12025 SENATE RESOURCES

SJR

3

SENATOR KIM ELTON

MEMORANDUM

DATE: January 20, 2005

TO: Senator Tom Wagoner, Chair
Senate Resources Committee

FROM: Senator Kim Elton

SUBJ: Hearing Request for SJR 3, relating to the labeling of fish products and processed food items containing fish to identify the country of origin and to distinguish between wild and farmed fish and fish products.

I respectfully request a hearing for SJR 3, which asks that canned and smoked fish products be included under the Farm Security and Rural Investment Act of 2002, Country of Origin Labeling (COOL).

The deadline for comments to the U.S. Department of Agriculture (USDA) is February 2, 2005. The House companion resolution is also being considered in the coming week and I would appreciate your help moving this resolution in time to meet that federal deadline.

I ask that you hear SJR 3 at your earliest convenience.

ALASKA SENATE
STATE CAPITOL • JUNEAU, ALASKA 99801-1182 • (907) 465-4947 • FAX (907) 465-2108
SENATOR_KIM_ELTON@LEGIS.STATE.AK.US

SENATE JOINT RESOLUTION NO. 3

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FOURTH LEGISLATURE - FIRST SESSION

BY SENATOR ELTON

Introduced: 1/14/05
Referred: Resources

A RESOLUTION

Relating to the labeling of fish products and processed food items containing fish to identify the country of origin and to distinguish between wild and farmed fish and fish products.

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

WHEREAS Americans deserve wholesome foods and information about the contents and production of their food supply; and

WHEREAS concerns have recently been raised about the safety of farmed fish; and

WHEREAS Alaska's fish production is distinct from farmed fish production because Alaska fish are wild, free-ranging, and, therefore, naturally wholesome and healthy; and

WHEREAS there are numerous outstanding issues regarding public policy, fair trade, and the social and economic consequences of farmed fish production; and

WHEREAS more and more consumers are expressing a preference for, and requesting, wild fish over farmed fish; and

WHEREAS both the Alaska State Legislature and the United States Congress have passed labeling laws specifically to inform consumers about fish and other food products; and

WHEREAS the United States Department of Agriculture has exempted processed food items from federal country of origin labeling requirements; and

WHEREAS the only Alaska fish products available to many Americans are canned, smoked, or otherwise processed;

BE IT RESOLVED that the Alaska State Legislature supports the timely labeling of fish and fishery food products in the market place to identify the country of origin and to distinguish between wild fish and farmed fish; and be it

FURTHER RESOLVED that the Alaska State Legislature supports the labeling of processed food items containing fish to identify the country of origin of the fish and to distinguish between wild fish products and farmed fish products.

COPIES of this resolution shall be sent to the Honorable George W. Bush, President of the United States; the Honorable Don Evans, United States Secretary of Commerce; the Honorable Ann M. Veneman, United States Secretary of Agriculture; and the Honorable Ted Stevens and the Honorable Lisa Murkowski, U.S. Senators, and the Honorable Don Young, U.S. Representative, members of the Alaska delegation in Congress.

SENATOR KIM ELTON

SJR 3
Sponsor Statement

"Relating to the labeling of fish products and processed food items containing fish to identify the country of origin and to distinguish between wild and farmed fish and fish products."

As Alaskans, we all know that Alaska's wild fish tastes better and is healthier than farmed fish. Alaskans have long shown their support of country-of-origin labeling (COOL) and labeling of farmed or wild fish. These national labeling standards will help maintain the vitality of Alaska's fishing industry by allowing consumers to make informed choices in the marketplace.

Under the Farm Security and Rural Investment Act of 2002, COOL requirements for fish were to be implemented on September 30, 2004. However, the United States Department of Agriculture (USDA) has pushed the effective date to April 2005 and extended the comment period on proposed regulations to February 2, 2005. Included in the proposed regulations is an exclusion for processed food items, which would include canned and smoked fish. Many Alaskan fish products are processed in some way and sometimes these are the only products available to many Americans.

Senate Joint Resolution 3 supports the timely implementation of COOL and opposes the exclusion of processed food items from the requirements.

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AMS NEWS RELEASE

AMS No. 277-04

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USDA EXTENDS COMMENT PERIOD FOR INTERIM FINAL RULE FOR MANDATORY COUNTRY OF ORIGIN LABELING OF FISH AND SHELLFISH

WASHINGTON, Dec. 27, 2004 — The U.S. Department of Agriculture's Agricultural Marketing Service today announced that it is extending the comment period on the interim final rule for the mandatory country of origin labeling program for fish and shellfish. The Jan. 3, 2005, deadline has been extended to Feb. 2, 2005.

"We are extending the comment period to ensure that all those wishing to comment have the opportunity to do so," said A.J. Yates, AMS administrator. "We strongly encourage all interested parties to submit comments."

The interim final rule was published in the Oct. 5, 2004, *Federal Register*. Details of the comment period extension will be published in the Dec. 28, 2004, *Federal Register*. Comments may be sent via e-mail to: cool@usda.gov or sent regular mail to: Country of Origin Labeling Program, Agricultural Marketing Service, 1400 Independence Ave. SW, USDA STOP 0249, Washington DC 20250-0249, no later than Feb. 2, 2005. Copies of the interim final rule and additional information can be found at: http://www.ams.usda.gov/cool/index.htm.

Return to AMS News Releases

Federal Register

Tuesday,
October 5, 2004

Part IV

Department of Agriculture

Agricultural Marketing Service

7 CFR Part 60

Mandatory Country of Origin Labeling of Fish and Shellfish; Interim Rule

maintained for a period of 1 year from the date the origin and production designations are made at retail.

How Does This Regulation Impact Existing State Country of Origin Labeling Programs?

To the extent that State country of origin labeling programs encompass commodities which are not governed by this regulation, the States may continue to operate them. For those State country of origin labeling programs that encompass commodities that are governed by this regulation, these programs are preempted.

Can Food Products That Are Not Covered by This Regulation Be Voluntarily Labeled With COOL Information?

Yes. Such voluntary claims must be truthful and accurate and adhere to existing Federal labeling regulations.

Prior Documents in This Proceeding

This interim final rule is issued pursuant to the Farm Bill, the 2002 Appropriations, and the 2004 Appropriations, which amended the Act.

On October 11, 2002, AMS published Guidelines for the Interim Voluntary Country of Origin Labeling of Beef, Lamb, Pork, Fish, Perishable Agricultural Commodities, and Peanuts (67 FR 63367) providing interested parties with 180 days to comment on the utility of the voluntary guidelines.

On November 21, 2002, AMS published a notice requesting emergency approval of a new information collection (67 FR 70205) providing interested parties with a 60-day period to comment on AMS' burden estimates associated with the recordkeeping requirements as required by the Paperwork Reduction Act of 1995 (PRA). On January 22, 2003, AMS published a notice extending this comment period (68 FR 3006) an additional 30 days.

On October 30, 2003, AMS published the proposed rule for the mandatory COOL program (68 FR 61944) with a 60-day comment period. On December 22, 2003, AMS published a notice extending the comment period (68 FR 71139) an additional 60 days.

Overview of the Law

Section 10816 of Public Law 107–171 (7 U.S.C. 1638–1638d) amended the Act (7 U.S.C. 1621 *et seq.*) to require retailers to inform consumers of the country of origin of covered commodities beginning September 30, 2004.

The intent of this law is to provide consumers with additional information on which to base their purchasing decisions. COOL is a retail labeling program and as such does not provide a basis for addressing food safety. Seafood products, both imported and domestic, must meet the food safety standards of the Food and Drug Administration (FDA). The law defines the term "covered commodity" as muscle cuts of beef (including veal), lamb, and pork; ground beef, ground lamb, and ground pork; farm-raised fish and shellfish; wild fish and shellfish; perishable agricultural commodities; and peanuts. The law excludes items from needing to bear a country of origin declaration when a covered commodity is an "ingredient in a processed food item." The law defines the terms "retailer" and "perishable agricultural commodity" as having the meanings given those terms in PACA. The law defines the term "wild fish" as naturally-born or hatchery-raised fish and shellfish harvested in the wild and excludes net-pen aquacultural or other farm-raised fish.

The law specifically outlines the criteria a covered commodity must meet in order to bear a "United States country of origin" declaration. In the case of farm-raised fish and shellfish, the covered commodity must be derived from fish or shellfish hatched, raised, harvested, and processed in the United States. In the case of wild fish and shellfish, the covered commodity must be derived from fish or shellfish harvested in the waters of the United States or by a U.S. flagged vessel and processed in the United States or aboard a U.S. flagged vessel. In addition, the law also requires that fish and shellfish covered commodities be labeled to indicate whether they are wild or farm-raised.

To convey the country of origin information, the law states that retailers may use a label, stamp, mark, placard, or other clear and visible sign on the covered commodity or on the package, display, holding unit, or bin containing the commodity at the final point of sale to consumers. Food service establishments, such as restaurants, cafeterias, food stands, and other similar facilities are exempt from these labeling requirements.

The law makes reference to the definition of "retailer" in section 1(b) of PACA as the meaning of "retailer" for the application of the labeling requirements under the COOL law. Under this interim final rule, a retailer is any person engaged in the business of selling any perishable agricultural commodity at retail. Retailers are required to be licensed when the invoice cost of all purchases of produce exceeds $230,000 during a calendar year. Since fish markets and similar specialty shops do not generally sell fruits and vegetables, they do not meet the PACA definition of a retailer and therefore are not covered by this rule.

The law requires any person engaged in the business of supplying a covered commodity to a retailer to provide the retailer with the product's country of origin information. In addition, the law states the Secretary of Agriculture may require that any person that prepares, stores, handles, or distributes a covered commodity for retail sale maintain a verifiable recordkeeping audit trail. The law prohibits the Secretary from using a mandatory identification system to verify the country of origin of a covered commodity and provides examples of existing certification programs that may be used to certify the country of origin of a covered commodity. The law contains enforcement provisions for both retailers and suppliers that include civil penalties of up to $10,000 for each violation. The law also encourages the Secretary to enter into partnerships with States with enforcement infrastructure to the extent possible to assist in the program's administration.

II. Highlights of This Interim Final Rule

Covered Commodities

The term "covered commodity" includes: farm-raised fish and shellfish (including fillets, steaks, nuggets, and any other flesh) and wild fish and shellfish (including fillets, steaks, nuggets, and any other flesh).

Exclusion for Ingredient in a Processed Food Item

Items are excluded from labeling under this regulation when a covered commodity is an ingredient in a processed food item. Under this interim final rule, a "processed food item" is defined as: a retail item derived from fish or shellfish that has undergone specific processing resulting in a change in the character of the covered commodity, or that has been combined with at least one other covered commodity or other substantive food component (breading, tomato sauce), except that the addition of a component (such as water, salt, or sugar) that enhances or represents a further step in the preparation of the product for consumption, would not in itself result in a processed food item. Specific processing that results in a change in the character of the covered commodity includes cooking (*e.g.*, frying, broiling, grilling, boiling, steaming, baking,

roasting), curing (*e.g.*, salt curing, sugar curing, drying), smoking (cold or hot), and restructuring (*e.g.*, emulsifying and extruding, compressing into blocks and cutting into portions). Examples of items excluded include fish sticks, surimi, mussels in tomato sauce, seafood medley, coconut shrimp, soups, stews, and chowders, sauces, pates, salmon that has been smoked, marinated fish fillets, canned tuna, canned sardines, canned salmon, crab salad, shrimp cocktail, gefilte fish, sushi, and breaded shrimp.

Labeling Covered Commodities of United States Origin

The law prescribes specific criteria that must be met for a covered commodity to bear a "United States country of origin" declaration. The specific requirements for each commodity are as follows:

(a) Farm-raised Fish and Shellfish—covered commodities must be derived exclusively from fish or shellfish hatched, raised, harvested, and processed in the United States, and that has not undergone a substantial transformation (as established by U.S. Customs and Border Protection) outside of the United States.

(b) Wild Fish and Shellfish—covered commodities must be derived exclusively from fish or shellfish either harvested in the waters of the United States or by a U.S. flagged vessel and processed in the United States or aboard a U.S. flagged vessel, and that has not undergone a substantial transformation (as established by U.S. Customs and Border Protection) outside of the United States.

Labeling Country of Origin for Imported Products That Have Not Been Substantially Transformed in the United States

Under this interim final rule, an imported covered commodity shall retain its origin as declared to U.S. Customs and Border Protection at the time the product enters the United States, through retail sale, provided it has not undergone a substantial transformation (as established by U.S. Customs and Border Protection) in the United States.

Covered commodities imported in consumer-ready packages are currently required to bear a country of origin declaration on each individual package under the Tariff Act of 1930 (Tariff Act). This interim final rule does not change these requirements.

Labeling Imported Products That Have Been Substantially Transformed in the United States

Under this interim final rule, in the case of wild fish and shellfish, if a covered commodity was imported from country X and substantially transformed (as established by U.S. Customs and Border Protection guidelines and policies) in the United States or aboard a U.S. flagged vessel, the product shall be labeled at retail as "From (country X), processed in the United States." The covered commodity must also be labeled to indicate that it was derived from wild fish or shellfish.

In the case of farm-raised fish, if a covered commodity was imported from country X at any stage of production and substantially transformed (as established by U.S. Customs and Border Protection guidelines and policies) in the United States, the product shall be labeled at retail as "From (country X), processed in the United States." The covered commodity shall also be labeled to indicate that it was derived from farm-raised fish or shellfish.

Defining Country of Origin for Blended Products

Under this interim final rule, the country of origin declaration of blended or commingled retail food items comprised of the same covered commodity (*e.g.*, bag of shrimp) having different origins, shall indicate the countries of origin for covered commodities in accordance with existing Federal legal requirements when the commingled product contains imported covered commodities that have not subsequently been substantially transformed in the United States. When the retail product contains imported covered commodities that have subsequently undergone substantial transformation in the United States commingled with other imported covered commodities that have subsequently undergone substantial transformation in the United States (either prior to or following substantial transformation in the United States) and/or U.S. origin covered commodities, the declaration shall indicate the countries of origin contained therein or that may be contained therein.

Remotely Purchased Products

For sales of a covered commodity in which the customer purchases a covered commodity prior to having an opportunity to observe the final package (*e.g.*, Internet sales, home delivery sales, etc.) the retailer may provide the country of origin and method of production information (wild and/or farm-raised), either on the sales vehicle or at the time the product is delivered to the consumer.

Markings

Under this interim final rule, the country of origin declaration and method of production (wild and/or farm-raised) designation may be provided to consumers by means of a label, stamp, mark, placard, band, twist tie, pin tag, or other clear and visible sign on the covered commodity or on the package, display, holding unit, or bin containing the commodity at the final point of sale to consumers. The country of origin declaration and method of production (wild and/or farm-raised) designation may be combined or made separately. Except as provided in § 60.200(g) and § 60.200 (h)(2) of this regulation, the declaration of the country(ies) of origin of a product shall be listed according to existing Federal legal requirements. Abbreviations and variant spellings that unmistakably indicate the country of origin, such as "U.K." for "The United Kingdom of Great Britain and Northern Ireland" are acceptable. The adjectival form of the name of a country may be used as proper notification of the country(ies) of origin of imported commodities provided the adjectival form of the name does not appear with other words so as to refer to a kind or species of product. Symbols or flags alone may not be used to denote country of origin.

With respect to the production designation, various forms of the production designation are acceptable, including "wild caught," "wild," "farm-raised," "farmed," or a combination of these terms for blended products that contain both wild and farm-raised fish or shellfish provided it can be readily understood by the consumer and is in conformance with other Federal labeling laws. Designations such as "ocean caught," "caught at sea", "line caught," "cultivated," or "cultured" do not meet the requirements of this regulation. Alternatively, the method of production (wild and/or farm-raised) designation may also be in the form of a check box. However, the labeling requirements under this rule do not supersede any existing Federal legal requirements, unless otherwise specified, and any such country of origin and method of production (wild and/or farm-raised) notification must not obscure or intervene with other labeling information required by existing regulatory requirements.

In order to provide the industry with as much flexibility as possible, this rule does not contain specific requirements

SJR

5

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number:
Bill Version: SJR005-DNR-O&G-02-0
() Publish Date:

Revision Date/Time (Note if correction):
Dept. Affected: Natural Resources
Title: Reauthorize Methane Hydrate Research Act
RDU: Resource Development
Component: Oil and Gas Development
Sponsor: Sen. Therriault
Requester: Senate Resources
Component No.: 439

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL EXPENDITURES						
CHANGE IN REVENUES ( )						

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2005) cost: 0 0
Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: *(Attach a separate page if necessary)*

No fiscal impact anticipated with passage of this resolution.

Prepared by: Mark D. Myers, Director — Phone 269-8800
Division: Oil and Gas — Date/Time 2/4/2005
Approved by: Tom Irwin, Commissioner — Date 2/4/2005
Agency: Natural Resources

(Revised 9/23/2004 OMB)

Senate Resources Committee **Feb. 7.2005**

- **Call to Order – time – members present**
  Note that Senator Guess is NOT present – also Sen. Wagoner.

- **SJR 5 – Reauthorize Methane Hydrate Research**

  1. Invite sponsor to present to committee

  2. Go to Public Hearing
     a. Offnet
     b. Online other LIO's
     c. Juneau

  3. Close Public Hearing

  4. Ask for motion to move from committee with individual recommendations & accompanying fiscal notes.

- **Meeting is adjourned at ____pm.**

ALASKA STATE LEGISLATURE

SENATOR
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Senate
Senate District F

Senate Joint Resolution 5

"Urging the United States Congress Congress to reauthorize the Methane Hydrate Research and Development Act."

SPONSOR: Senator Gene Therriault

SPONSOR STATEMENT:

For many years—even decades—Alaskans have been waiting for a natural gas pipeline project to deliver our tremendous resource on the North Slope to market. The benefits of such a project will include access for in-state uses, jobs for Alaskans, and cash to the state treasury. However, if we want to maximize the benefits to Alaskans, we need to make sure that our focus doesn't narrow too tightly to exclude the very real possibilities that await us.

Current discussions and negotiations for an Alaska Natural Gas Pipeline envision a 4.5 billion cubic feet per day (bcfd) project based on proven commercial reserves of 35 trillion cubic feet (tcf). These reserves will provide a supply to the pipeline for 16-20 years. However, according to Department of Natural Resources projections, project life increases from about two decades to more than 3 ½ decades when the available reserves increase from the 30-35 tcf of known conventional gas associated with current oil fields to 60 tcf due to the discovery of new conventional reserves or commercialization of hydrates in place beneath existing infrastructure.

Gas hydrates are naturally occurring ice-like substances composed of water and gas, in which a solid water-lattice accommodates gas molecules in a cage-like structure. Gas hydrates are widespread in permafrost regions and beneath the sea in sediment of outer continental margins. While methane, propane, and other gases can be included in the hydrate structure, methane hydrates appear to be the most common in nature.

The amount of methane sequestered in gas hydrates is enormous, but estimates of the amounts are highly speculative. In 1995, the USGS conducted the first systematic assessment of the in-place natural gas hydrate resources of the United States. That assessment estimated that the permafrost-associated gas hydrates on the Alaska North Slope may contain as much as 590 trillion cubic feet of in-place gas. Of this total, 40-100 tcf are in-place in reservoirs beneath the current infrastructure of the central North Slope.

The most recent (2001) estimate by the Minerals Management Service (MMS) puts the off-shore estimate at more than 32,000 trillion cubic feet in the Beaufort and Chukchi Seas.

A growing body of evidence suggests that production of natural gas, st· ed as gas hydrates, may be technically feasible. However, numerous technical challenges must be resolved before this potential resource can be considered an economically producible reserve. To that end, Congress passed H.R. 1573 the Methane Hydrate Research and Development Act of 2000 to determine whether or not gas hydrates could become a significant source of natural gas in the future. That Act expires—along with federal funding—later this year.

Senate Joint Resolution 5 calls on Congress to re-authorize 'e Methane Hydrate Research and Development Act along with appropriations totaling $70 million over 5 years. The relevance of the potential additional reserves present in the form of gas hydrates is important to the pipeline project currently under discussion and negotiation. The sizing of the pipeline, access points into the pipeline, financing costs, and ultimately tariff rates could all be positively impacted by a determination of the commercial viability of gas hydrates.

To: **The Honorable Pete V. Domenici, Chairman**
Senate Committee on Energy & Natural Resources

From: **Dr. Mark D. Myers, Director, Alaska Division of Oil and Gas**
Senator Gene Therriault, Chair,
Alaska Legislature, Legislative Budget and Audit Committee
Representativ Ralph Samuels, Vice Chair,
Alaska Legislature, Legislative Budget and Audit Committee

Subject: **State of Alaska Briefing Document on Proposal to Reauthorize Methane Hydrate Research and Development Act of 2000, Public Law 103-193, 114 Stat. 234**

Date: **January 24, 2005**

Executive Summary

Currently, 59 bcfd of natural gas is consumed daily in the United States. The Energy Information Administration estimates that domestic demand for natural gas will increase to 77 bcfd by 2015, and to 84 bcfd by 2025. If the Alaska natural gas pipeline currently envisioned is built, the 35 tcf of known Alaska reserves could satisfy 4.5 bcfd of the total domestic demand for a period of two decades. Alaska's vast gas resources are estimated to also include 250 tcf of undiscovered conventional resources, 590 tcf of onshore (100 tcf within or near existing North Slope infrastructure), and more than 32,000 tcf of offshore gas hydrates, which could supply a much greater percentage of domestic demand for generations to come, particularly if two conditions are met: 1) gas hydrates can be commercialized; and 2) the rules for access to and expansion of an Alaska natural gas pipeline encourage competition in the exploration for and development of Alaska natural gas. The latter condition is currently the subject of rule-making by the Federal Energy Regulatory Commission. However, the former—commercialization of gas hydrates—is at risk absent Congressional action in 2005. Congressional action is needed to reauthorize Pub. L. 106-193, 114 Stat. 234 (2000), the Methane Hydrate Research and Development Act, and to fund research and field testing under that Act. It is proposed that the Act be reauthorized for a period of five years, with appropriations of no less than $10 million/year in years 1-3 and $20 million/year in years 4-5.

The large quantity of hydrates that underlie the existing Kuparuk River, Milne Point, and Prudhoe Bay Fields could in itself remove all potential reserve risk from year 20-35 and beyond for an Alaska natural gas pipeline producing at 4.5 bcfd. Reducing reserve risk will have a positive effect on project financing and potentially result in a lower tariff, which in turn could lead to increased exploration and early expansion of the pipeline.

Introduction

Sharply rising U.S. consumption of natural gas coupled with increasing worldwide gas demand intensify the need to find additional sources of natural gas. An increasingly global LNG market is developing based on these growing international energy demands, and upon the enormous natural gas reserves in the Middle East and other areas of the world. Reliance on these supplies worsens the U.S. trade deficit, places the U.S. natural gas market increasingly in direct

competition with other regional natural gas markets (many of which are mushrooming), exacerbates public environmental and security concerns with proposed tanker traffic and plant sitings, and increases U.S. reliance on foreign sources for energy supplies.

Undeveloped Alaska natural gas resources, both conventional and unconventional, are capable of delivering a vitally important share of U.S. gas needs. The recent rise in energy costs to what many consider to be a new long-term level has led to negotiations for building an Alaska North Slope (ANS) natural gas pipeline to ship these domestic supplies to distribution hubs serving the lower 48 states. The currently envisioned pipeline would deliver 35 tcf of proven Alaskan gas reserves from existing oil fields at a rate of 4.5 bcfd for more than two decades, supplying about 6% of the 77 bcfd of U.S. demand forecast by the EIA for 2015.

Furthermore, numerous assessments recognize that the total North Slope gas resource far exceeds just these proven reserves. Mean estimates by USGS, MMS, and the State of Alaska place at least 242 tcf of undiscovered, technically recoverable conventional gas under federal onshore and offshore areas (Table 1, AK Division of Oil and Gas, 2005) plus 590 tcf in-place of gas hydrates onshore in permafrost areas, and more than 32,000 tcf in-place of gas hydrates offshore in the Beaufort Sea (Sherwood and Craig, 2001 after Collett, 1995). Alaska's total gas hydrate endowment, including the surrounding federal waters, is estimated at over 169,000 tcf of in-place gas hydrate (Sherwood and Craig, 2001 after Collett, 1995). USGS assessments estimate 40 to 100 tcf of gas in-place in shallow permafrost-associated gas hydrate reservoirs in the infrastructure-served central ANS onshore area alone (Figure 1). The Alaska North Slope is one of the most promising places in North America to determine the resource potential of gas hydrates because of existing infrastructure, which will prove vital in supporting the emerging technologies required (Johnson, 2003).

Given that all reasonable estimates of the total ANS gas resource are much larger than the 35 tcf basis for the currently envisioned Alaska to Lower 48 gas pipeline, including the vast potential in the form of methane hydrates, it is essential that the federal government take steps to ensure that two conditions be fulfilled: 1) current progress in gas hydrate research and development must continue at full momentum to determine as quickly as possible whether these resources are commercially viable, and 2) the rules for access to and expansion of an Alaska North Slope gas pipeline must encourage industry competition to develop much needed additional gas, both from potential gas hydrate reservoirs and from revitalized exploration for conventional gas reserves. The Federal Energy Regulatory Commission is aware of the second condition, and is actively working to establish rules that will safeguard its ability to require capacity expansion as new reserves become available.

The economic return and risk associated with building the ANS gas pipeline depends largely on its useful lifespan, a function of both available reserves and pipeline capacity. Table 2 summarizes the relationship between project lifespan and reserves for two capacity scenarios, the 4.5 bcfd base case and a 5.6 bcfd expansion case, respectively. In the base case, project life increases from about 2 decades to more than 3 ½ decades when the available reserves increase from the 30-35 tcf of known conventional gas associated with current oil fields to 60 tcf due to the discovery of new conventional reserves or commercialization of hydrates in place beneath existing infrastructure.

The remainder of this proposal addresses meeting the former condition – federal funding in support of gas hydrate resource commercialization.

Call for Legislative Action

The Methane Hydrate Research and Development Act of 2000 (Public Law 103-193, 114 Stat. 234) was created to determine whether or not gas hydrates could become a significant source of natural gas in the future. Because this Act expires at the end of the 2005 fiscal year, immediate congressional action is needed to replace it. Governor Murkowski's proposal urges new legislation to cover the five year period 2006-2010, with total appropriations of no less than $70 million. Beginning with annual funding of $10 million to continue and expand ongoing research in 2006-2008, appropriations would increase to $20 million annually in 2009-2010 as the emphasis shifts from laboratory research and computer simulations to field testing and development pilot projects.

As stated in the proposal, the goals of the reauthorization and appropriations are threefold: 1) determine conclusively whether major gas hydrate accumulations can become a commercially producible resource, 2) grow the body of publicly available data, knowledge, and technology relevant to detailed resource assessment, exploration, and production of gas hydrates, and 3) fund a field testing program at a level adequate to remove commercial hurdles that would impede or prevent private industry from pursuing gas hydrate pilot projects. Specific steps will enable achieving each of these objectives and a careful review of the previous legislation may be required to ensure language in the reauthorization that is consistent with this legislative intent.

Conceptual Steps and Justification

The suggestions that follow are not intended to replace careful planning by those managing gas hydrate research and development programs and should not be used in constructing legislative language without broad support of those program managers. At this point, we recommend using language in the reauthorization that will ensure clear legislative intent without specifying detailed procedures for reaching these goals. In the broadest sense, activities fall into two categories: 1) developing improved assessments of both the total resource potential associated with gas hydrates and the volume of hydrate-related gas likely to become commercial over time given that pipeline capacity exists to ship it to market, and 2) developing gas hydrate production technologies, including field tests to prove up and compare alternative techniques. Both goals should be pursued beginning in year 1 with expanded desktop research and maintaining current research programs leading to a greater emphasis on testing operations in years 4 and 5. Participation in "wells of opportunity" (i.e., industry wells targeting deeper horizons providing opportunity for data acquisition during penetration of shallow gas hydrate-bearing horizons) during years 1 through 4 merits federal funding to share or offset the costs of reservoir evaluation.

Continue technical and commercial assessments of onshore North Slope sub-permafrost gas hydrates and their associated free gas resources

Ongoing office, laboratory, and field research projects will feed directly into activities under a renewed gas hydrates act. The most successful research is likely to come from collaborative interdisciplinary teams of geologists, geophysicists, reservoir engineers, petroleum engineers, and commercial analysts representing a cross section of federal and state resource management agencies, industry, consultants, and universities. As stated in the proposal, the Alaska Department of Natural Resources, Division of Oil and Gas is also discussing with the Alaska State Legislature obtaining funding for an additional geologist dedicated to gas hydrate issues. This would facilitate the pairing of state and federal expertise and data sets, allowing for faster and more accurate collaborative resource assessments. In order for this structure to be effective, early administrative attention will be required from the participating organizations to establish the ground rules and data confidentiality requirements. Some of these ground rules and requirements which must be agreed upon early are likely to include issues such as the extent of data sharing, assessment methodologies, conditions for using proprietary data in making public resource interpretations, and specific data types and interpretive results that can be released to the public and/or shared with participating industry to support the conclusions.

Once these resource evaluation and development planning teams are in place, they should be authorized to integrate and expand upon current regional-level assessments of in-place permafrost-related gas hydrate and associated free gas resources. Some of these current assessments include the collaborative efforts underway involving the BLM, USGS, and State of Alaska. Future assessments funded by this legislation should expand upon this coordination, using consistent methodologies across federal and state lands of North Alaska. Assessment provinces should include the known hydrates in and near existing infrastructure on state lands of the central North Slope Colville-to-Canning corridor as well as more remote areas. The first remote provinces to be assessed should include state-lands foothills, the NPRA in the west, and the ANWR 1002 area in the east.

The proliferation of 3D seismic data across large areas of the North Slope over the last decade provides these research teams the opportunity to create much more reliable assessments than has ever been possible before. Access to these privately-acquired seismic surveys is restricted, but includes the state or federal agency that manages the lands in question. By assigning appropriate technical personnel in accordance with their agency's data access privileges, the research teams should be able to obtain, use, and integrate all available 3D seismic data coverage to develop a comprehensive portfolio of specific gas hydrate and associated free gas prospects. In some cases, it may be appropriate to license new or existing seismic surveys for assessment work, or even purchase the rights to release certain seismic data to the public. The portfolio should quantify the geologic risk profile and probabilistic distribution of in-place resource for each prospect using a standard petroleum systems approach. This work has been pioneered with tremendous success in the Milne Point Unit through the BPXA – DOE cooperative research study (e.g., Inks and others, 2004), where it is the basis for highly detailed gas hydrate resource estimates and production profile modeling.

Dedicated logging and/or coring of gas hydrate and sub-hydrate free gas intervals in several key wells per year should be considered beginning in year 1. The additional data obtained will

improve assessments of hydrate resource beneath existing infrastructure. Office and laboratory studies should continue into years 4 and 5, when they will begin to benefit from incorporation of the results of more field-based production testing. Subsequent iterations of reservoir performance models will thus be better calibrated and will more reliably forecast production rates and ultimate recovery of untested gas hydrate reservoirs. Better production forecasting will mean better ability to convert assessments of in-place resource to estimates of technically and economically recoverable gas reserves. Ultimately, the research will develop regional depletion plans and realistic potential development programs using reserves and rate profiles to assess regional development economics. The work will extrapolate reservoir models into regionally verified resource potential, construct production rate profiles within a range of expectations, and calculate potential regional gas reserves.

A final step in the office-based research process will be to develop commercial filters to apply to in-place or technically recoverable assessment figures to screen out resources located in accumulations too small to develop profitably. Estimates of the magnitude of reserves that may eventually be shipped would be far more useful than the technically recoverable reserves figures so often cited in resource assessments.

Design and conduct field production tests and pilot development of North Slope hydrates to assess viability of producing free gas and associated methane hydrate by depressurization of the free gas leg

The dearth of factual production data is one of the most critical gaps in commercializing much needed gas hydrate resources. Many in private industry acknowledge the enormous scale of the in-place resource, but without proven production potential, are unwilling to risk large-scale investments in testing and developing these reservoirs. Given the gas supply shortage facing the nation and the likelihood that construction of a gas pipeline will begin in the near future, the national interest is best served by funding public projects to close the gap in collaboration with, but without relying exclusively upon industry.

Beginning in year 1, and working in parallel with the assessment teams, engineers and geologists will be tasked with designing testing operations to begin during year 2 and continuing with the increased funding in subsequent years. Research to date has identified gas hydrate accumulations within the footprint of existing North Slope infrastructure that include a gas hydrate cap in communication with an underlying free gas column (Figures 2 and 3) as viable candidates for initial production testing. Accumulations of this description have been termed Type 1 hydrates (Moridis and Collett, 2003). Conventional completion and production of the free gas column eventually lowers reservoir pressure below the stability limit of the overlying gas hydrate zone, causing it to dissociate and release additional free gas across a broad regional contact. Because hydrates store 164 to 180 times as much methane as the same volume of free gas, their dissociation contributes large volumes of producible gas. The Messoyakha gas field in the West Siberian Basin is often cited as a producing example of a permafrost-associated gas hydrate accumulation, due to the difference between expected and actual declines in both reservoir pressure and production rate.

Feasibility studies carried out under a cooperative project between BP Exploration (Alaska) and the DOE (Howe and others, 2004) have adapted commercially available reservoir simulation

software to model schematic and actual hydrate-bearing reservoirs, with more detailed versions in progress (Figure 3).

The following discussion provides an overview of the current understanding in some of the more significant modeling. Cases 1-3 of Figure 4 depict simulated production profiles of a Type 1 gas hydrate representing 15 years of production from the same 300 mD permeability reservoir, but with variations in the type and number of producing wells. The initial plateau flow rates of these three cases are operationally constrained at levels ranging from 25 to 50 million cubic feet per day (mmcfd) per well. A 50 mmcfd plateau rate can be maintained significantly longer using a single horizontal producer than with two vertical producers constrained to 25 mmcfd each. After 15 years, the simulated total flow rates are nearly the same at about 18 mmcfd, regardless of whether one, two, or three producers are involved. Additional models indicate that after the steep decline that initially follows the plateau, the very slow decline rate of later years is due to steady supply of free gas from hydrate dissociation (Figure 5). This modeling is highly encouraging, but requires validation by field testing.

Details of design activities would be determined by the actual team, but a logical workflow would presumably begin with selection of candidate prospects for field testing within areas supported by existing North Slope infrastructure. Potential locations are already available in the Milne Point Unit where collaborative studies have integrated well data and 3D seismic data to quantify both Type 1 and Type 2 (hydrate only) prospects.

Numerous questions will be addressed at the outset of the design phase, including whether to drill a dedicated research well or share one intended for deeper production. Decisions will be required regarding optimal borehole angle, the duration of test production, and facility limitations. Depending on the type of wellbore selected for the testing and pilot program, drilling or work-over and completion operations will be necessary to expose the production zone in the free gas leg. This stage, including formation evaluation, should be complete within the first month, followed by an initial well testing phase that may last several weeks or months.

At this point, it is recommended that the well be placed on long-term production test for meaningful comparison to modeled production profiles. Depending on free gas volumetrics, the difference between original reservoir pressure and the hydrate stability limit, and operational constraints on the test producer's plateau flow rate, a pilot production plan lasting more than two years may be required to monitor the effects of depressurization and consequent hydrate dissociation. Because long term production testing may yield substantial quantities of methane, it will be advantageous to plan for local use of the gas. Possibilities include fuel for testing operations or field utilities, or reinjection for pressure maintenance of other reservoirs.

Design and conduct field production tests and pilot development of North Slope hydrates to assess viability of producing directly from hydrates without free gas depressurization

A second test should be designed to assess the viability of producing directly from hydrates that have no free gas leg available for conventional completion and depressurization. A major share of potential ANS gas hydrate resources appear to be trapped within these hydrate-only areas. Potentially, such a test could be conducted in the hydrate cap of a Type 1 reservoir, in Type 2 hydrates, which are accompanied by an underlying zone of movable water in the reservoir, or in

Type 3 hydrates, which fill the entire formation (Moridis and Collett, 2003). The project team will face many of the same decisions as for the free gas/hydrate dissociation test, including site selection, type of wellbore, and duration.

The critical difference between this and a free gas production test is that steps must be taken to prevent further cooling of the reservoir around the producer that would lead to reformation of the hydrates and shut off the flow of gas. The three ways of dissociating the hydrate structure to release gas are by lowering pressure, increasing temperature, or altering reservoir chemistry. However, dissociation is an endothermic (heat consuming) reaction that lowers the temperature of the surrounding formation. So, while it may be possible initially to liberate some free gas simply by lowering reservoir pressure adjacent to the well bore, it can freeze solid again unless heat and/or chemical inhibitors are added to the formation. The optimum test for producing directly from hydrates would provide the capability of experimenting with and comparing various thermal and chemical stimulation technologies. Several processes have been proposed that warrant consideration in the design phase:

- thermal stimulation with steam huff and puff
- thermal stimulation by closed-system circulation of warm water from the surface (either artificially heated on-site or still-warm formation water separated out of production stream from deeper reservoir)
- thermal stimulation by closed-system circulation of hot waters brought directly to the reservoir from a deeper aquifer zone in the same well
- thermal stimulation by in-situ catalytic combustion, electromagnetic, or microwave sources
- inhibitor injection (e.g., methanol)
- Carbon dioxide replacement of methane in hydrate structure (McGrail and others, 2004). If this process becomes viable, it may provide synergistic carbon sequestration benefits, in addition to liberating methane.

It will be up to the test design team to identify and select the most promising of these methods for direct field comparison.

Hypothetical R&D Activity and Expenditure Timeline

Table 3 represents a broad framework for executing the suggestions outlined above. This legislative proposal is submitted in recognition of the need for funding rapid and material advances toward unlocking the potential of our gas hydrate resources. Details of research and development tasks and the proposed expenditure timeline are subject to revision by project teams.

Recommendation

An urgent need exists for the reauthorization of federal legislation appropriating funds to support gas hydrate research and development. In the face of escalating demand and uncertain supply from overseas imports, it is critical that the United States increase domestic supply and diversify its sources of natural gas to include the development of unconventional resources. Known gas

hydrates overlying the already-developed oil fields of Alaska's North Slope afford a unique opportunity to meet both objectives provided they can be produced and brought to market economically. The need to better understand hydrate commerciality is all the more pressing given the inter-relationship to planning for the construction, operation, and regulation of an Alaska gas pipeline. The steps suggested here are offered as a conceptual basis for more detailed planning that will be needed to realize the intended goals of the proposed legislation.

(Figures 1-5, Tables 1-3, and References following on separate pages)

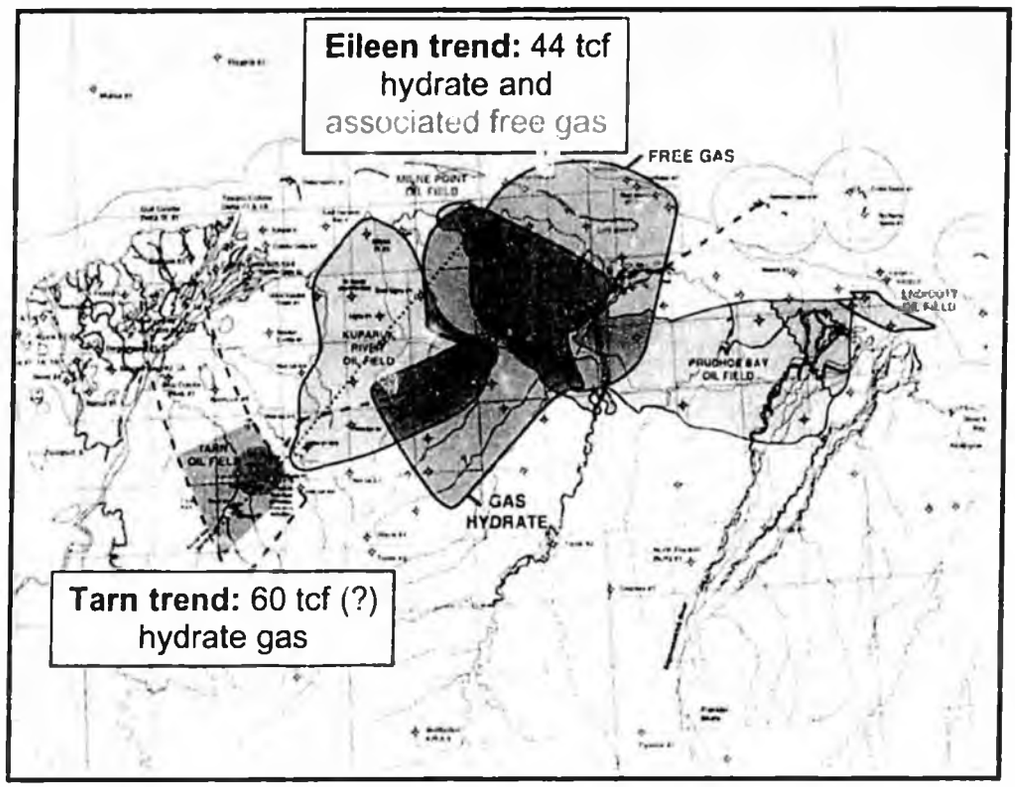

Figure 1. Known gas hydrate accumulations (blue) and hydrate-associated free gas accumulations (orange) in the vicinity of the major North Slope oil fields (green). The USGS estimates up to 100 tcf in place of hydrate in the Eileen and Tarn trends combined. From T.S. Collett, 10/01 and Hunter and Collett, (2004).

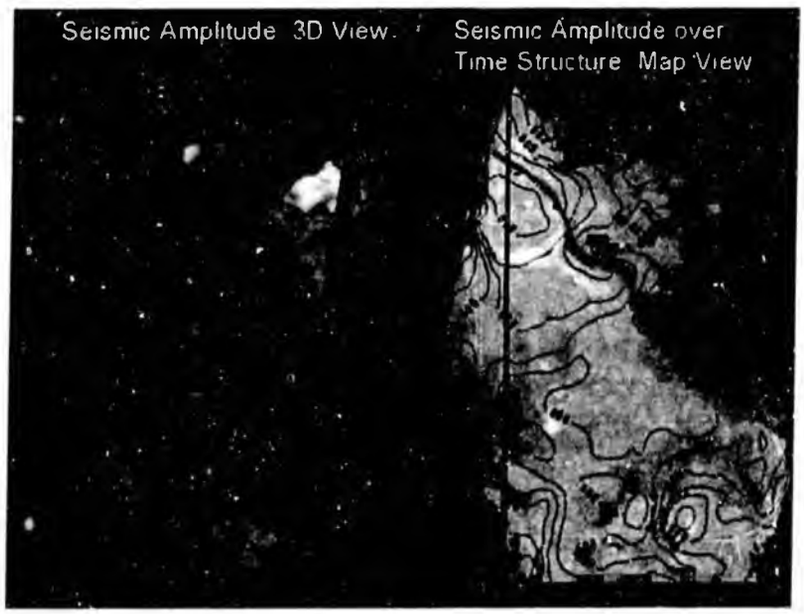

Figure 2. Seismic amplitude of a gas hydrate prospect within the Milne Point Unit in 3-dimensional view (left) and in map view with time structure (right). Warmer shades in shallowest corner of the fault-bounded reservoir compartment are interpreted to be gas hydrates, consistent with the estimated depth of the hydrate stability zone. From Hunter (2004).

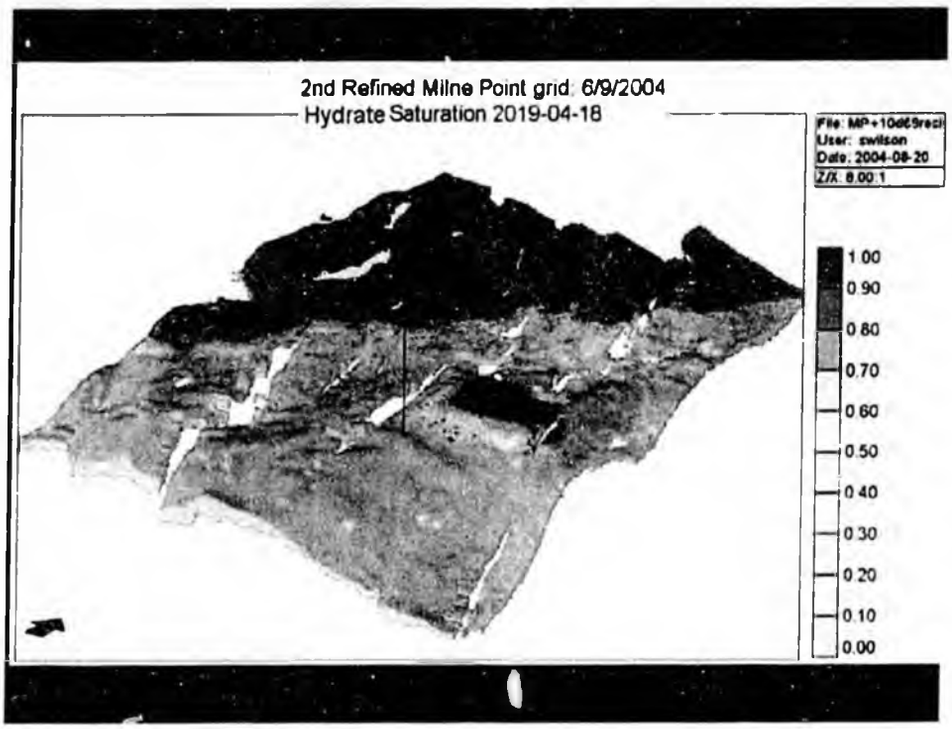

Figure 3. Milne Point Unit reservoir model showing gas hydrate cap (orange) overlying free gas (green) and a single vertical producing well. From Howe and others (2004).

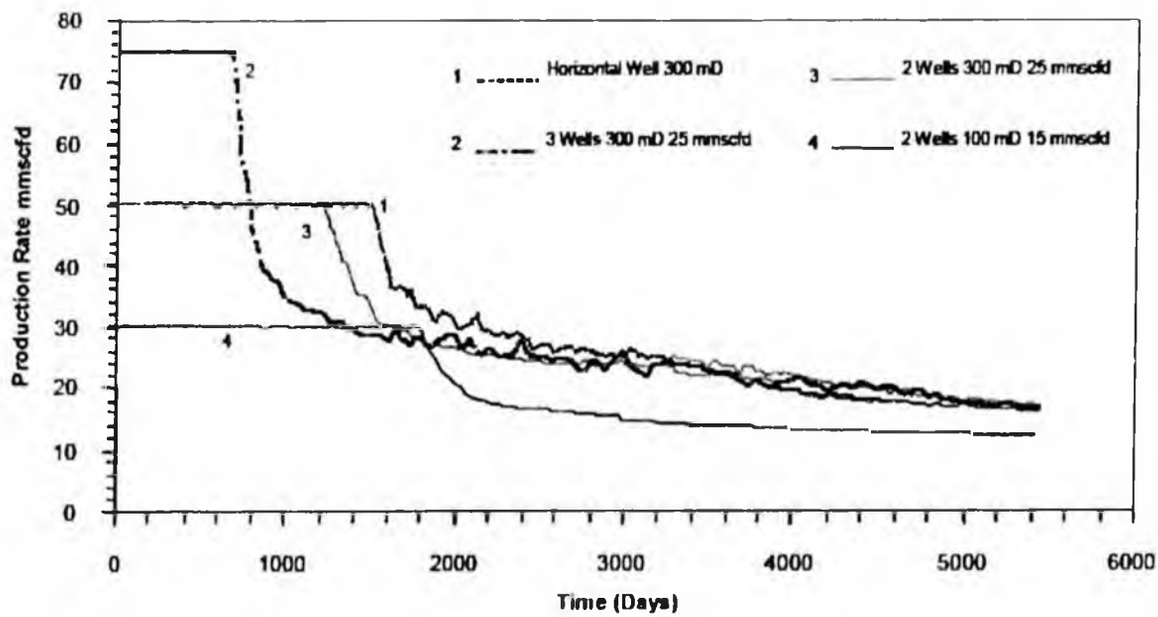

Figure 4. Gas production profile from a schematic reservoir. Cases 1, 2, and 3 compare offtake profile from the same reservoir using one horizontal, three vertical, and two vertical wells, respectively. Note extended plateau for one horizontal compared to two vertical wells, and that total flow in all scenarios is virtually the same after 15 years. Case 4 represents a lower permeability reservoir. Originally from Howe and others (2004) cited by Hunter (2004)

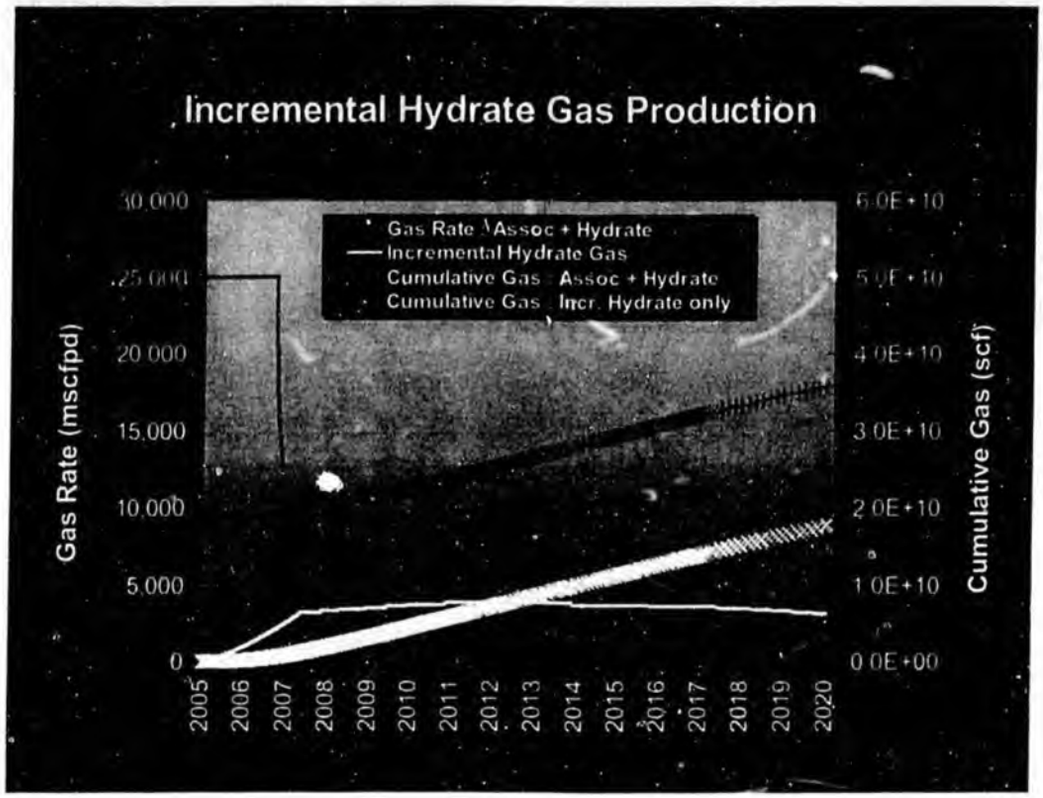

Figure 5. Graph showing modeled contribution of hydrates to total production for the reservoir model in Figure 3 (not the schematic reservoir represented in Figure 4). Production of original free gas constitutes all of the initial production; reservoir depressurization results in dissociation of overlying hydrates into free gas. In this particular simulation, dissociated hydrate gas accounts for nearly all production beyond the fifth year, and continues at a nearly constant rate for the next decade.

Table 1. Mean value, total natural gas reserve and resource base for Alaska assessment areas.

All Values Trillions of Cubic Feet (TCF)
Alaska Division of Oil and Gas (01/12/05)

BASIN	KNOWN RESERVES	RISKED UNDISCOVERED CONVENTIONALLY RECOVERABLE RESOURCE	*RISKED UNDISCOVERED CONVENTIONALLY RECOVERABLE DEEP GAS RESOURCE* [2]	GAS HYDRATES IN PLACE RESOURCE [6]	COALBED METHANE IN PLACE RESOURCE	BASIN TOTAL
NORTH ALASKA (onshore)	35.000 [1]	141.700 [8]	*17.700* [2]	590.000 [6]	800.000 [7]	1,566.700
NORTH ALASKA (Beaufort shelf) [2]	0.000	32.070	*N/A*	32,325.000 [3]	N/A	32,357.070
NORTH ALASKA (Chukchi shelf) [2]	0.000	60.110	*N/A*	50.000 [3]	N/A	110.110
CENTRAL ALASKA [4]	0.000	2.760	*N/A*	N/A	N/A	2.760
YUKON FLATS [9]	0.000	5.460	*N/A*	N/A	N/A	5.460
KANDIK [5]	0.000	0.116	*N/A*		N/A	0.116
NENANA/TANANA	0.000	N/A	*N/A*	N/A	N/A	N/A
COPPER RIVER	0.000	N/A	*N/A*	N/A	N/A	N/A
TOTAL BY GAS TYPE	**35.000** [1]	**242.216**	***17.700*** [2]	**32,965.000**	**800.000** [7]	**34,042.216**

After Craig, J., and Sherwood, K.,Prospects for development of Alaska natural gas: a review as of January 2001, Minerals Management Service, Alaska Region. tbl. 9, p. 76.
Modified to include only North and Central Alaska basins and updated to include new information as footnoted.
N/A = Not Assessed

[1] Current estimate of known "stranded" recoverable North Slope conventional gas reserves in Prudhoe Bay, Point Thomson and smaller fields.

[2] *Subcategory of and included in "Undiscovered Technically Recoverable Conventional Reserves". Represents Basin Deep or Basin Centered component > 15,000' depth.*

[3] Craig and Sherwood arbitrarily split offshore hydrate resource estimates between Beaufort and Chukchi Sea shelves. Total North Alaska offshore gas hydrate potential remains 32,375 tcf.

[4] 1995 National Assessment of United States Oil and Gas Resources, U.S. Geological Survey, Open File Report , Digital Data Series-30, pub. 1995. For all central Alaska basins except the Kandik Basin. Other basins not evaluated individually.

[4,5] Geological Survey of Canada estimated mean undiscovered gas in place ~ 0.489 - 0.800 TCF. Alaska component estimated as 0.116 Tcf.

[6] Collett, personal communication, 11/26/04.

[7] Barker, C.E., Clough, J.G., Roberts, S.B., and Fisk, R., Coalbed methane in Northern Alaska: potential resources for rural use and added supply for the proposed trans-Alaska gas pipeline, AAPG-SPEM Joint Technical Conference, Anchorage, AK, May 2002.

[8] Includes nonassociated and associated gas. State and Native lands are estimated to be approximately 60 TCF and are included in this total.

[9] Oil and Gas Assessment of Yukon Flats, East-Central Alaska, 2004. USGS Fact Sheet 2004-3121, December 2004.

Table 2. Useful life of an Alaskan gas pipeline given variations in reserves and capacity.

Reserves, TCF		Project Life (Years) Pipeline Capacity BCF/Day	
		(4.5)	(5.6)
Known Resources	33	20.1	16.1
	36	21.9	17.6
↕	40	24.4	19.6
	60	36.5	29.4
Undiscovered Resources	100	61.5	48.9
	150	91.3	73.4

Table 3. Methane Hydrate Research, Development and Field Operations -- Authorization Budget

	2006	2007	2008	2009	2010	Total Spending
North Slope Studies						
Seismic data processing and/or acquisition	4.00	2.00	-	-	-	**6.00**
Regional resource assessments	0.50	0.75	1.00	1.00	0.50	**3.75**
Prospect definition studies	1.00	1.00	1.00	0.75	0.50	**4.25**
Data Acquisition (wells of opportunity)						
Logs (3 ea, 2006 - 2009)	0.36	0.36	0.36	0.36	-	**1.44**
Core (1, for thermal studies)		0.50	0.50	-	-	**1.00**
Thermal stimulation research	0.50	0.50	0.50	1.00	1.00	**3.50**
Carbon dioxide replacement research	0.50	0.50	0.50	0.50	0.50	**2.50**
Test designs/site selection/planning/permittting/LL items	0.50	0.75	0.75	0.25	-	**2.25**
	7.36	**6.36**	**4.61**	**3.86**	**2.50**	**24.69**
North Slope Field Operations						
Test production of NS Hydrates from underlying free gas zone	-	3.00	4.56	4.56	2.00	**14.12**
Test direct production of NS Hydrates	-	-	-	6.38	5.48	**11.86**
	-	**3.00**	**4.56**	**10.94**	**7.48**	**25.98**
Total North Slope Spending	**7.36**	**9.36**	**9.17**	**14.80**	**9.98**	**50.67**
Gulf Coast and Other L-48 Studies	**2.64**	**0.64**	**0.83**	**5.21**	**10.02**	**19.34**
Total Spending	**10.00**	**10.00**	**10.00**	**20.00**	**20.00**	**70.00**

Average daily fully-loaded rig cost:	$35,000/day	45 days, RU, D&C, rig test = $1.575 million
Production testing costs:	$12,500/day	15,000 /day for direct production test (includes thermal costs)
Incremental shallow logging costs:	$120,000/well	

Test production of NS Hydrates from underlying free gas zone: - operations start mid-2007, w/ 45 days of rig work, prior to long-term production testing

Test direct production of NS Hydrates: - operations start early-2009, w/ 45 days of rig work, prior to long-term production testing

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ALASKA LEGISLATURE - ONLINE TELECONFERENCE ORDER FORM

Note: All Fields Must Be Completed

Sponsor and/or Committee Name: Senate Resources

Date of Teleconference: Feb. 7

Start Time: 3:30 **End Time:** ?

Chairing Site: Juneau **Juneau Room:** 205

Testimony:
- (•) Yes
- ( ) No
- ( ) Invitation Only
- ( ) N/A

Testimony Time Limit:
- ( ) 1 min
- ( ) 2 min
- ( ) 3 min
- ( ) 5 min
- (•) no time limit
- ( ) other - see instructions

Contact Person Mary Jackson

Telephone Number 465-4907

LIO sites:
- [x] Anchorage
- [ ] Barrow
- [ ] Bethel
- [ ] Cordova
- [ ] Delta Junction
- [ ] Dillingham
- [ ] Fairbanks
- [ ] Glennallen
- [ ] Homer
- [ ] Juneau
- [ ] Kenai
- [ ] Ketchikan
- [ ] Kodiak
- [ ] Kotzebue
- [ ] Matsu
- [ ] Nome
- [ ] Petersburg
- [ ] Seward
- [ ] Sitka
- [ ] Tok
- [ ] Valdez
- [ ] Wrangell

Other sites may add?
- (•) Yes
- ( ) No

Offnet Name (s)

☐ **No LIOs**

Subject of meeting and/or Bills on Agenda

SJR 5: REAUTHORIZE METHANE HYDRATE RESEARCH ACT

Submit Reset

THE FOLLOWING DOCUMENT

HAS NOT BEEN FILMED BUT IS

AVAILABLE IN THE ORIGINAL FILE

North Slope Gas Hydrate Resources

State of Alaska Briefing on Proposal to Re-authorize
Methane Hydrate Research and Development Act of 2000,
Public Law 103-193, 114 Stat. 234
(MAP)

January 2005

State of Alaska
Department of Natural Resources
Division of Oil and Gas

Map Legend

- Natural Gas Pipeline Study Corridor (200 Mile Corridor)
- Proposed Natural Gas Pipeline Highway Route
- Trans-Alaska Pipeline
- Gas accumulation
- Sedimentary Basin (Kirschner, 1988)
- Coal accumulation (DGGS, 1986)
- Hydrate Stability Limit (Collett, 1994)
- Oil well with Gas show
- Well with gas show
- Well with oil and gas show
- Highways
- Population Centers

Natural Gas Resource Estimates

3.8 Tcf	Mean Risked, Undiscovered, Technically Recoverable Conventional Gas (Tcf)
26 Tcf	Estimated Recoverable Gas (Tcf)
50 Tcf	Estimated In-Place Gas Hydrates (Tcf)

Indications of Petroleum in Central Alaska

after Troutman, S.M. and Stanley, R.G. 2002, Map and digital database of sedimentary basins and indications of petroleum in the Central Alaska Province, U.S. Geological Survey, OFR 02-483, Scale 1:2,500,000.

44 Oil seep, reported but doubtful or disproved

Reports of three oil seeps near Allakaket on the Koyukuk River are regarded as doubtful because the reports were based on observations "made by a prospector many years ago, and seeps have not been seen by, or reported to, geologists who have recently been in Allakaket" (Miller and others, 1959, p. 72).

44 Well with gas show(s)

Milne Point Unit re
vertical producing v

SJR

16

4-04-05 Rcvd

Alaska State Legislature

SENATOR
GENE THERRIAULT
Mailing Address
119 N. Cushman, Suite 101
Fairbanks, Alaska 99701
(907) 488-0857
Fax (907) 488-4271

Senate

While in session
State Capitol
Juneau, Alaska
99801-1182
(907) 465-4797
Fax (907) 465-3884
SENATE DISTRICT F

SJR 16

Sponsor Statement

The right of states to manage wildlife is based on the premise that all wealth, and subsequent revenue, depends to a large degree on natural resources. States were formed, and ultimately admitted into the union, in large part on their ability to generate the wealth needed for public services within their boundaries. Proper stewardship of our wildlife resources is certainly more critical to our state than the nation, and therefore we should have primary management authority.

Unfortunately, as more and more acreage has come under federal management in Alaska and other western states, wildlife management has become the object of national groups who intend the resources to be unavailable for certain state uses. Federal policies have also hampered our state wildlife manager's abilities to meet constitutionally mandated "sustained yield" principles.

SJR –16 encourages a shift in policy from federal oversight back to state management. It is consistent with our constitution, laws, and the statehood act and is in the best interest of Alaskans, Americans, and the long-term health of our wildlife resources.

Email: Senator_Gene_Therriault@legis.state.ak.us

Senate Resources **April 4, 2005**

SJR 16 Packet

- Sponsor Statement: (to be provided at the meeting)
- Fact Sheet: 1 page
- SJR 16: 2 pages
- Federal Legislation Information sheet: 1 page
- Federal: S 399: 3 pages
- Federal: HR 731: 3 pages

NOTE: this is the first hearing on the measure so a fiscal note will be handed out at the meeting.

included 4-04-05

Alaska State Legislature

Senate Majority Web: www.akrepublicans.org

Sponsor: Senator Gene Therriault
Current Version: SJR 16
Contact: Dave Stancliff, 465-4861

Fact Sheet for: Senate Joint Resolution 16

Short Title: STATES' RIGHT TO REGULATE HUNTING/FISHING

Summary:

- Supports legislation in the United States Congress that reaffirms the right of the states to regulate hunting and fishing.

Benefits:

- Ensures local control over fish and game issues.
- Recognizes that fact that the states are best situated to address local concerns regarding fish and game issues.

Background:

- Hunting and fishing issues should be left to the individual states to regulate as much as possible. SJR 16 recognizes that fact and urges the Unites States Congress to pass pending legislation that reaffirms the right of states to regulate hunting and fishing. Copies of the resolution will be distributed to Alaska's congressional delegation and other congressional leaders.

FED. LEG. INFO. - 3-31-05

RESOLUTION REGARDING H.R. 731 AND S. 339

This resolution provides support for the consideration and passage of H.R. 731 and S. 339 in Congress regarding the reaffirmation of the authority of the State to regulate certain hunting and fishing activities. S. 339 was introduced by Senator Reid and is cosponsored by Senator Ted Stevens.

These bills were introduced to correct rulings by both the Arizona District Court and the Ninth Circuit Court of Appeals regarding the disproportional distribution of permits between residents and non-residents. The District Court ruled that the State of Arizona unconstitutionally discriminated against non-residents by issuing only a small portion of available hunting permits to out-of-state residents. The ruling apparently relied on the fact that Congress had not exercised its authority under the Commerce Clause allowing the states to discriminate in issuing hunting permits.

The ruling was appealed to the Ninth Circuit Court of Appeals. The ruling was upheld and remanded back to the District court. As of this date, Arizona has not appealed this case to the U.S. Supreme Court.

The passage of either H.R. 731 or S.339 would clarify that Congress, under its Commerce Clause authorities, is recognizing this traditional authority of the states and granting the states the ability to continue issuing hunting permits to residents and non-residents on a priority and case-by-case basis. There have been a number of federal cases where the courts have ruled that the states can discriminate to some degree against non-residents in hunting fees and proportional permitting while not eliminating their participation. This legislation would allow for this practice to continue.

Alaska could be seriously affected by this court ruling without some guidance from Congress as is being proposed. A major portion of the license fees brought into the State Fish and Game Fund comes from the sale of licenses and tags to non-residents. Thus, the maintenance of a reasonable and strong presence of non-resident hunters is critical to the state. However, Alaska also has an established subsistence law requiring a priority for residents for those species taken for human consumption. In order to provide for this priority, it has been advisable, in some cases where ungulate species are dangerously low, to eliminate non-resident hunting all together. Management of many Alaskan wildlife species that are taken for food would be much more difficult if we had to strictly abide by this recent Arizona ruling.

The obvious solution is to ask Congress to clarify its intentions under their Commerce Clause authorities.

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number:
Bill Version: SJR 16
() Publish Date:

Revision Date/Time (Note if correction):
Dept. Affected: Legislature
Title "Supporting legislation before the United States Congress that reaffirms the right of the states..."
BRU Legislative Council
Component: Council and Subcommittees
Session Expenses
Sponsor Senator Therriault
Requestor Senate Resources
Component No. 783

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services	0.0	0.0	0.0	0.0	0.0	0.0
Travel	0.0	0.0	0.0	0.0	0.0	0.0
Contractual	0.0	0.0	0.0	0.0	0.0	0.0
Supplies	0.0	0.0	0.0	0.0	0.0	0.0
Equipment	0.0	0.0	0.0	0.0	0.0	0.0
Land & Structures	0.0	0.0	0.0	0.0	0.0	0.0
Grants & Claims	0.0	0.0	0.0	0.0	0.0	0.0
Miscellaneous	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**
CAPITAL EXPENDITURES	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**
CHANGE IN REVENUES ( )	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**

Estimate of any current year (FY2004) cost: 0.0
Check this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: *(Attach a separate page if necessary)*

This legislation has zero fiscal impact on the Legislative Affairs Agency.

Prepared by: Karla Schofield, Deputy Director
Phone 465-6626
Division Administrative Services
Date/Time 4/1/05 9:04 AM
Approved by: Pamela Varni, Executive Director
Date 4/1/2005
Agency Legislative Affairs Agency

(Revised 9/2001 OMB)

II

109TH CONGRESS
1ST SESSION

S. 339

To reaffirm the authority of States to regulate certain hunting and fishing activities.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 9, 2005

Mr. REID (for himself, Mr. BAUCUS, Mr. STEVENS, Mr. NELSON of Nebraska, and Mr. ENSIGN) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

---

A BILL

To reaffirm the authority of States to regulate certain hunting and fishing activities.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Reaffirmation of State Regulation of Resident and Nonresident Hunting and Fishing Act of 2005".

SEC. 2. DECLARATION OF POLICY AND CONSTRUCTION OF CONGRESSIONAL SILENCE.

(a) IN GENERAL.—It is the policy of Congress that it is in the public interest for each State to continue to

regulate the taking for any purpose of fish and wildlife within its boundaries, including by means of laws or regulations that differentiate between residents and nonresidents of such State with respect to the availability of licenses or permits for taking of particular species of fish or wildlife, the kind and numbers of fish and wildlife that may be taken, or the fees charged in connection with issuance of licenses or permits for hunting or fishing.

(b) CONSTRUCTION OF CONGRESSIONAL SILENCE.—Silence on the part of Congress shall not be construed to impose any barrier under clause 3 of Section 8 of Article I of the Constitution (commonly referred to as the "commerce clause") to the regulation of hunting or fishing by a State or Indian tribe.

SEC. 3. LIMITATIONS.

Nothing in this Act shall be construed—

(1) to limit the applicability or effect of any Federal law related to the protection or management of fish or wildlife or to the regulation of commerce;

(2) to limit the authority of the United States to prohibit hunting or fishing on any portion of the lands owned by the United States; or

(3) to abrogate, abridge, affect, modify, supersede or alter any treaty-reserved right or other right of any Indian tribe as recognized by any other

means, including, but not limited to, agreements with the United States, Executive Orders, statutes, and judicial decrees, and by Federal law.

SEC. 4. STATE DEFINED.

For purposes of this Act, the term "State" includes the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, American Samoa, and the Commonwealth of the Northern Mariana Islands.

O

109TH CONGRESS
1ST SESSION

H. R. 731

To reaffirm the authority of States to regulate certain hunting and fishing activities.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 9, 2005

Mr. UDALL of Colorado (for himself and Mr. OTTER) introduced the following bill; which was referred to the Committee on Resources

---

A BILL

To reaffirm the authority of States to regulate certain hunting and fishing activities.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Reaffirmation of State Regulation of Resident and Nonresident Hunting and Fishing Act of 2005".

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(3) to abrogate, abridge, affect, modify, supersede, or alter any treaty-reserved right or other right of any Indian Tribe as recognized by any other

means, including but not limited to agreements with the United States, Executive Orders, statutes, and judicial decrees, and by Federal law.

SEC. 4. STATE DEFINED.

For purposes of this Act, the term "State" includes the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, American Samoa, and the Commonwealth of the Northern Mariana Islands.

○

SJR

17

NOT HEARD ON 4-19-06

Senate Resources **April 19, 2006**

SJR 17 – Sponsor Packet

Cover Sheet	1 page
Sponsor Statement	1 page
SJR 17	3 pages
Fiscal Note: OMB 4-17-06	1 page
US Fish & Wildlife Service Paper on "Reopener"	2 pages
Kodiak Island Borough Letter & Resolution	3 pages
City of Cordova Letter & Resolution	3 pages
Prince William Sound Science Center Resolution	1 page
Chugach Regional Resources Commission Letter	3 pages

Total Pages: 18 pages

ALASKA STATE LEGISLATURE

SENATOR HOLLIS FRENCH

SJR 17 Exxon Valdez Reopener

· Sponsor Statement

SJR 17 urges the United States Department of Justice or the Alaska Department of Law to pursue the $100 million made available for mitigation of unanticipated damages stemming from the 1989 Exxon Valdez oil spill. The 1991 civil settlement contains a "Reopener for Unknown Injury" clause which provides that between September 1, 2002 and September 1, 2006, the governments can request an additional $100 million from the Exxon Corporation if they determine that the spill had caused substantial, unanticipated harm, and present a cost-effective plan to remedy that harm. This provision is on top of the $900 million already paid for civil recovery, $100 million in criminal restitution, and a $25 million fine. This will not affect the ongoing litigation regarding the over $5 billion Exxon owes to individual Alaskans in punitive damages. The resolution also requests an update on or before March 24, 2006, the 17th anniversary of the spill, from the Attorneys General of Alaska or the United States regarding the status of this claim.

Since the spill and settlement, scientists funded by the initial payments have determined a number of unanticipated injuries to the spill zone. One major result of the spill that did not become evident until after the settlement was the 1993 crash of the herring population. Scientists since that time have determined that crude oil affected the reproductive processes of the herring, which explains the delayed onset of the population crash. Other significant discoveries regard lingering oil. A number of beaches in Prince William Sound still contain significant amounts of oil that has yet to biodegrade as expected. Since the spill and settlement, scientists have also realized the toxicity of crude oil to wildlife, a danger that was underestimated at the time. These issues, among others, show the necessity of these additional funds to restore these areas to health.

The Kenai Peninsula Borough, Kodiak Island Borough, and City of Cordova have already passed resolutions in support of this action.

January - May: State Capitol • Juneau, Alaska 99801 • (907) 465-3892 • (800) 465-3892 • Fax: (907) 465-6595
June - December: 716 West 4th Avenue • Anchorage, Alaska 99501 • (907) 269-0734 • Fax: (907) 269-0238
Senator.Hollis.French@legis.state.ak.us

FISCAL NOTE

STATE OF ALASKA
2006 LEGISLATIVE SESSION

Fiscal Note Number:
Bill Version: SJR 17
() Publish Date:

Revision Date/Time (Note if correction):
Dept. Affected: All
Title: Exxon Valdez Spill Damages
RDU:
Component:
Sponsor: Sen. French
Requester: Senate Resources Committee
Component No.:

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**
CAPITAL EXPENDITURES						
CHANGE IN REVENUES ( )						

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**

Estimate of any current year (FY2006) cost: 0 0
Mark this box (X) if funding for this bill is included in the Governor's FY 2007 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: *(Attach a separate page if necessary)*

This resolution would not have a fiscal impact on any state agency.

Prepared by: Jack Kreinheder, Senior Analyst — Phone: 465-4676
Division: Office of Management and Budget — Date/Time: 4/17/06 1 22 PM
Approved by: Cheryl Frasca, Director — Date: 4/17/2006
Agency: Office of Management and Budget

(Revised 9/7/2005 OMB)

U S Fish & Wildlife Service

Exxon Valdez Oil Spill -- Civil Settlement "Reopener"

Potential Funds for Restoration of Unanticipated Injuries to Natural Resources

What is the "Reopener"?
The 1991 agreement settling the federal and state governments' civil claims against Exxon contains a provision entitled "Reopener for Unknown Injury." Under that provision, Exxon could be required to make additional payments totaling as much as $100 million for specific restoration projects if all of the following conditions are met:

The governments must establish that
(1) a population, habitat, or species has suffered a substantial and continuing loss or decline in the spill area;
(2) the loss or decline is attributable to the spill; and
(3) the loss or decline could not have been known nor reasonably anticipated by any of the federal or state trustees from information available to them when the settlement was signed in 1991.

If the answer to each of these questions is "yes," the federal and state governments must then determine that there are projects they could undertake to restore the population, habitat or species, the costs of which are not "grossly disproportionate" to the "magnitude of the benefits anticipated from the remediation."

The governments' monetary demand can not exceed the predicted cost of the specific restoration projects proposed.

How will the decision be made?
The federal and state governments will decide whether to assert a claim against Exxon under the Reopener. In the case of the federal government, the three federal agencies whose trust resources were injured by the spill, the Department of Interior, the Department of Agriculture, and the Department of Commerce, will determine whether they have sufficient evidence to support a demand of additional monies from Exxon. If they make an affirmative decision, they will recommend that the Department of Justice make a claim on behalf of the United States. While the agencies represented on the Exxon Valdez Trustee Council have important roles in making this decision, the Council itself is not directly involved.

When will the decision be made?
The reopener option expires on September 1, 2006. If the governments decide to make a demand of Exxon, they must provide the con[illegible]ny with detailed restoration plans, a statement of claims, and all relevant supporting information at least 90 days before September 1, 2006. If a demand is made, these materials will be provided to Exxon by June 2, 2006.

What about reopening for injured services?
The settlement with Exxon does not permit a claim brought pursuant to the reopener provisions to be based on declines in services.

How much can the governments recover from Exxon?
Under the 1991 settlement, any additional recoveries from Exxon must be based on the specific costs of restoration projects and

cannot exceed $100 million.

How much have the federal and state governments recovered from Exxon?
Exxon has paid the governments the equivalent of $900 million to settle the civil claims associated with the Exxon Valdez oil spill; a portion of that was used to reimburse the governments for cleanup costs. Under a separate settlement of federal criminal charges, the company also paid $25 million in fines and $100 million, divided equally between the United States and Alaska, as restitution for its criminal conduct.

Is any of the money still left?
Of the original $900 million in civil recoveries, approximately $146 million remains for new restoration projects. The money is used by the Exxon Valdez Trustee Council to fund ongoing restoration through a public process that involves the award of funds to conduct research, monitoring and general restoration; to acquire habitat; and to provide public information about, and science management and administration of, the restoration process.

What resources were injured by the spill?
In its 2002 *Update on Injured Resources and Services*, the Exxon Valdez Trustee Council identified the following resources and services as not having recovered from the spill: certain seabirds and sea ducks, Pacific herring and other fish, subtidal communities, clams, designated Wilderness areas, intertidal communities, Killer whales, mussels, sea otters, sediments, and services including recreation and tourism, commercial fishing, passive uses and subsistence. The following resources were identified as "recovered": archaeological resources, bald eagles, certain seabirds, river otters, and pink and sockeye salmon. In an effort to update the injured resource list, the Trustee Council has recently funded projects that synthesize the latest monitoring results.

What is the current status of each of those resources?
Information concerning the status of injured resources appears in numerous scientific studies by the governments (using their own researchers as well as those outside the governments), Exxon, and other researchers in the sixteen years since the spill. Exxon scientists have been critical of some of the results of the government-sponsored research and vice-versa. Study of the spill's effects continues, and government officials are making as complete an assessment as possible of potential reopener claims.

Has the government exercised a reopener before?
No. Although many natural resource damage settlements from oil spills and other forms of environmental contamination typically include reopener provisions, such provisions have not been invoked for natural resource damages. Reopening the case against Exxon would be the first such action of its kind by either the federal government or the State of Alaska.

U.S. Fish & Wildlife Service
Natural Resource Damage Assessment & Restoration
1011 E. Tudor Road, Anchorage, Alaska 99503
907/786 3309

Visit www.r7.fws.gov

January 2006

Kodiak Island Borough

Office of the Borough Mayor

710 Mill Bay Road
Kodiak, Alaska 99615
Phone (907) 486-9310 Fax (907) 486-9391
E-mail: jnielsen@kib.co.kodiak.ak.us

February 8, 2006

Senator Hollis French
State Capitol, Room 504
Juneau, AK 99801

Dear Senator French:

Subject: Letter of Support for SJR 17 and HJR 29

I am writing on behalf of myself and the Kodiak Island Borough Assembly to express support for Senate Joint Resolution No. 17 and House Joint Resolution No. 29.

On November 3, 2005, the Assembly unanimously adopted the attached resolution, Kodiak Island Borough Resolution No. FY2006-17, urging the United States Department of Justice and the State of Alaska to reopen the 1991 Civil Settlement from the Exxon Valdez Oil Spill and to claim the full $100 million for mitigation of unanticipated long-term harm.

The Assembly and I understand the importance of the need to develop plans to remedy the damages caused by the Exxon Valdez spill to coastal communities such as Kodiak. It is clearly in the interest of the citizens Kodiak and the citizens of Alaska to assert this claim for full payment.

Sincerely,

OFFICE OF THE MAYOR

Jerome M. Selby
Borough Mayor

Nj

Enclosure

N:\CL\MAYOR\Exxon.doc

Introduced by:	Mayor Selby
Requested by:	Assembly
Introduced:	11/03/2005
Adopted:	11/03/2005

KODIAK ISLAND BOROUGH
RESOLUTION NO. FY2006-17

A RESOLUTION OF THE KODIAK ISLAND BOROUGH ASSEMBLY URGING THE UNITED STATES DEPARTMENT OF JUSTICE AND THE STATE OF ALASKA TO REOPEN THE 1991 CIVIL SETTLEMENT FROM THE EXXON VALDEZ OIL SPILL AND CLAIM THE FULL $100 MILLION FOR MITIGATION OF UNANTICIPATED LONG-TERM HARM

WHEREAS, on October 9, 1991, the U.S. District Court of Alaska in Anchorage approved a settlement among Exxon, the United States, and the state of Alaska for damages to "natural resources" (publicly-owned wildlife and wild lands) from the Exxon Valdez oil spill (EVOS); and

WHEREAS, this settlement included a clause that provided a "Reopener for Unknown Injury," which states (essentially) that, between September 1, 2002, and September 1, 2006, Exxon shall pay to the Governments such additional sums as are required (up to $100 million) to restore oil-damaged populations, habitats, or species in the spill zone if the injury could not reasonably have been known nor anticipated at the time of the settlement; and

WHEREAS, unanticipated long-term harm from the Exxon Valdez oil spill has been clearly and conclusively demonstrated by scientists funded through the EVOS Trustee Council and, separately, through federal and state agencies, universities, and private foundations; and

WHEREAS, unforeseen damage includes delayed recovery of: 5-6 years for pink salmon, about 8 years for black oystercatchers and river otters; and 15 or more years for mussel beds and beach communities, sea otters, and fish-eating areas (from slow replacement of losses after spill); and

WHEREAS, unforeseen damage includes species not recovered after 15 or more years such as: harlequin ducks, Pacific herring, pigeon guillemots, harbor seals (from slow replacement of losses after spill), and mammal-eating orcas (from spill losses and impaired reproduction due to high body burdens of PCBs); and

WHEREAS, unforeseen damage includes indirect effects to species like black-legged kittiwakes that were not initially harmed by the spill, but were harmed through spill-related loss of prey species such as Pacific herring; and

WHEREAS, much of the documented unforeseen damage stems from unexpectedly high levels of spilled oil, which remains buried in the intertidal zone and which NOAA scientists now estimate will take at least another 20 years to naturally degrade; and

WHEREAS, all of these long-term damages from oil were completely unanticipated at the time of settlement because the understanding of oil toxicity then held that oil only caused short-term harm at water levels of parts per million, while scientists now realize that oil also causes long-term harm at water levels of parts per billion and trillion: and

WHEREAS, because of the scientific finding that oil is more toxic than previously thought, it is critical to educate the public as to this finding and take measures to reduce risk of spills as well as to mitigate lingering harm; and

WHEREAS, none of the three parties to the settlement-Exxon, the federal government or the State of Alaska-have petitioned to reopen the settlement.

NOW, THEREFORE, BE IT RESOLVED BY THE ASSEMBLY OF THE KODIAK ISLAND BOROUGH THAT the Assembly hereby urges the United States Department of Justice and the State of Alaska to Reopen the 1991 Civil Settlement From the Exxon Valdez Oil Spill and Claim the Full $100 Million for Mitigation of Unanticipated Long-Term Harm: and

BE IT FURTHER RESOLVED THAT the US Justice Department and the State of Alaska consider, at a minimum, the following potential mitigation projects:

Mitigation of lingering harm:

1. Monitor weathering and toxicity of residual oil under beaches
2. Monitor recovery of, and oil contamination in, subsistence foods on oiled beaches
3. Continue to monitor species that have not yet recovered
4. Establish, and compensate for, cost of unforeseen injury to species
5. Conduct a feasibility study and cohort epidemiology study on cleanup workers whose health may have been impaired by the EVOS cleanup
6. Study of treated and untreated beaches to determine if any treatment methods used during the EVOS cleanup actually worked; i.e., improved recovery of beach ecology over the long-term

Public education:

1. Fund an assessment of injured resources through the National Research Council
2. Fund a review and assessment of oil spill cleanup products that are not toxic to humans or the environment through the National Research Council
3. Develop and implement national education programs on new understanding that oil is more toxic than previously thought to humans and the environment (like tobacco industry settlement)

Measures to reduce risk of large spills:

1. Endow citizen oversight council for the Trans-Alaska Pipeline System (estimated cost: $25 million)

ADOPTED BY THE ASSEMBLY OF THE KODIAK ISLAND BOROUGH THIS THIRD DAY OF NOVEMBER 2005

Kodiak Island Borough

Jerome M. Selby, Borough Mayor

ATTEST:

Judith A. Nielsen, CMC, Borough Clerk

CITY OF CORDOVA

February 2, 2006

Senator Hollis French
State Capitol, Room 504
Juneau, AK 99801-1182

Senator French:

As Mayor of Cordova, I strongly support SJR17 and HJR29 urging the United States Department of Justice and the Alaska Department of Law to request the full $100,000,000 that is available through the "Reopener for Unknown Injury" clause of the 1991 civil settlement from the ExxonMobil Corporation. As you are aware, the residents of Cordova and the Prince William Sound natural resources were tremendously impacted in 1989 when the *Exxon Valdez* went aground spilling approximately 11 million gallons of North Slope crude oil into our pristine waters. Many lingering effects from that oil spill still remain today.

Independent research has shown without a doubt that several beaches in Prince William Sound still contain *Exxon Valdez* oil and it still remains highly toxic. This toxicity has affected the use of the beaches by locals for recreational and cultural uses. The Prince William Sound herring fishery collapsed in 1993 when juvenile recruitment herring, which were spawned shortly after the oil spill, failed to survive to become viable spawning adult fish. Recruitment failures of Prince William Sound herring remains a chronic problem. The Prince William Sound herring fishery at one time contributed between $5 million and $12 million a year to the Cordova economy. That once lucrative herring fishery no longer exists.

These are just two examples of the lingering effects from the Exxon Valdez oil spill that no one could foresee in 1991. At this time, no one has an answer on how to correct these lingering effects. The "Reopener for Unknown Injury" clause needs to be exercised so the issues of lingering effects can be addressed.

I have attached a resolution that passed unanimously by the Cordova City Council supporting the "Reopener for Unknown Injury" clause of the settlement. The city supports your efforts to fulfill the intent of the 1991 civil settlement from the ExxonMobile Corporation.

Sincerely,

Timothy L. Joyce
Mayor City of Cordova

TLJ:sb

Cc: Representative William Thomas
Senator Albert Kookesh

602 Railroad Avenue PO Box 1210 Cordova, Alaska 99574 Telephone (907) 424-6200 Fax (907) 424-6000

CITY OF CORDOVA, ALASKA
RESOLUTION 12-05-51

A RESOLUTION OF SUPPORT BY THE CITY COUNCIL OF THE CITY OF CORDOVA, ALASKA, TO REOPEN THE 1991 CIVIL SETTLEMENT FROM THE EXXON VALDEZ SPILL AND CLAIM THE FULL $100 MILLION FOR MITIGATION OF UNANTICIPATED LONG-TERM HARM

WHEREAS, on October 9, 1991, the U.S. District Court of Alaska in Anchorage approved a settlement among Exxon, the United States, and the state of Alaska for damages to "natural resources" (publicly-owned wildlife and wild lands) from the *Exxon Valdez* oil spill (EVOS); and

WHEREAS, this settlement included a clause that provided a "Reopener for Unknown Injury," which states (essentially) that, between September 1, 2002, and September 1, 2006, Exxon shall pay to the Governments such additional sums as are required (up to $100 million) to restore oil-damaged populations, habitats, or species in the spill zone *if the injury could not reasonably have been known nor anticipated at the time of the settlement;* and

WHEREAS, unanticipated long-term harm from the *Exxon Valdez* oil spill has been clearly and conclusively demonstrated by scientists funded through the EVOS Trustee Council and, separately, through federal and state agencies, universities, and private foundations; and

WHEREAS, unforeseen damage includes delayed recovery of: 5–6 years for pink salmon; about 8 years for black oystercatchers and river otters; and 15 or more years for mussel beds and beach communities, sea otters, and fish-eating orcas (from slow replacement of losses after spill); and

WHEREAS, unforeseen damage includes species not recovered after 15 or more years such as: harlequin ducks, Pacific herring, pigeon guillemots, harbor seals (from slow replacement of losses after spill), and mammal-eating orcas (from spill losses and impaired reproduction due to high body burdens of PCBs); and

WHEREAS, unforeseen damage includes indirect effects to species like black-legged kittiwakes that were not initially harmed by the spill, but were harmed through spill-related loss of prey species such as Pacific herring; and

WHEREAS, much of the documented unforeseen damage stems from unexpectedly high levels of spilled oil, which remains buried in the intertidal zone and which NOAA scientists now estimate will take at least another 20 years to naturally degrade; and

WHEREAS, all of these long-term damages from oil were completely unanticipated at the time of settlement because the understanding of oil toxicity then held that oil only caused short-term harm at water levels of parts per million, while scientists now realize that oil also causes long-term harm at water levels of parts per billion and trillion; and

WHEREAS, because of the scientific finding that oil is more toxic than previously thought, it is critical to educate the public as to this finding and take measures to reduce risk of spills as well as to mitigate lingering harm; and

WHEREAS, none of the three parties to the settlement—Exxon, the federal government, or the State of Alaska—have petitioned to reopen the settlement.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Cordova, Alaska, hereby requests the United States Department of Justice and the State of Alaska to reopen the 1991 civil settlement and claim the entire $100 million for mitigation projects; and

BE IT FURTHER RESOLVED THAT the US Justice Department and the State of Alaska consider, at a minimum, the following potential mitigation projects:

Mitigation of lingering harm:

1. Monitor weathering and toxicity of residual oil under beaches
2. Monitor recovery of, and oil contamination in, subsistence foods on oiled beaches
3. Continue to monitor species that have not yet recovered
4. Establish, and compensate for, cost of unforeseen injury to species
5. Conduct a feasibility study and cohort epidemiology study on cleanup workers whose health may have been impaired by the EVOS cleanup
6. Study of treated and untreated beaches to determine if any treatment methods used during the EVOS cleanup actually worked; i.e., improved recovery of beach ecology over the long-term

Public education:

1. Fund an assessment of injured resources through the National Research Council
2. Fund a review and assessment of oil spill cleanup products that are not toxic to humans or the environment through the National Research Council
3. Develop and implement national education programs on new understanding that oil is more toxic than previously thought to humans and the environment (like tobacco industry settlement)

Measures to reduce risk of large spills:

1. Endow citizen oversight council for the Trans-Alaska Pipeline System (estimated cost: $25 million)

PASSED AND APPROVED THIS 7TH DAY OF DECEMBER, 2005.

Timothy L. Joyce, Mayor

ATTEST:

Lila J. Koplin, City Clerk

Prince William Sound Science Center

Resolution 05-01

A Resolution urging the U.S. and Alaska Attorney Generals to file a claim for $100 million for unanticipated injury from the Exxon Valdez oil spill

Whereas the 1991 settlement between the United States, the State of Alaska and Exxon over damage to public's natural resources from the 1989 Exxon Valdez oil spill contains a provision allowing for additional claims up to $100 million for injury not known at the time of the settlement;

Whereas the Prince William Sound Science Center's scientific team has published recent research which details a pathway for injury from the oil spill to the Sound's Pacific herring popula n not known at the time of the settlement;

Whereas Exxon Valdez Oil Spill Trustee Council-sponsored research has conclusively shown that oil from the Exxon Valdez spill has lingered in the marine environment (including intertidal and subtidal areas) longer than originally anticipated and in a more toxic state than originally anticipated;

Therefore, be it resolved that the Prince William Sound Science Center Board of Directors urges the U.S. Attorney General and the State of Alaska Attorney General to file a claim before the U.S. District Court in the Exxon settlement case for unanticipated injury from the 1989 oil spill detailing this unanticipated injury and that these funds be used to restore the lingering damage in the following ways:

1. Endow a long-term (50 years or more) program to study and monitor the long-term life and effects of lingering Exxon Valdez oil in the marine environment, as well as to assess new remediation techniques, and to specifically include,
2. A long-term (50 years or more) herring research and restoration program to study the life history of Pacific herring and advise fisheries management entities on further restoration efforts.

Be it further resolved that the Prince William Sound Science Center offers and reaffirms its support to all parties involved in the process of objectively understanding these issues, whether dedicated to the "reopener," the existing restoration process, or ongoing monitoring and management of the incomparable and irreplaceable resources of Prince William Sound.

Edward H. Backus, Chair
Board of Directors

September 24, 2005

PWS Science Board Executive Committee
Edward H. Backus, Chair
Jerry Gallagher, 2nd Vice Chair
Molly McCammon, Secretary
Meera Kohler, 1st Vice Chair
Gale Vick, Treasurer
David Reggiani, Member-at-large

850914 (1) EES Env. Lit ENR

Chugach Regional Resources Commission

Chenega Bay
Eyak
Nanwalek
Port Graham
Qutekcak Native Tribe
Tatitlek
Valdez Native Tribe

August 3, 2005

The Honorable Alberto Gonzales, Attorney General
United States Department of Justice
950 Pennsylvania Avenue NW
Washington, DC 20530-0001

ENVIRONMENT & NATURAL RESOURCES DIVISION APPELLATE SECTION
2005 AUG 16 PM 1:19

Dear Mr. Attorney General:

We are writing to request the assistance of the United States Government in a matter related to the *Exxon Valdez* Oil Spill. A Memorandum of Agreement and Consent Degree dated October 8, 1991, was signed between the United States, the State of Alaska, and the Exxon Corporation. This document included a re-opener clause for unknown injury to populations, habitats, or species that have suffered a substantial loss as a result of the oil spill.

The clause states, in part, that "between September 1, 2002, and September 1, 2006, Exxon shall pay to the Governments such additional sums as are required for the performance of restoration projects in Prince William Sound and other areas affected by the Oil Spill to restore one or more populations, habitats or species which, as a result of the Oil Spill, have suffered a substantial loss or substantial decline in the areas affected by the Oil Spill; provided, however, that for a restoration project to qualify for payment under this paragraph, the project must meet the following requirements . . " These requirements include providing proof that "injury to the affected population, habitat or species could not reasonably have been known nor could it reasonably have been anticipated . . "

We are confident that existing evidence clearly shows that the conditions for meeting this re-opener are fully met. The *Exxon Valdez* Oil Spill (EVOS) Trustee Council has said that the species and resources of Prince William Sound are not fully recovered from the effects of the 1989 spill. Scientists have reached similar conclusions, e.g., C.H. Peterson et al., "Long Term Ecosystem Responses to the *Exxon Valdez* Oil Spill," 302 SCIENCE 2082 (Dec. 19, 2003). Finally, based upon our own observations and research, there are several species that have suffered damage not anticipated at the time of the 1991 consent

90-5-11-3343

AUG 24 2005

6200 Lake Otis Parkway, Suite 201, Anchorage, Alaska 99507, 907/562-6647, FAX 907/ 562-4939
A Tribal Organization Focusing on Natural Resource Issues Affecting the Chugach Region of Alaska

decree. All species located within the inter-tidal zone, Pacific herring, and harbor seals are just three examples of such damage, not to mention lingering oil.

There is documented proof in correspondence and written testimony that the Tribes in the oil spill affected area have repeatedly requested that the federal trustees meet their federal trust responsibility and work in the best interest of the Tribes in the restoration process. This has not been the case. Now the deadline for invoking the re-opener clause is nearing (September 1, 2006), and it does not appear that the federal go. ernment is showing any interest in pursuing this clause.

As part of its federal trust responsibility to Tribes, the Tribal leaders of the Native Villages of Tatitlek, Chenega Bay, Port Graham, Nanwalek, and Eyak are hereby requesting that the United States Government invoke the re-opener clause on behalf of the Tribal Governments affected by the *Exxon Valdez* Oil Spill. As our trustee, we are confident that you will agree with us that steps should be taken to secure this $100 million for the betterment of the environment, natural resources, and Tribes affected by the *Exxon Valdez* Oil Spill. Courts have said many times that the U.S. is duty-bound to act in the best interests of the Indian Tribes and to protect their natural assets and other properties.

The Ninth Circuit Court of Appeals has said that while Alaskan Natives may have suffered inordinately from the effects of this spill, the law can do nothing about it. In re Native Class, 104 F.3d 1196 (9th Cir. 1997). We know you cannot reverse this court decision, but you can rectify it. Please see the injustice that lingers here in the areas affected by the oil spill and collect for us the funds already set aside to improve the situation.

As Tribal Governments with members who depend upon the sea and its resources to maintain our subsistence lifestyle, we are very interested in how the settlement funds are spent. By our calculations, the EVOS Trustee Council devoted $4.9 million or .7 percent of the first $705 million it spent to Local Subsistence Related Projects. This meager amount does not even come close to what we believe should be spent to bring the resources back to pre-spill conditions. One way to address this inequity is to work towards invoking the re-opener clause and collect on the $100 million now due.

We are prepared to work with you to gather all the backup documentation to prove that a request to invoke the re-opener clause is both valid and necessary.

Thank you for your consideration of this request. We would appreciate a response by September 30, 2005, outlining your intentions. If we do not hear from you, we will assume you are not going to pursue the re-opener clause, at which time we will implement our own plan of action.

Sincerely,

Gary P. Kompkoff, Village Chief
Tatitlek Village IRA Council

Patrick Norman, First Chief
Port Graham Village Council

Robert Henrichs, President
Native Village of Eyak Traditional Council

Larry Evanoff, President
Chenega IRA Council

Emilie Swenning, First Chief
Nanwalek IRA Council

Senator Hollis French

Capitol Room 504
465-3892
465-6595 fax

MEMORANDUM

Date: February 1, 2006

To: Senator Tom Wagoner, Chair
Resources Committee

From: Senator Hollis French HFF

RE: Request for Hearing - SJR 17 – "Urging the United States Department of Justice and the Alaska Department of Law to identify all natural resource damages from the Exxon Valdez oil spill that were unanticipated at the time of the 1991 settlement, to develop plans to remedy the damages, and to present the ExxonMobil Corporation with a request for the full $100,000,000 that is available through the "Reopener for Unknown Injury" clause of the 1991 civil settlement to carry out these plans."

This is a request that you schedule a hearing on SJR 17 – "Urging the United States Department of Justice and the Alaska Department of Law to identify all natural resource damages from the Exxon Valdez oil spill that were unanticipated at the time of the 1991 settlement, to develop plans to remedy the damages, and to present the ExxonMobil Corporation with a request for the full $100,000,000 that is available through the "Reopener for Unknown Injury" clause of the 1991 civil settlement to carry out these plans."

I have attached a copy of the bill and a sponsor statement for your use. Additional materials will be made available to your committee aide prior to the hearing.

UNITED FISHERMEN OF ALASKA

211 Fourth Street, Suite 110
Juneau, Alaska 99801-1172
(907) 586-2820
(907) 463-2545 Fax
E-Mail: ufa@ufa-fish.org
www.ufa-fish.org

April 19, 2006

Senator Thomas Wagoner, Chair
Senate Resources Committee
Alaska State Legislature
State Capitol (Mail Stop 3100)
Juneau, AK 99801-1182

Dear Senator Wagoner,

The United Fishermen of Alaska (UFA) supports SJR 17 in support of the "reopener" clause of the Exxon Valdez settlement with the State of Alaska.

UFA is in full support of pursuing the reopener clause for unforeseen damages, with the primary evidence that herring stocks have not rebounded to pre-spill abundance levels. Herring was commercially harvested in Prince William Sound before the spill, and is a critical forage fish for salmon, halibut and other commercial fisheries. It is clear that Alaska's fishermen continue to suffer unforeseen damages resulting from the spill.

UFA represents 31 Alaska commercial fishing organizations from fisheries throughout the state and its offshore waters, altogether representing thousands of Alaska commercial fishermen. We appreciate your consideration of our input on this matter.

Sincerely,

Mark Vinsel
Executive Director

Cc: Senator Hollis French
Senator Johnny Ellis
Senator Kim Elton

TRUSTEES FOR ALASKA

A NonProfit, Public Interest, Environmental Law Firm

1026 W.4th Ave. Anchorage Alaska 99501 (907) 276-4244 (907) 276-7110 Fax
Email: ecolaw@ trustees.org

FACSIMILE COVER SHEET

Number of Pages Sent (including cover page): 31

Date: March 21, 2006

From: Ben Weaver (for Justin Massey)

RE: *Exxon Valdez* Oil Spill Reopener Restoration Planning Process

To:	Trustees Exxon Valdez Oil Spill Trustee Council	907 276 7178
Cc:	Dr. Rowan Gould, U.S. Department of the Interior	907 786 3306
	Craig O'Connor, National Oceanic & Atmospheric Administration	206 526 6665
	Steve Zemke, Chugach National Forest	907 743 9476
	Jim Balsiger, National Oceanic & Atmospheric Administration	907 586 7249
	Joe Meade, Chugach National Forest	907 743 9488
	Drue Pearce, U.S. Department of the Interior	202 219 0229
	Sen. Ted Stevens, U.S. Senate	202 224 2354
	Sen. Lisa Murkowski, U.S. Senate	202 224 5301
	Rep. Don Young, U.S. House of Representatives	202 225 0425
	Sen. Gary Stevens, Majority Leader, Alaska Senate	907 465 3517
	Sen. Johnny Ellis, Minority Leader, Alaska Senate	907 465 2529
	Sen. Thomas Wagoner, Chair, Committee on Resources, Alaska Senate	907 465 4779
	Sen. Albert Kookesh, Alaska Senate	907 465 2827
	Sen. Hollis French, Alaska Senate	907 465 6595
	Sen. Kim Elton, Alaska Senate	907 465 2108
	Rep. John Harris, Speaker, Alaska House of Representatives	907 465 3799
	Rep. John Coghill, Jr., Majority Leader, Alaska House of Representatives	907 465 3258
	Rep. Ethan Berkowitz, Minority Leader, Alaska House of Representatives	907 465 2137
	Rep. Jay Ramras, Co-Chair, Committee on Resources, Alaska House of Representatives	907 465 2070

Privileged and Confidential

Rep. Ralph Samuels, Co-Chair, Committee on Resources, Alaska House of Representatives	907 465 3810
Rep. Eric Croft, Alaska House of Representatives	907 465 4419
Rep. David Guttenberg, Alaska House of Representatives	907 465 3519
Rep. Beth Kerttula, Alaska House of Representatives	907 465 4748
Rep. Bill Thomas, Alaska House of Representatives	907 465 2652
Rep. Gabrielle LeDoux, Alaska House of Representatives	907 465 4956
Rep. Berta Gardner, Alaska House of Representatives	907 465 3834
Rep. Kurt Olson, Alaska House of Representatives	907 465 3835
Rep. Mike Chenault, Alaska House of Representatives	907 465 2833
Rep. Paul Seaton, Alaska House of Representatives	907 465 3472

Notes:

If you have any questions, please contact me at (907) 276-4244 Ext. 102 or bweaver@trustees.org

Thank you.

TRUSTEES FOR ALASKA

A Nonprofit Public Interest Law Firm Providing Counsel to Protect and Sustain Alaska's Environment

1026 W. 4th Ave., Suite 201 Anchorage, AK 99501 (907) 276-4244 (907) 276-7110 Fax Email: ecolaw@trustees.org
Web address: www.trustees.org

March 20, 2006

Trustees
Exxon Valdez Oil Spill Trustee Council
441 West 5th Avenue, Suite 500
Anchorage, AK 99501

Re: *Exxon Valdez* Oil Spill Reopener Restoration Planning Process

Dear Trustees:

Please accept this letter on behalf of the Alaska Center for the Environment, Alaska Forum for Environmental Responsibility, Alaska Public Interest Research Group, Cook Inlet Keeper, Cascadia Wildlands Project, Eyak Preservation Council, and the National Wildlife Federation.

On February 8, 2006, many of these organizations requested that you promptly initiate a process to engage the public in identifying unanticipated injury and in generating qualifying restoration projects under the "Reopener for Unknown Injury" section of the natural resource damages settlement arising out of the *Exxon Valdez* Oil Spill. Thank you for providing the names of State and federal decisionmakers and for adding a Reopener page to the Trustee Council website – the growing list of local governments, communities, and organizations that support reopening the settlement may also benefit from this information. We write, however, to renew our request that State and federal decisionmakers hold public meetings in Spill-affected communities to solicit public input regarding unanticipated injuries to affected populations, habitats, and species, and restoration projects to remedy these injuries, in time to influence the restoration plan that decisionmakers must submit to Exxon by June 1, 2006 under the terms of the Reopener.

You represent Alaskans and Americans in enforcing the largest natural resource damages settlement in American history. This is a historic moment. With approximately two months remaining to decide whether to seek up to $100 million for additional restoration projects under the Reopener, it is incumbent upon you to solicit the concerns and ideas of the people on whose behalf you act as Trustees. While we understand that Reopener decisions will not feature the transparent decisionmaking that otherwise applies to administrative actions because they will be made in the context of litigation, this merely heightens your obligation to visit affected communities and solicit public information about the long term impacts of the Spill. Public meetings in Spill-affected communities will be the most effective and efficient way to involve the public in generating information that will inform this historic decision.

We remind you that in 1991 both Exxon and the State and federal governments predicted rapid recovery of natural resources damaged by the Spill. Shortly before agreeing to the Reopener, for example, Exxon announced "a rapid recovery" of affected resources:

> [Exxon-commissioned studies] and other published studies describing the state of the ecology in the affected area demonstrate, among other things, that the water is clean, fish are abundant and safe to eat, and wildlife is thriving. . . .
>
> The extensive cleanup program conducted by Exxon, in combination with natural processes, removed the threat of further injury to wildlife by direct contact, substantially restored the aesthetic appeal of the area, and facilitated biologic recovery, particularly in the heavily oiled areas. Furthermore, the studies summarized herein demonstrate a rapid recovery of the impacted resources.

Notice of Lodging by Exxon Corporation and Exxon Shipping Company of Summary Regarding Natural Resources at att. at 1, 8, *United States v. Exxon Corporation et al.*, Nos. A91-082 Civ. (Apr. 16, 1991). Similarly, the governments predicted that injured resources would recover before Reopener funds would be necessary: "Based on the results of the damage assessment, the Governments do not believe that they will ever need to invoke [the Reopener]." *Governments' Memorandum in Support of Agreement and Consent Decree* at 28, *United States et al. v. Exxon Corporation et al*, Nos. A91-082 CIV & A91-083 CIV (Oct. 8, 1991).

Despite these optimistic predictions, and despite predictable disagreement by Exxon, science persuasively establishes that *Exxon Valdez* oil continues to injure natural resources:

> Disagreements exist between Exxon- and government-funded scientists [], and unknowns persist, especially in understanding how multiple processes combine to drive observed dynamics. Nevertheless, these uncertainties do little to diminish the general conclusions: oil persisted beyond a decade in surprising amounts and in toxic forms, was sufficiently bioavailable to induce chronic biological exposures, and had long-term impacts at the population level. Three major pathways of induction of long-term impacts emerge: (i) chronic persistence of oil, biological exposures, and population impacts to species closely associated with shallow sediments; (ii) delayed population impacts of sublethal doses compromising health, growth, and reproduction; and (iii) indirect effects of trophic and interaction cascades, all of which transmit impacts well beyond the acute-phase mortality.

Charles H. Peterson et al., *Long-Term Ecosystem Response to the Exxon Valdez Oil Spill*, 302 *Sci.* 2082 (Dec. 19, 2003) (internal citation omitted). Of greatest relevance to the Reopener, and of perhaps greatest concern to Alaskans and Americans, these injuries may persist for years or decades if left unaddressed. *See* Jeffrey W. Short et al., *Estimate of Oil Persisting on the Beaches of Prince William Sound 12 Years After the Exxon Valdez Oil Spill*, 38 *Envtl. Sci. &*

Tech. 19 (Nov. 1, 2004) (indicating that *Exxon Valdez* oil has declined in the environment at "an annual loss rate of 20- 26%, substantially slower than expected").

If *Exxon Valdez* oil persists as predicted, many of the nearly two dozen resources and services that have yet to recover from the Spill may remain injured indefinitely. *See Exxon Valdez* Oil Spill Trustee Council, *2004 Annual Report* 6-7 (2004) (reporting that 23 of 30 resources and services injured by the Spill have not recovered). It is thus essential that State and federal decisionmakers visit Spill-affected communities to engage the public in identifying unanticipated injuries and generating qualifying restoration projects.

In view of the important issues surrounding the Reopener, we request that you respond to our public meetings request by March 24, 2006 – the 17th anniversary of the Spill. On that day, various organizations, including those listed above, will host public events in Anchorage, Cordova, and perhaps other communities to commemorate the Spill. These events will emphasize the importance of meaningful public participation in the injury assessment and restoration process, with particular attention to the Reopener. Your timely response will enable the organizers to inform attendees of the opportunities that State and federal decisionmakers will provide for public participation in the Reopener process.

In planning a public process, please provide at least two weeks of public notice prior to public meetings, and please conclude the process in time to enable decisionmakers to incorporate the information received into a restoration plan that decisionmakers must submit to Exxon by June 1, 2006. As you are aware, this complicated issue will require preparation to ensure an exchange of valuable and relevant information.

Thank you again for your efforts to restore the magnificent natural resources damaged by the Spill and to hold Exxon accountable for the *Exxon Valdez* Oil Spill. Thank you in advance for promptly attending to this matter. Please contact me if I can provide further information.

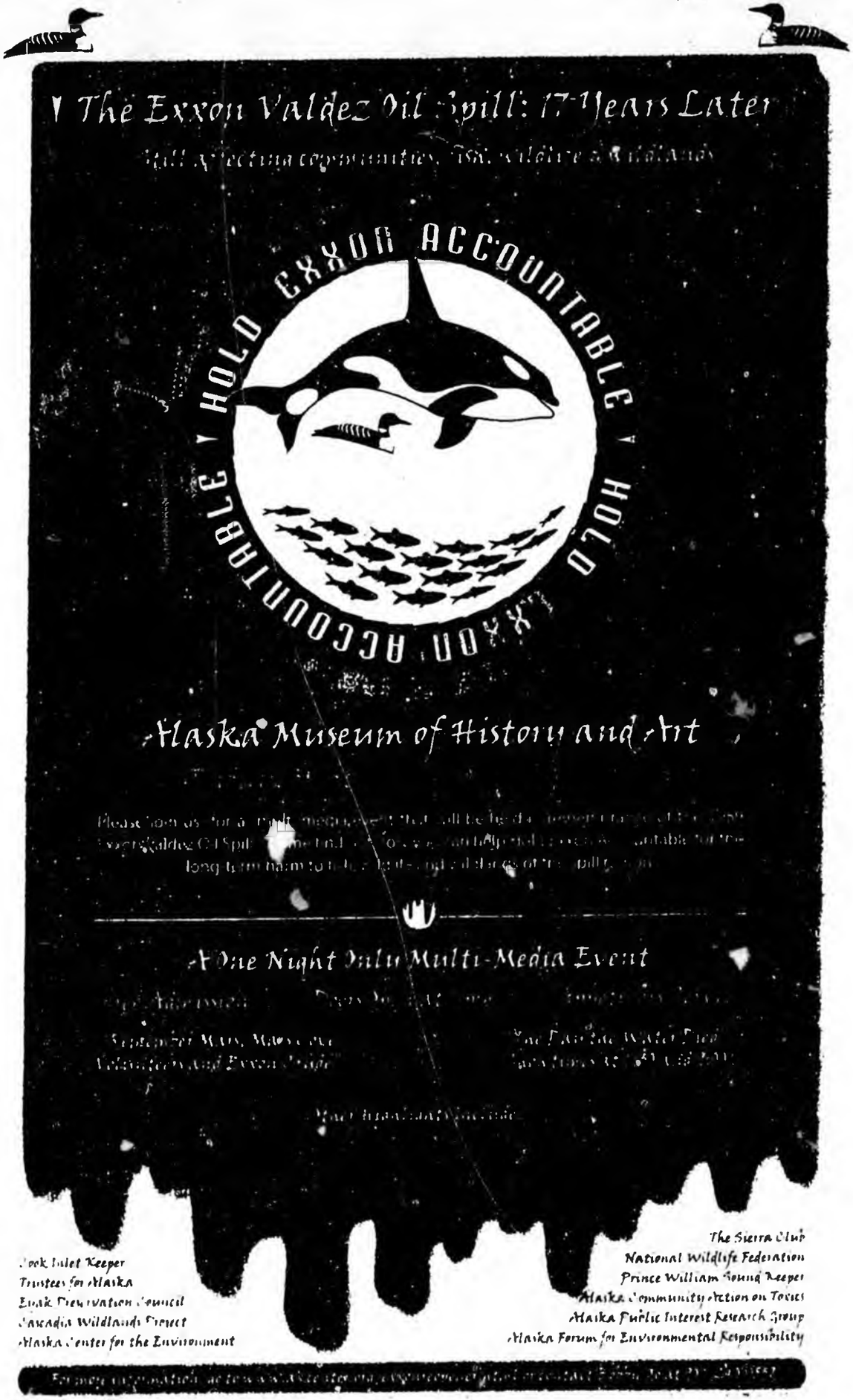
Yours truly,

Justin Massey
Staff Attorney

Enclosures

Cc: Dr. Rowan Gould, U.S. Department of the Interior
Craig O'Connor, National Oceanic & Atmospheric Administration
Steve Zemke, Chugach National Forest
Jim Balsiger, National Oceanic & Atmospheric Administration
Joe Meade, Chugach National Forest
Drue Pearce, U.S. Department of the Interior
Sen. Ted Stevens, U.S. Senate

Sen. Lisa Murkowski U.S. Senate
Rep. Don Young, U.S. House of Representatives
Sen. Gary Stevens, Majority Leader, Alaska Senate
Sen. Johnny Ellis, Minority Leader, Alaska Senate
Sen. Thomas Wagoner, Chair, Committee on Resources, Alaska Senate
Sen. Albert Kookesh, Alaska Senate
Sen. Hollis French, Alaska Senate
Sen. Kim Elton, Alaska Senate
Rep. John Harris, Speaker, Alaska House of Representatives
Rep. John Coghill, Jr., Majority Leader, Alaska House of Representatives
Rep. Ethan Berkowitz, Minority Leader, Alaska House of Representatives
Rep. Jay Ramras, Co-Chair, Committee on Resources, Alaska House of Representatives
Rep. Ralph Samuels, Co-Chair, Committee on Resources, Alaska House of Representatives
Rep. Eric Croft, Alaska House of Representatives
Rep. David Guttenberg, Alaska House of Representatives
Rep. Beth Kertula, Alaska House of Representatives
Rep. Bill Thomas, Alaska House of Representatives
Rep. Gabrielle LeDoux, Alaska House of Representatives
Rep. Berta Gardner, Alaska House of Representatives
Rep. Kurt Olson, Alaska House of Representatives
Rep. Mike Chenault, Alaska House of Representatives
Rep. Paul Seaton, Alaska House of Representatives


The Exxon Valdez Oil Spill: 17 Years Later
HOLD EXXON ACCOUNTABLE
Alaska Museum of History and Art
A One Night Only Multi-Media Event
Cook Inlet Keeper
Trustees for Alaska
Kenai Preservation Council
Cascadia Wildlands Project
Alaska Center for the Environment
The Sierra Club
National Wildlife Federation
Prince William Sound Keeper
Alaska Community Action on Toxics
Alaska Public Interest Research Group
Alaska Forum for Environmental Responsibility

CITY OF KODIAK
RESOLUTION NUMBER 05–44

A RESOLUTION OF THE COUNCIL OF THE CITY OF KODIAK REQUESTING THE 1991 CIVIL SETTLEMENT OF THE EXXON VALDEZ OIL SPILL BE REOPENED

WHEREAS, on October 9, 1991, the U.S. District Court of Alaska in Anchorage approved a settlement among Exxon, the United States, and the State of Alaska for damages to "natural resources" (publicly-owned wildlife and wild lands) from the *Exxon Valdez* oil spill (EVOS); and

WHEREAS, this settlement included a clause that provided a "Reopener for Unknown Injury," which states (essentially) that, between September 1, 2002, and September 1, 2006, Exxon shall pay to the Governments such additional sums as are required (up to $100 million) to restore oil-damaged populations, habitats, or species in the spill zone *if the injury could not reasonably have been known nor anticipated at the time of the settlement;* and

WHEREAS, unanticipated long-term harm from the *Exxon Valdez* oil spill has been clearly and conclusively demonstrated by scientists funded through the EVOS Trustee Council and, separately, through federal and state agencies, universities, and private foundations; and

WHEREAS, unforeseen damage includes delayed recovery of: five-six years for pink salmon; about eight years for black oyster catchers and river otters; and 15 or more years for mussel beds and beach communities, sea otters, and fish-eating orcas (from slow replacement of losses after spill); and

WHEREAS, unforeseen damage includes species not recovered after 15 or more years such as: Harlequin ducks, Pacific herring, pigeon guillemots, harbor seals (from slow replacement of losses after spill), and mammal-eating orcas (from spill losses and impaired reproduction due to high body burdens of PCBs); and

WHEREAS, unforeseen damage includes indirect effects to species like black-legged kittiwakes that were not initially harmed by the spill, but were harmed through spill-related loss of prey species such as Pacific herring; and

WHEREAS, much of the documented unforeseen damage stems from unexpectedly high levels of spilled oil, which remains buried in the intertidal zone and which NOAA scientists now estimate will take at least another 20 years to naturally degrade; and

WHEREAS, all of these long-term damages from oil were completely unanticipated at the time of settlement because the understanding of oil toxicity then held that oil only caused short-term harm at water levels of parts per million, while scientists now realize that oil also causes long-term harm at water levels of parts per billion and trillion; and

WHEREAS, because of the scientific finding that oil is more toxic than previously thought, it is critical to educate the public as to this finding and take measures to reduce risk of spills as well as to mitigate lingering harm; and

WHEREAS, none of the three parties to the settlement—Exxon, the federal government, or the State of Alaska—have petitioned to reopen the settlement.

NOW, THEREFORE, BE IT RESOLVED that the Council of the City of Kodiak, Alaska, as part of the Exxon Valdez Oil Spill Region, hereby requests the United States Department of Justice and the State of Alaska to reopen the 1991 civil settlement and claim the entire $100 million for mitigation projects, exclusive of additional land purchases; and

BE IT FURTHER RESOLVED, that the U.S. Justice Department and the State of Alaska consider, at a minimum, the following potential mitigation projects:

Mitigation of lingering harm:

1. Monitor weathering and toxicity of residual oil under beaches
2. Monitor recovery of, and oil contamination in, subsistence foods on oiled beaches
3. Continue to monitor species that have not yet recovered
4. Establish, and compensate for, cost of unforeseen injury to species
5. Conduct a feasibility study and cohort epidemiology study on cleanup workers whose health may have been impaired by the EVOS cleanup
6. Study of treated and untreated beaches to determine if any treatment methods used during the EVOS cleanup actually worked; i.e., improved recovery of beach ecology over the long-term

Public education:

1. Fund an assessment of injured resources through the National Research Council
2. Fund a review and assessment of oil spill cleanup products that are not toxic to humans or the environment through the National Research Council
3. Develop and implement national education programs on new understanding that oil is more toxic than previously thought to humans and the environment (like tobacco industry settlement)

CITY OF KODIAK

Carolyn Floyd
MAYOR

ATTEST:

Debra Marlar
CITY CLERK

Adopted: November 17, 2005

CITY OF KODIAK ALASKA

ALASKA MUNICIPAL LEAGUE
RESOLUTION #2006-07

A RESOLUTION OF SUPPORT BY THE ALASKA MUNICIPAL LEAGUE TO REOPEN THE 1991 CIVIL SETTLEMENT FROM THE EXXON VALDEZ SPILL AND CLAIM THE FULL $100 MILLION FOR MITIGATION OF UNANTICIPATED LONG-TERM HARM

WHEREAS, on October 9, 1991, the U.S. District Court of Alaska in Anchorage approved a settlement among Exxon, the United States, and the State of Alaska for damages to "natural resources" (publicly owned wildlife and wild lands) from the Exxon Valdez oil spill (EVOS); and

WHEREAS, this settlement included a clause that provided a "Reopener for Unknown Injury," which states (essentially) that, between September 1, 2002 and September 1, 2006, Exxon shall pay to the Governments such additional sums as are required (up to $100 million) to restore oil-damaged populations, habitats, or species in the spill zone *if the injury could not reasonably have been known nor anticipated at the time of the settlement;* and

WHEREAS, unanticipated long-term harm from the Exxon Valdez oil spill has been clearly and conclusively demonstrated by scientists funded through the EVOS Trustee Council and, separately, through federal and state agencies, universities, and private foundations; and

WHEREAS, unforeseen damage includes <u>delayed recovery</u> of 5-6 years for pink salmon; about 8 years for black oystercatchers and river otters; and 15 or more years for mussel beds and beach communities, sea otters, and fish-eating orcas (from slow replacement of losses after spill); and

WHEREAS, unforeseen damage includes <u>species not recovered</u> after 15 or more years such as: harlequin ducks, Pacific herring, pigeon guillemots, harbor seals (from slow replacement of losses after spill), and mammal-eating orcas (from spill losses and impaired reproduction due to high body burdens of PCBs); and

WHEREAS, unforeseen damage includes <u>indirect effects</u> to species like black-legged kittiwakes that were not initially harmed by the spill, but were harmed through spill-related loss of prey species such as Pacific herring; and

WHEREAS, much of the documented unforeseen damage stems from unexpectedly high levels of spilled oil, which remains buried in the intertidal zone and which NOAA scientists now estimate will take at least another 20 years to naturally degrade; and

WHEREAS, all of these long-term damages from oil were completely unanticipated at the time of settlement because the understanding of oil toxicity then held that oil only caused short-term harm at water levels of parts per million, while scientists now realize that oil also causes long-term harm at water levels of parts per billion and trillion; and

WHEREAS, because of the scientific finding that oil is more toxic than previously thought, it is critical to educate the public as to this finding and take measures to reduce risk of spills as well as to mitigate lingering harm; and

WHEREAS, none of the three parties to the settlement – Exxon, the federal government, or the State of Alaska – have petitioned to reopen the settlement.

NOW, THEREFORE BE IT RESOLVED that the Alaska Municipal League hereby requests the United States Department of Justice and the State of Alaska to reopen the 1991 civil settlement and claim the entire $100 million for mitigation projects; and

BE IT FURTHER RESOLVED that the U.S. Justice Department and the State of Alaska consider, at a minimum, the following potential mitigation projects:

Mitigation of Lingering Harm

1. Monitor weathering and toxicity of residual oil under beaches
2. Monitor recovery of, and oil contamination in, subsistence foods on oiled beaches
3. Continue to monitor species that have not yet recovered
4. Establish, and compensate for, cost of unforeseen injury to species
5. Conduct a feasibility study and cohort epidemiology study on cleanup workers whose health may have been impaired by the EVOS cleanup
6. Study of treated and untreated beaches to determine if any treatment methods used during the EVOS cleanup actually worked; i.e., improved recovery of beach ecology over the long-term

Public Education

1. Fund as assessment of injured resources through the National Research Council
2. Fund a review and assessment of oil spill cleanup products that are not toxic to humans or the environment through the National Research Council
3. Develop and implement national education programs on new understanding that oil is more toxic than previously thought to humans and the environment (like tobacco industry settlement)

Measures to reduce risk of large spills:

1. Endow citizen oversight council for the Trans-Alaska Pipeline System (estimated cost, $25 million)

Introduced by:	Martin
Date:	12/06/05
Action:	Adopted as Amended
Vote:	7 Yes, 2 No

KENAI PENINSULA BOROUGH
RESOLUTION 2005-105

A RESOLUTION SUPPORTING REOPENING THE 1991 CIVIL SETTLEMENT FROM THE EXXON VALDEZ OIL SPILL AND CLAIMING THE FULL $100 MILLION FOR MITIGATION OF UNANTICIPATED LONG-TERM HARM

WHEREAS, On October 9, 1991, the U.S. District Court of Alaska in Anchorage approved a settlement among Exxon, the United States, and the State of Alaska for damages to "natural resources" (publicly owned wildlife and wild lands) from the Exxon Valdez oil spill (EVOS); and

WHEREAS, this settlement included a clause that provided a "Reopener for Unknown Injury," which states (essentially) that between September 1, 2002, and September 1, 2006, Exxon shall pay to the governments such additional sums as are required (up to $100 million) to restore oil-damaged populations, habitats, or species in the spill zone *if the injury could not reasonably have been known nor anticipated at the time of the settlement*; and

WHEREAS, unanticipated long-term harm from the Exxon Valdez oil spill has been clearly and conclusively demonstrated by scientists funded from the EVOS Trustee Council and separately through federal and state agencies, universities, and private foundations; and

WHEREAS, the severity and duration of the impact this oil spill would have on the native villages in Kachemak Bay, as well as the entire coastline of the Kenai Peninsula extending south from Seward to the west side of the Kenai Peninsula was not, and could not have reasonably been known as the above-described effects on species have drastically damaged these areas and the native village lifestyle, economics and populations; and

WHEREAS, all of these long-term damages from oil were completely unanticipated at the time of settlement because the understanding of oil toxicity then held that oil only caused short-term harm at water levels of parts per million, while scientists now realize that oil also causes long-term hard at water levels of part per billion and trillion; and

WHEREAS, none of the three parties to the settlement – Exxon, the federal government, or the State of Alaska – have petitioned to reopen the settlement;

NOW, THEREFORE, BE IT RESOLVED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH:

SECTION 1. That the Kenai Peninsula Borough Assembly hereby requests the United States Department of Justice and the State of Alaska to reopen the 1991 civil settlement and claim the entire $100 million for mitigation projects; and

SECTION 2. That copies of this resolution shall be sent to Governor Frank Murkowski, Senator Thomas Wagoner, Senator Gary Stevens, Senator Con Bunde, Senator Albert Kookesh, Representative Woodie Salmon, Representative Mike Hawker, Representative Mike Chenault, Representative Kurt Olson, Representative Paul Seaton, U.S. Attorney Timothy M. Burgess and Department of Natural Resources Commissioner Michael Menge.

SECTION 3. This resolution takes effect immediately upon its adoption.

ADOPTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 6TH DAY OF DECEMBER, 2005.

Ron Long, Assembly President

ATTEST:

Sherry Biggs, Borough Clerk

KENAI PENINSULA BOROUGH 1964

Alaska Citizens for the Chugach
RESOLUTION 01-05-06

A RESOLUTION OF SUPPORT FROM THE ALASKA CITIZENS FOR THE CHUGACH TO REOPEN THE 1991 CIVIL SETTLEMENT FROM THE EXXON VALDEZ SPILL AND CLAIM THE FULL $100 MILLION FOR MITIGATION OF UNANTICIPATED LONG-TERM HARM

WHEREAS: On October 9, 1991, the U.S. District Court of Alaska in Anchorage approved a settlement among Exxon, the United States, and the state of Alaska for damages to "natural resources" (publicly-owned wildlife and wild lands) from the *Exxon Valdez* oil spill (EVOS); and

WHEREAS: This settlement included a clause that provided a "Reopener for Unknown Injury," which states (essentially) that, between September 1, 2002, and September 1, 2006, Exxon shall pay to the Governments such additional sums as are required (up to $100 million) to restore oil-damaged populations, habitats, or species in the spill zone *if the injury could not reasonably have been known nor anticipated at the time of the settlement;* and

WHEREAS: Unanticipated long-term harm from the *Exxon Valdez* oil spill has been clearly and conclusively demonstrated by scientists funded through the EVOS Trustee Council and, separately, through federal and state agencies, universities, and private foundations; and

WHEREAS: Unforeseen damage includes delayed recovery of: 5–6 years for pink salmon; about 8 years for black oystercatchers and river otters; and 15 or more years for mussel beds and beach communities, sea otters, and fish-eating orcas (from slow replacement of losses after spill); and

WHEREAS: Unforeseen damage includes species not recovered after 15 or more years such as: harlequin ducks, Pacific herring, pigeon guillemots, harbor seals (from slow replacement of losses after spill), and mammal-eating orcas (from spill losses and impaired reproduction due to high body burdens of PCBs); and

WHEREAS: Unforeseen damage includes indirect effects to species like black-legged kittiwakes that were not initially harmed by the spill, but were harmed through spill-related loss of prey species such as Pacific herring; and

WHEREAS: Much of the documented unforeseen damage stems from unexpectedly high levels of spilled oil, which remains buried in the intertidal zone and which NOAA scientists now estimate will take at least another 20 years to naturally degrade; and

WHEREAS: All of these long-term damages from oil were completely unanticipated at the time of settlement because the understanding of oil toxicity then held that oil only caused short-term harm at water levels of parts per million, while scientists now realize that oil also causes long-term harm at water levels of parts per billion and trillion; and