about prevention and response.

Signed: _____
 Testifier
 KRISTA ROGERSON - Krista Rogerson (SELF)
 Representing (Optional)
 P.O. BOX 1386 VALDEZ AK 99686
 Address
 835-3788
 Phone No.

1/19/94

✓ TO: Senate Resources Comm.
FR: Chip Thoma, an individual
RE: Testimony on SB 215

1. There was an excellent presentation yesterday by the staff of DEC on the programs, uses and direction of the 470 fund, which this bill proposes to modify and, in effect, eliminate.
2. I remain completely supportive of the Oil + Hazardous Substance Release Response Fund.
3. Contrary to what has been implied and alleged by certain oil industry lobbyists, I am convinced there has been no malfeasance or misappropriation of 470 funds.
4. There is presently an audit underway by LB+A that is due in March and will put these allegations to rest.
5. There should be a discussion over accounting procedures of the fund — making them more clear to the legislature, the industry and the public — not an attempt to gut the fund.
6. As DEC explained yesterday, there are also 1400 hazardous disposal sites in the state — a 100 of which threaten water supplies. This is also an extremely important component of the 470 fund in addition to crude oil oversight.

1/19/94

7. As you are probably aware, 6 large crude tankers have lost power since 1989, and the BP tanker damaged by ice near Bligh Reef last week could have easily been headed the other way, fully loaded. The danger of large oil spills still exists on a daily basis. The 470 fund is our only defense for preparation, planning and response.
8. The large oil companies (in all likelihood) write the 5¢ a barrel tax off on their federal taxes, and similar such funds exist in many other states (attached).
9. In conclusion, if there is a clear intent by the legislature to split the 470 account into SAVINGS for large spills and OPERATING for planning and other responses, the 2¢ proposed operating account only generates \$10 million a year, whereas DEC expends \$15 million a year for these necessary, ongoing functions. Consequently, the 2¢ fund should go to savings and 3¢ for operational, which would then generate the needed \$15 million a year without requesting general funds. The subcommittee should look closely at changing the 3¢, 2¢ division to reflect these needs.

#

State Fees on Oil for Spill Response and Administration Costs*

State	Fee**	Who Must Pay	Where the Money Goes
Alabama	None	—	—
Alaska	5 cents per barrel	Every oil producer in the state	The Oil and Hazardous Substance Release Response Fund (now at about \$40 million; capped at \$50 million)
Arizona	1 cent per gallon of gasoline (all kinds), diesel, and kerosene	The UST owner when oil is purchased or when the annual tax return is due	10% goes into a Loan Account, the rest goes into the State Assurance Fund (now at about \$40 million; no cap)
Arkansas	None	—	—
California	25 cents per barrel for response (this has not been collected since Feb 1991 when the fund reached its cap); 4 cents per barrel for administration (this may be reduced by the administrator in future years)	Every marine terminal operator for oil delivered through the terminal; every pipeline operator for oil transported into the state; and just the 25-cent fee for refinery operators for crude oil received at the refinery	The Oil Spill Response Trust Fund (\$50 million) and the Oil Spill Prevention and Administration Fund (meant to generate about \$20 million annually)
Colorado	None	—	—
Connecticut	None	—	—
Delaware	1/10 of a % of the gross receipts tax	The wholesaler of petroleum and petroleum products (an exemption is allowed for crude oil)	The DE Hazardous Substance Cleanup Act Fund (now at about \$4 million; no cap)
Florida	2 cents per barrel	Any person who engages in the production or importation of oil	The Coastal Protection Trust Fund (now at about \$18 million; capped at \$50 million)
Georgia	None	—	—
Hawaii	None	—	—
Idaho	1 cent per gallon	The first licensed distributor who transfers a petroleum product to another legal entity within the state	The Petroleum Clean Water Storage Tank Trust Fund (now at about \$20 million; capped at \$30 million)
Illinois	None	—	—
Indiana	None	—	—
Iowa	None	—	—
Kansas	16 cents per barrel	The first purchaser of the oil	A portion funds the conservation division of the Kansas Corporation Commission, and the rest goes into the Conservation Fee Fund (now at least \$500,000; capped at \$1 million)
Kentucky	None	—	—
Louisiana	2 cents per barrel	Every person owning crude oil in a vessel at the time the oil is transferred to a marine terminal within the state (except for at LOOP)	The Oil Spill Contingency Fund (now at about \$10-12 million; capped at \$16 million, but only if that amount is reached through the collection of fees)

*This does not refer to small one-time fees (e.g., for registration or licensing); only per-gallon, per-barrel, or per-trip fees.
 **Fees are assessed only once for the same oil.

March 1993
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 Page 13

State Fees on Oil for Spill Response and Administration Costs*, continued

State	Fee**	Who Must Pay	Where the Money Goes
Maine	4 cents per barrel for coastal and inland cleanup; 44 cents (gasoline), 25 cents (#2, kerosene, jet fuel, and diesel), and 10 cents (#6) per barrel for groundwater cleanup	For coastal and inland cleanup; every person that first transports oil in Maine. For groundwater cleanup: terminal facilities that first transfer the products and any person that first transports oil into the state (no fee on exports)	The Maine Coastal and Inland Surface Oil Cleanup Fund (now at about \$4 million; capped at \$6 million), and the Groundwater Oil Cleanup Fund (now at about \$12 million; capped at \$15 million)
Maryland	3/4 of a cent per barrel for cleanup; 5 cents per barrel for upgrading underground storage tanks	The tank owner	The Maryland Oil Disaster Containment, Cleanup, and Contingency Fund (capped at \$5 million), and the Underground Storage Tank Upgrade and Replacement Fund (now at about \$4.5 million; capped at \$5 million)
Massachusetts	None	—	—
Michigan	7/8 of a cent per gallon of petroleum products	All those selling refined oil for resale	The MI Underground Storage Tank Financial Assurance Fund (now at about \$52 million; no cap)
Minnesota	None	—	—
Mississippi	None	—	—
Missouri	\$25 per 8,000 gallons	The tank owner upon delivery of gasoline	The Underground Storage Tank Insurance Fund (capped at \$8 million)
Montana	3/4 of a cent per gallon (the fee is currently shut off until the fund drops below \$4 million)	The gasoline distributor	The Petroleum Tank Release Cleanup Fund (now at about \$5 million; capped at \$8 million)
Nebraska	3/10 of a cent per gallon on motor fuels (although now it is at 1/10 of a cent per gallon on motor fuels plus 1/10 of a cent per gallon on all other petroleum since the fund dropped down to \$2 million; the fee will return to 3/10 of a cent when the fund reaches \$4 million)	The refiner, importer, or distributor that first sells within the state	The Petroleum Release Remedial Action, and Reimbursement Fund (now at about \$3.1 million; capped at \$5 million)
Nevada	1/10 of a cent per gallon on most petroleum products	The refiner or importer	The State Petroleum Fund (now at about \$4 million; capped at \$7.5 million)
New Hampshire	1/10 of a cent per gallon for the ODD Fund; 1/10 of a cent per gallon for the OPC Fund	The distributor of motor fuels at the time of sale (for the 1/10 of a cent fee); the distributor of all oil at the time of sale (for the 1/10 of a cent fee)	The Oil Discharge, Disposal, and Cleanup Fund (the ODD Fund; now at about \$9.1 million; capped at \$10 million); The Oil Pollution Control Fund (the OPC Fund; now at about \$3.5 million; capped at \$5 million)
New Jersey	1 1/2 cents per barrel for major facility owners	The operator or owner of the receiving or transferring major facility	The NJ Spill Compensation Fund (now at about \$72 million; no cap)
New Mexico	None	—	—

*This does not refer to small one-time fees (e.g., for registration or licensing); only per-gallon, per-barrel, or per-trip fees.
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Page 14
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 March 1993

March 1993

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Page 15

State Fees on Oil for Spill Response and Administration Costs*, continued

State	Fee**	Who Must Pay	Where the Money Goes
New York	Currently at cents per barrel for major facility owners	The major facility owner at the point of import or receipt	The NY Environmental Protection and Spill Compensation Fund (now at about \$17 million; capped at \$25 million)
North Carolina	None	—	—
North Dakota	None	—	—
Ohio	None	—	—
Oklahoma	1 cent per gallon	The fuel distributor	The OK Petroleum Underground Release Indemnity Fund (now at about \$6-\$7 million; no cap)
Oregon	\$650 per trip for tank vessels; \$28 per trip for barges; and 25 per trip for cargo vessels (facilities must pay \$3,000 per year)	All vessels and facilities	The Oil Spill Prevention Fund (capped at \$153,600)
Pennsylvania	None	—	—
Rhode Island	None (Trust an Oil Release Response Fund)	—	—
South Carolina	1/2 cent per gallon on all petroleum	The retailer or tank owner that first sells the oil in the state	The State Underground Petroleum Response Bank (capped at \$15 million)
South Dakota	1 cent per gallon	The oil distributors	The SD Petroleum Release Compensation Fund (now at about \$100,000; capped at \$5 million)
Tennessee	None	—	—
Texas	2 cents per barrel	Every person owning crude oil in a vessel at the time such crude oil is transferred to or from a marine terminal	The Coastal Protection Fund (now at about \$20 million; capped at \$25 million)
Utah	None	—	—
Vermont	1 cent per gallon	Motor fuels distributors	The Vermont Petroleum Cleanup Fund
Virginia	1/5 of a cent per gallon	Any importer of gasoline, special fuels, and heating oil	The VA Petroleum Storage Tank Fund (now at about \$17 million; no cap)
Washington	5 cents per barrel	The owner of the crude oil or petroleum product immediately after receipt into a storage tank of a marine terminal from a vessel	The State Oil Spill Response Account (now at about \$4.5 million; capped at \$25 million and the Administration's Account (no cap)
West Virginia	None	—	—
Wisconsin	1.4 cents of every 2 cents per gallon collected	—	The Petroleum Environmental Cleanup Fund
Wyoming	1 cent per gallon	Fuel consumers	The State Corrective Account (now at about \$1.5 million) and the State Financial Responsibility Account (now at about \$6.2 million); there must be a total of \$20 million in both accounts before the fee is shut off

*This does not refer to small one-time fees (e.g., for registration or licensing) only per-gallon, per-barrel, or per-trip fees.

**Fees are assessed only once to the same oil.



Alaska State Legislature

Please enter into the record my testimony to the House Resources
committee name
committee on HB 238, dated March 2, 1994
bill/subject

Mr. Chairman and committee members,

I represent the Kodiak Audubon Society. We have a diverse membership of 80 people ranging from doctors, teachers and biologists to fishermen and contractors. We would like to thank Representative Williams for introducing the "Y" draft of HB 238. This is the only version which adequately addresses the concerns the public has expressed. Though we do not feel a bill is necessary, we will support the "Y" version. This draft addresses our concerns which were the continued adequate funding of DEC's preparedness and response programs and DEC's ability to respond to non-catastrophic non-oil hazardous material spills. Not splitting the nickel and other provisions of the "Y" draft make it the only acceptable version. If you pass this bill, please pass the "Y" draft. Thank you for considering our views.

Signed: _____

Testifier

Kodiak Audubon Society

Representing (Optional)

418 Mill Bay Rd Kodiak

Address

486-2685

Phone No.

City Of Seldovia

P.O. Drawer B

Seldovia, Alaska 99663

Phone (907) 234-7643

FAX (907) 234-7430

February 24, 1994

Representative Bill Williams
Alaska State Legislature
State Capitol (MS 3100)
Juneau, AK 99801-1182

Dear Representative Williams:

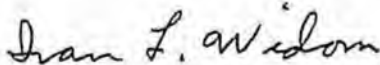
As City Manager of the City of Seldovia and secretary of the Prince William Sound RCAC, I strongly support your efforts to deal responsibly with the 470 Fund through the draft version 8-LS0676\Y of CS HB 238 (RES).

There are many people all over Alaska who are very concerned about what the Oil Companies are trying to do to the 470 Fund. Your bill cuts through all the "hype" and accomplishes what should have been the goal along - to streamline the legislation and allow the oil companies to save some money.

I strongly support your stand and will promote the advancement of these concepts.

We appreciate your concern for the 470 Fund and how it affects all Alaskans. We also recognize your willingness to take on the mighty forces that are pushing their own agendas.

Sincerely,



Ivan L. Widom
City Manager
cc: Mayor and City Council

MICHAEL J. FRANK
ATTORNEY AT LAW
2224 TURNAGAIN PARKWAY
ANCHORAGE, ALASKA 99517
(907) 248-5078

March 9, 1994

Representative Bill Williams
Chairman, House Resources Committee
Alaska Legislature
State Capitol
Juneau, Alaska 99801-1182

Dear Rep. Williams:

I attended the Resources Committee hearing today on legislation concerning the so-called "470 fund", but had to leave before I had a chance to testify. Therefore, I would appreciate it if you shared the following comments with other members of the committee.

I am opposed to current attempts to amend the 470 fund statutes. Instead, I think the Legislature should eliminate the \$50 million cap entirely, and expand the purposes of the fund.

I think the cap should be eliminated because in *The Exxon Valdez Oil Spill Final Report. State of Alaska Response*, ADEC (June 1993), it is made clear that \$50 million would not nearly have been enough to cover the out of pocket costs to the state arising from the T/V Exxon Valdez oil spill:

The state received just under \$80 million from Exxon in reimbursements based on state billings during the three years of the response. An additional \$27 million in unbilled expenses were repaid to the state treasury out of the \$1 billion state-federal claims settlement with Exxon, and at this writing (spring, 1993) roughly \$30 million in additional reimbursement is outstanding.

Id., p. 23. In total, therefore, out of pocket costs for state government easily exceeded \$137 million, for which the state had to seek reimbursement from Exxon. Had Exxon been unwilling to enter into a reimbursement agreement shortly after the spill, the state would have faced years of litigation to recover its oversight expenses. As it was, the state's expenditures for attorney's fees were not reimbursed until the \$1 billion Exxon settlement, and in any case only "hard", easily provable expenses were reimbursed.

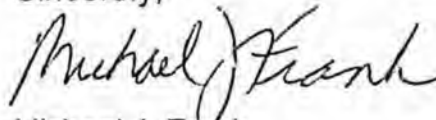
Moreover, had the spiller not been Exxon, but a shell tanker "corporation" unwilling to perform any clean up, the state would have had to use general fund (or Permanent Fund) dollars to clean up the spill. This could easily have cost billions of dollars. Only after clean up would the state have been able to seek reimbursement and only following years of litigation. (The current financial responsibility laws do not create a clean up fund the state can tap into. They only guarantee that some minimal amount of money will be available to satisfy a judgment in the event the owner/operator/spill discharger disappears or is bankrupt.)

In light of this Exxon Valdez history, the \$50 million cap is much, much too low.

I also think the Legislature should expand the 470 fund to include a reserve for expenditures the state will have in decommissioning TAPS when the North Slope oil fields run dry. Under the TAPS tariff Settlement Agreement, the TAPS owners have been allowed to charge off literally tens of millions of dollars to their own "reserve" which they purportedly intend to draw from to pay expenses for decommissioning TAPS and restoring the right-of-way, as is required by state and federal leases with Alyeska. The state, so generous with the TAPS owners and *their* need for a reserve, has in contrast set aside no moneys to pay for state oversight expenses during TAPS's decommissioning. The 470 fund provides a vehicle for creating just such a reserve. The Legislature should have at least the same foresight as the TAPS's owners have had in planning for the day when considerable sums of money will be needed to oversee restoration of the environment that TAPS now occupies.

I agree with comments made by RCAC chair Stan Stephens and others critical of the particulars of the pending legislation. While I appreciate your own effort in offering a better bill than Representative Green's, I simply do not see the need to satisfy the Prudhoe Bay producers' demand for relief from a tax which in any event is passed on to all American consumers of TAPS oil at the gas station pump.

Sincerely,

A handwritten signature in cursive script that reads "Michael J. Frank". The signature is written in dark ink and is positioned above the printed name.

Michael J. Frank

March 9, 1994 Re: HB 238 (Revising the 470 Fund)

To: Alaska House of Representatives Committee on Resources
From: Larry Smith, Executive Secretary, Kachemak Resource Inst.

My Exxon Valdez spill responsibilities included the prioritization for oil boom placement, the assignment of vessels and the provision of oil-spotting and supply aircraft, for the Kenai Peninsula Borough.

I participated in the legislatively sponsored all-interests working group which worked with the Senate Special Committee on Oil and Gas on post-spill legislative changes to fix the enormous problems uncovered by incompetent spill response by the state and by the industry.

I became the first chairman of the Prevention, Response and Operations committee for the OPA '90 mandated Cook Inlet Regional Citizen's Advisory Council. I represented CIRCAC in the Technical Implementation Working Group, another all interests effort, this one convened by ADEC to work up the regulatory package to implement the legislation. Even Exxon provided responsible negotiators in that process. We all knew, however, that as we worked many months on the issues in a cooperative manner that big oil lobbyists were diligently pushing quite different ideas than company spokesmen in the working group. Not the best basis for trust and cooperation.

Today, once again, representatives of companies that do not regularly pay royalties and taxes without causing great expense have come to you for tax relief, at a time the rest of us must tighten our belts and pay much more in local taxes for basic services for which the legislature can no longer find funding.

Seek no further. Stop up the reverse revenue streams that flow from the State to the oil industry: the state provides them many benefits, unavailable to anyone else: tax incentives, rebates, refunds, tariff netbacks, and settlements. The legislature would serve us well by a clear and complete exposition of these special privileges.

As to the nickel a barrel supposedly contributed to the 470 Fund I doubt that it ever amounted to much more than three cents after the reverse revenue stream is accounted for.

Compare this to California which has three funds to do the work of our Oil and Hazardous Substances Release Response Fund. The per

barrel contribution adds up to 33 cents. A surcharge of 4 cents a barrel for petroleum discharges, 4 cents a barrel for other hazardous substances, and 25 cents a barrel to create a big spill response fund of \$50 million. In addition California has an uncapped borrowing authority for catastrophic spill response that allows maximum response, with provision for the state to increase per barrel surcharges by another 75 cents until response and restoration expenses are repaid. At the time of enactment this was estimated to give California a \$13,000,000,000 (Thirteen Billion) emergency response capability in the absence of a responsible party willing and able to contain, cleanup and restore. Up to \$1/bbl would be surcharged to repay the state.

What is not working properly about the 470 Fund is not what it has been used for, but what it has not been used for. Where are the depots and corps? Where is the hazards analysis? Where are the storage tank farm repairs in rural Alaska?

Let me tell you how we can benefit from well funded depots and corps. Make agreements with Cook Inlet Spill Response Inc.(CISPRI), Alaska Clean Seas (ACS), Southeast Alaska Petroleum Resources Organization (SEAPRO), and others for an integrated program. State equipment staged in their depots and corps training coordinated by these response organizations, under the right terms can substantially reduce refined product carriers and tank farm contingency plan costs and we will all directly benefit by finally having as good a statewide program as we have now only at Alyeska. The state must come forward and pay its share. To do that a healthy funding source is required. At Alyeska the state pays a minimum of 25% of the Prevention and Response bill by tariff netbacks. We should do no less statewide, with the surcharge.

\$85,000,000,000 are just some of North Slope producers profits since oil started coming out of the Trans-Alaska Pipeline. That is the minimum estimate for after tax and expense profit at Valdez. Profits for transportation and refining and manufacturing are not known. The Alaska Department of Revenue studies estimate clear profit of \$6.59/barrel at Valdez from 1969 through 1987 (DOR report 3/15/89 by Deakin, p. i. of Summary, p. 1 of Overview.)

DOR's mid-case scenario for FY 2000 for a profit of 2.419 billion dollars of after tax profit based on 410 million barrels at a clear profit of \$5.90/barrel in 1993 dollars. 1993, not a good year, produced an estimated net profit of \$4.54/barrel for

589 million barrels for a total of \$2.674 billion dollars.

It has not been at all easy for the State of Alaska to collect tariffs, surcharges and taxes from the industry. Hasn't the state spent \$200 million for legal work on tax settlements? Didn't Charlie Cole, when he was Attorney General, ask the Federal Energy Regulatory Commission to order Alyeska to return over \$50 million improperly netbacked for prevention and response activities since 1989. It seems as if every tax and tariff bill from Alaska is appealed, negotiated and settled for about fifty cents on the dollar.

A committee member alluded to hypocrisy during today's hearing. It seems the height of it to complain about a nickel that has never amounted to much more than 3 cents a barrel in netback and taxbreak reality. Even if it was a whole nickel that is less than 15% of what the same companies pay per barrel in California, for the same purposes.

I don't see any hypocrisy in the differing views from coastal communities. The difference in opinion arises mainly from the very different levels of prevention and response capability around the state. Comparing Prince William Sound activity to the Interior, the Peninsulas, Bristol Bay, Southeast or Cook Inlet is like comparing Disneyland to penny arcades.

In answer to the question: Shouldn't other users contribute to the 470 Fund? I would say that ultimately that nobody pays but consumers -- in Alaska or elsewhere. We are the spigot from which big oil's Alaska profits spew in their tens of billions.

Please do what you can to remove the roadblocks to implementation of the 470 fund and other legislation. Remember it was the same lobbyists who wish now to hamstring the fund that have stalled the implementing regulations for legislation passed in 1990. Stalled the regs for three years and concurrently proposed tax breaks.

I am impressed by the honest efforts by Representative Williams and Senator Pearce, in particular, to try to move the debate along and to salvage the sense of the program for the benefit of Alaska.

My thanks to all legislators who are thorough and objective in their approach to issues.



Alaska State Legislature

Please enter into the record my testimony to the House Resource Comm. Fee
committee name

committee on HB 238, dated March 9, 1994
bill/subject

The Prince William Sound Conservation Alliance feels very strongly that there need not be any changes to the 470 fund. We find it appalling that ~~the~~ our legislatures are even considering limiting funds for response when we are only 5 short years from such a catastrophic spill as the Exxon Valdez Oil spill. Tremendous progress has been made in these 5 years. Response capabilities have increased dramatically and necessarily, especially to 99% of spills which are not catastrophic but require quick and appropriate response. ~~These~~ ~~these~~ these response capabilities have existed because of the 470 fund as it presently sits. The only proposal thus far to HB 238 that even remotely recognizes those with memories reaching farther than 5 years who understand the importance of this fund is Representative Bill Williams. IF Any changes must be made to the current fund we can at least acknowledge Representative Williams' dedication to the legislative process and his attempt to listen to the concerns of citizens in this state - we urge ~~our~~ our legislatures to keep the 470 fund as is.

Signed:

Testifier Marnil J. Johnson

Prince William Sound Conservation Alliance

Representing (Optional)

PO Box 3004, Valdez, AK 99686

Address

(907) 835-2799

Phone No.



Alaska State Legislature

Please enter into the record my testimony to the Resources
 committee name
 committee on HO 238 SPILL RESPONSE FUND dated 3/9/94
 bill/subject

LET THE BILL STAND AS WRITTEN.
 USE SURPLUSSE FUNDS TO FUND D.E.C.
 MONITORING OF THE TREATMENT.
 ALASKA SELF MONITORING OF THE WATER
 TREATMENT PLANT MUST STOP

Signed: [Signature]
 Testifier

Representing (Optional)
BOX 2493 VALDEZ AK 99686
 Address
835 5473
 Phone No.