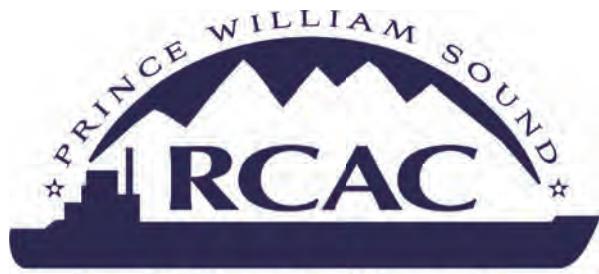


THE OBSERVER A publication of the Prince William Sound Regional Citizens' Advisory Council

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Regional Citizens' Advisory Council

THE OBSERVER

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Regional Citizens' Advisory Council

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Sale of BP's Alaska assets to Hilcorp under scrutiny Additional information needed to address concerns

The sale of BP's Alaska assets to Hilcorp Energy Company and affiliates is still pending approval by the Regulatory Commission of Alaska, or RCA, and other state agencies.

The RCA, within Alaska's Department of Commerce, regulates utilities and pipeline carriers in the State of Alaska. Other State of Alaska agencies are advising the RCA on aspects of the transaction and have their own statutory authority to approve or deny the transaction.

Hilcorp's request for confidential financial documents is questioned

Hilcorp filed financial information in late 2019 and requested that the RCA keep those documents and the sales agreement confidential. They argued that releasing these documents to the public would cause "competitive harm."

During a comment period last November, and again during a hearing in February, the RCA heard from many members of the public, including the Council, who encouraged more transparency by releasing the financial information. The Council is seeking assurances that equipment, personnel, commitment to safety, and the resources necessary to prevent and adequately respond to an oil spill will remain at current levels or above.

In February, the RCA ordered that the sales agreement would remain confidential, and required Hilcorp to

submit further information with specific details on how releasing the financial documents would hurt their business as claimed. Hilcorp also needed to convince the RCA that the harm to Hilcorp would outweigh the public's interest.

On March 12, the RCA ruled that the financial documents would remain confidential.

An unexpected twist

Soon after that March 12 ruling, the financial markets tumbled due to the coronavirus pandemic and oil prices collapsed. A March 25 letter from the Council

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Alyeska cleaning up oil spilled from the Valdez Marine Terminal

On April 12, a sheen was reported in the vicinity of the Valdez Marine Terminal.

The source of the spill was identified as a sump located uphill from Port Valdez. Oil had seeped

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State of Alaska's oil spill prevention and response funding unsustainable

Council voices support for full funding

The State of Alaska's Oil and Hazardous Substances Release Prevention and Response Fund is in trouble. Funding for the prevention of spills is projected to be in a deficit by 2025.

Reduced pipeline flow contributes to shortfall

The amount of money going into the accounts ebbs and flows according to how many barrels flow through the pipeline. The amount of oil, which peaked in 1988 at 2.1 million barrels a day, has slowed considerably over the years and is now averaging just over 500,000 barrels a day. The revenues from the .95 cent surcharge on refined fuels were also originally overestimated. These factors, combined with lack of adjustment for inflation, have all resulted in the shortfall.

Response account used for contaminations other than oil and gas

Compounding the revenue problems, money from the response account has recently been used for sites that have been contaminated with per- and poly-fluoroalkyl substances, or PFAS, which is a group of potentially toxic human-made chemicals. It is possible that more funds from this account will be targeted for PFAS testing and remediation in future years. As a result, the fund balance is shrinking and Alaska's ability to respond adequately to a major oil spill may be at risk.

How does this spill prevention and response fund work? Where does the money come from?

Commonly referred to as the "470 Fund" after the bill that created the law in 1986, it was meant to ensure adequate funds are on hand for immediate response to major spills, as well as for maintaining an effective prevention program. Designed to be self-sustaining, this fund pays for the State's efforts to prevent spills of oil and other hazardous substances and the State's ability to be prepared and respond quickly to spills when they happen.

Currently, crude and refined oil industries are the only contributors to the fund, even though the response account is used for other hazardous substances, such as the previously mentioned PFAS, acid, drilling mud, antifreeze and for remediation of junkyards containing a multitude of hazardous substances..

Effects of reduced funds

The director of the Alaska Department of Environmental Conservation's Division of Spill Prevention and Response, Denise Koch, spoke with the Council during a recent meeting, voicing concerns about how this shortage could affect the State. She reported that her department is under pressure to reduce its budget, with seven positions eliminated for the upcoming fiscal year. Without an increase in revenue they may lose additional positions in future years.

Council supports stable and adequate funding

During a meeting in January, the Council reaffirmed its position on the 470 Fund, and passed a motion supporting:

- Revenue adjustments that include an increase in the .95 cent surcharge on refined fuel products.
- Inflation-proofing the fund.

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To accomplish this, a 5-cents-per-barrel tax is paid to the State by the producers of the crude oil that flows through the Trans Alaska Pipeline System. The 470 fund is separated into two accounts: Four of the five cents go into an account for spill prevention, and one cent goes into an account to support response. Additionally, a .95 cent surcharge on refined fuel products is collected for spill prevention. Both accounts collect settlement penalties and interest earnings. Those who spill substances are also required to reimburse the State for those costs.



New Board member for Chugach Alaska

At the January meeting, the Council's Board of Directors seated a new member, Ben Cutrell, as the representative for Chugach Alaska Corporation.

Cutrell was born and raised in Wasilla, Alaska. He moved to Anchorage to pursue a Bachelor's of Natural Science and Biology from the University of Alaska Anchorage. Upon completion of his degree, he went to work for Chugach Alaska Corporation. At Chugach, he works in the Lands department on special projects that help protect and preserve Corporation and heritage land for future generations.



Ben Cutrell

Cutrell replaced Peter Andersen, who resigned in late 2019. Cutrell was also seated as a member-at-large on the Executive Committee, filling the seat left vacant by Andersen.

COVID-19 affects Council activities

Both Council offices (Anchorage and Valdez) are temporarily closed as a safety precaution due to COVID-19. Council staff are performing key job functions remotely and are still conducting business. All committee meetings are being held via video and teleconference. More information and updates available on our website:

www.bit.ly/PWSRCACcovid19

Crews cleaning up spill at Valdez Terminal

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through the ground to reach the water.

All responders have been required to adhere to safety guidelines to mitigate the spread of COVID-19. Council staff and volunteers have been monitoring the situation from a safe distance.

More information and updates on this incident will be included in the next edition of the Observer and on our website: www.bit.ly/2020VMTSpill



Above photo taken on April, 16, 2020.

The terminal's small boat harbor (bottom right of photo), is where the sheen first appeared. Small vessels (center) tend to multiple layers of oil spill boom.

A tanker loads oil at a berth in the distance. Oil did not threaten the far berth and loading was safe to continue.

Photo on page 1 taken on April 18, 2020.

Spill photos courtesy of Unified Command. Higher resolution photos are available on our website.



Sale of BP's Alaska assets to Hilcorp under scrutiny

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to the RCA recommended that the RCA require updated financial information to assist with its fit, willing, and able analysis. The Council was encouraged by an order from the RCA on April 2, which asked Hilcorp and Harvest to submit additional details on their financial fitness in the wake of the coronavirus crisis. As The Observer went to press, the Council was waiting to hear about Hilcorp's response, which was due May 4.

"As we have stated in the past, the Council is not opposed to this transaction," the Council stated in its March 25 letter. "It just wants to be sure the state conducts its due diligence responsibilities and that Hilcorp is fit and able to carry-out its significantly increased and critically important responsibilities associated with this transaction, including the prevention of oil spills and the capacity to respond if one should occur."

The RCA has set a self-imposed deadline of September 28 for its final approval of the sale.

Who is responsible for oversight?

Several departments in Alaska's government are involved in this sale. The Department of Commerce, Department of Natural Resources, the Attorney General, the Department of Environmental Conservation, the Department of Fish and Game, and the Department of Labor and Workforce Development all have a role.

Department of Commerce: The five-member RCA, as well as the Alaska Oil and Gas Conservation Commission, are under this department. Both commissions are "quasi-judicial," meaning they hold hearings, conduct investigations, and make decisions much like a court trial.

Their role is to determine whether Hilcorp and its affiliates are financially fit and able to own and support the operation of BP's Alaska assets, and whether the transaction is in the best interest of the state. The Alaska Oil and Gas Conservation Commission oversees financial

bonding for this transaction.

Department of Natural Resources: Within this department, the Division of Oil and Gas has several responsibilities. The State Pipeline Coordinator is working with the RCA to ensure the companies are financially fit. Other sections are conducting legal analyses, monitoring changes in land leases and permits, and managing the change of operators.

The division's commercial section is also examining the companies' financial resources. The section has their own in-house experts plus they contract with an independent third party for additional analysis.

If the sale is approved, this section will be responsible for continually monitoring Hilcorp and affiliates' financial fitness in the future. They will review annual financial statements from the companies and can request additional insurance coverage if the company's financial situation changes.

Department of Environmental Conservation: This department is responsible for ensuring the companies prove they have the financial resources to prevent and clean up any spills, and that any necessary changes are made to existing contingency plans.

Department of Fish and Game: This department oversees permits that could adversely affect Alaska's fish habitats.

Department of Labor and Workforce Development: This department has been assisting BP employees that have been laid off due to the sale.

Dismantling the pipeline and terminal

The land that the pipeline and terminal sit on is leased from the federal and state governments. The lease agreement includes a commitment to dismantle and remove all equipment and restore the land to an acceptable condition

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Sale of BP's Alaska assets to Hilcorp under scrutiny

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after the system is no longer operating.

The sales agreement states that BP will retain the responsibility for decommissioning existing assets. As the new owners, Hilcorp and its affiliates would be responsible for any additional equipment or infrastructure installed after the sale is complete.

In 2005, the cost of decommissioning the Trans Alaska Pipeline and Valdez Marine Terminal was estimated at over \$2.6 billion.

The operators of the pipeline system collect tariffs to pay for this future commitment. Currently, it is estimated that the owners have collected over \$5 billion. The money is not in a trust, however. BP and the other owners keep this money and note the obligation in their annual financial reports.

In 2004, the Council recommended this money be placed in an external trust in case the pipeline changed owners. The Council reiterated this in recent comments to the RCA.

It is unclear to the Council how this commitment to dismantle could be enforced, potentially 40 years in the future, with BP, a company that would no longer have a presence in the state. Hilcorp and its affiliates' role in this commitment is still being examined.

The April order by the RCA required additional information on this issue to be submitted by May 4.

Read more

Council-sponsored report from 2004 by Richard Fineberg on dismantling the pipeline and restoring the land: www.bit.ly/SaleScrutiny

Department of Natural Resources information on the sale: www.bit.ly/DNRHilcorp

Cover and header photos taken during 2019 Spring Fishing Vessel Training by Jeremy Robida.

State of Alaska's spill prevention and response unsustainable

Continued from page 2

- Broadening the tax base to collect revenue from non-oil industries that are served by the fund but do not currently contribute it.

Delays due to coronavirus

There was significant support for making the funding sustainable in both the Senate and House but the legislature recessed early due to coronavirus concerns and did not address the issue. The Council hopes to see a revenue adjustment during either a special session or next year.

Prince William Sound Regional Citizens' Advisory Council

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



Who we are

The Council is an independent, non-profit corporation formed after the 1989 Exxon Valdez oil spill to minimize the environmental impacts of the Trans Alaska Pipeline System's terminal and tanker fleet.

The Council is a voice for the people, communities, and interest groups in the region oiled by the Exxon Valdez spill.

Those with the most to lose from oil pollution must have a voice in the decisions that can put their livelihoods and communities at risk.

A voice for citizens: www.pwsrcac.org