

| |
|--|
| Briefing for PWSRCAC Board of Directors – January 2020 |
|--|

INFORMATION ITEM

| | |
|---|--|
| <u>Sponsor:</u> | Joe Lally, Betsi Oliver, & Linda Swiss |
| <u>Project number and name or topic:</u> | 6000 - Oil Spill Response Program/ADEC's C-Plan Regulation Scoping Process |

1. **Description of agenda item:** Staff will provide an update on the Council's efforts in response to a public scoping notice issued on October 15, 2019, by the Alaska Department of Environmental Conservation (ADEC). ADEC's public scoping notice is to solicit comments and input from stakeholders, the public, and industry on areas where Alaska oil spill regulations (18 AAC 75, Article 4) and Alaska State Statute 46.04 (AS 46.04), specifically the discharge prevention and contingency plan (c-plan) requirements, can be streamlined. AS 46.04, the basis for oil spill regulations, contains many key laws designed to prevent oil spills and ensure that there are enough trained responders and equipment in place should prevention measures fail. For instance, AS 46.04 includes Alaska's Oil Spill Response Planning Standards (RPS) that were created after the 1989 Exxon Valdez oil spill as a direct result of the massive failure of the spill response system at that time.

The press release from ADEC announcing this scoping process included the following quote from ADEC Commissioner Jason Brune: "I've heard from many Alaskans that contingency plans are unnecessarily burdensome while lacking corresponding environmental benefits. To achieve Governor Dunleavy's goal of being open for business, today we are beginning a fully transparent scoping process seeking the public's input."

PWSRCAC is concerned that ADEC's c-plan reform initiative could result in changes that could significantly weaken the world-class oil spill prevention and response system in Prince William Sound. This system is a direct result of post-Exxon Valdez spill laws and regulations designed to protect Alaskans and our environment, as well as commercial and sport fishing, aquaculture, recreation, tourism, subsistence, and cultural interests. Staff will provide a status update on our efforts in response to ADEC's scoping process, including outreach activities to engage PWSRCAC's member organizations and other interested stakeholders in our region, encouraging them to engage in this process. Materials created for the public regarding this topic can be found at www.pwsrcac.org/regulatoryreform.

On December 6, 2019, SPAR Director Denise Koch informed the Council that the deadline to provide comments to ADEC on the scoping effort has been extended to March 16, 2020. Comments can be submitted to ADEC electronically at: <http://alaskadec.commentinput.com>. Alternately, comments can be mailed to:

Seth Robinson, Alaska Department of Environmental Conservation
Division of Spill Prevention and Response – Prevention, Preparedness, and
Response Program
610 University Avenue
Fairbanks, AK 99709
dec.cpr@alaska.gov

To view all comments that have been submitted to ADEC to date, visit:
<http://alaskadec.commentinput.com/comment/extra?id=fdLgJY2gM>

2. **Why is this item important to PWSRCAC:** Maintaining strong oil spill prevention and response standards is a key objective for PWSRCAC. Any rollbacks in regulations have the potential to result in cuts to the existing prevention and response system. PWSRCAC recently commissioned a report about the history and legislative intent of Alaska's strong Response Planning Standards, titled "Alaska's Oil Spill Response Planning Standard - History and Legislative Intent." A link to the report can be found here: www.bit.ly/LegislativeIntent. Every individual interviewed for this report spoke about their involvement in creating and establishing Alaska's response planning standards with a profound sense of accomplishment. These individuals were adamant that if the system created after the 1989 spill were to be weakened or removed, Alaskans would face the risk of reliving an event that is still deeply impressed upon all who lived through it. In oil spills as in many things, we must learn from history and endeavor never to repeat the past.

3. **Previous actions taken by the Board on this item:**

| <u>Meeting</u> | <u>Date</u> | <u>Action</u> |
|----------------|-------------|---|
| Board | 10/29/19 | Approved Resolution 19-03, "Safeguarding Alaska's Oil Spill Prevention and Response Standards." |
| Board | 10/29/19 | Approved a budget modification adding \$40,000 to 6000 Oil Spill Response program/professional services for regulatory review assistance. |

4. **Summary of policy, issues, support or opposition:** The position taken by the Council in Resolution 19-03 is to strongly advise against any legislative or regulatory changes that erode oil spill prevention and response standards, increase the risk of a catastrophic spill, or demonstrate a return of the complacency on the part of oil industry and regulators that Congress determined to be a primary cause of the Exxon Valdez oil spill. The Council also believes that if the system created after the 1989 spill is weakened, Alaskans will likely face an increased risk of reliving another major oil spill that could damage Alaska's commercial, sport, and subsistence fishing; sport and subsistence hunting; other businesses; fish, wildlife, and environment; and the culture and quality of life of the people. In this Resolution, the Council also advised ADEC to halt the public scoping process until detailed information is provided to the public as to the driving factors that led to this regulatory and statutory reform initiative, identifying the Alaskans, including individuals, companies, and organizations, who have contacted them with claims that the existing regulations are too burdensome, and by providing information on the statutes and regulations ADEC claims can be eliminated or significantly reformed. The Council strongly recommends that Alaskans interested in maintaining safety standards designed to protect the state's environment, people, and economy from catastrophic oil spills contact ADEC to register their views regarding any weakening of existing safeguards.

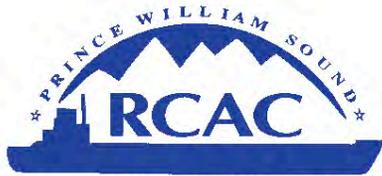
5. **Committee Recommendation:** All five technical committees have been kept apprised of ADEC's Regulation Scoping Process, and have been involved and in support of the actions that have been taken by the Council so far. All PWSRCAC committee volunteers are encouraged to provide input on future actions planned to ensure the

protection of the c-plan regulations and statutes that have been so successful in preventing another catastrophic oil spill for more than 30 years.

6. **Action Requested of the Board of Directors:** No action is requested, as the agenda item is for information only. However, each Director is asked to take individual action over the next couple of months to encourage their member entities and other stakeholders to contact ADEC to register their views regarding any weakening of existing safeguards.

7. **Attachments:** Resolution 19-03: "Safeguarding Alaska's Oil Spill Prevention and Response Standards."

This page intentionally left blank.



Regional Citizens' Advisory Council / "Citizens promoting environmentally safe operation of the Alyeska terminal and associated tankers."

In Anchorage: 3709 Spenard Road / Suite 100 / Anchorage, Alaska 99503 / (907) 277-7222 / FAX (907) 277-4523
 In Valdez: P.O. Box 3089 / 130 South Meals / Suite 202 / Valdez, Alaska 99686 / (907) 834-5000 / FAX (907) 835-5926

MEMBERS

**Resolution 19-03
 Safeguarding Alaska's Oil Spill Prevention and Response Standards**

Alaska State Chamber of Commerce

WHEREAS, after the 1989 *Exxon Valdez* oil spill, Congress found that complacency on the part of industry and regulators played a role in the spill, the public trust was broken, and one way to combat this complacency and rebuild trust was to involve the public, those with the most to lose in the event of a large spill, in decisions that affect the safe transportation of oil;

Chugach Alaska Corporation

City of Cordova

WHEREAS, Congress enacted the Oil Pollution Act of 1990 that included, among other things, the creation of citizen advisory councils for Cook Inlet and Prince William Sound;

City of Homer

City of Kodiak

WHEREAS, after the *Exxon Valdez* oil spill, Alaska citizens and the Alaska Legislature worked together to protect the state from major oil spills by enacting comprehensive laws and regulations dealing with prevention, response, contingency planning, financial responsibility, oversight, monitoring, and other subjects related to the safe handling and transportation of oil and other hazardous substances;

City of Seldovia

City of Seward

City of Valdez

WHEREAS, these laws and regulations were based on real world experiences and the painful lessons of the *Exxon Valdez* oil spill and were crafted in coordination with State government and oil industry partners, requiring extensive compromise in the determined Response Planning Standards¹;

City of Whittier

Community of Chenega

WHEREAS, oil spill prevention and response contingency planning regulations were adopted by the State of Alaska in 1992, and the regulations have been revised on nine occasions to clarify the requirements, streamline the review process, and make the process of drafting contingency plans less onerous and the review of those plans more predictable and expeditious;

Community of Tatitlek

Cordova District Fishermen United

WHEREAS, as a result of post-*Exxon Valdez* oil spill laws and regulations, Alaska has world-class oil spill prevention and response requirements to protect its people and its environment, as well as commercial and sport fishing, aquaculture, recreation, tourism, subsistence, and cultural interests;

Kenai Peninsula Borough

Kodiak Island Borough

WHEREAS, on October 15, 2019, the State of Alaska's Department of Environmental Conservation Commissioner issued a public scoping notice seeking input on existing regulations and statutes because he has "heard from many Alaskans that contingency plans are unnecessarily burdensome while lacking corresponding environmental benefits," and that his Department has identified regulations that can be eliminated or significantly reformed;

Kodiak Village Mayors Association

Oil Spill Region Environmental Coalition

Port Graham Corporation

WHEREAS, despite repeated requests, the Alaska Department of Environmental Conservation has yet to identify the companies, organizations, or Alaskans that

Prince William Sound Aquaculture Corporation

¹ To find out more about the history and legislative intent of Alaska's strong Response Planning Standards, read the Council's August 2018 report [Alaska's Oil Spill Response Planning Standard - History and Legislative Intent](#).

have said the existing system is too burdensome, or identify the regulations or statutes they believe can be eliminated or significantly reformed;

WHEREAS, it is unreasonable for the Department of Environmental Conservation to claim now, after 30 profitable years of industry compliance with the laws and regulations, that they are too burdensome, and this claim disregards the hard work of hundreds of Alaskans who worked tirelessly after the *Exxon Valdez* oil spill to create oil spill prevention and response standards, to ensure that the State of Alaska would never again suffer an environmental disaster like the *Exxon Valdez* oil spill;

WHEREAS, reducing the burden on industry by rolling back or eliminating proven oil spill prevention and response requirements transfers the risk and burden of another oil spill to the communities, citizens, and environment; and

WHEREAS, Alaska's Congressional Delegation has steadfastly supported over the past thirty years prudent and sensible actions to help lessen the risks, trauma, and injury to Alaska from another major oil spill.

NOW THEREFORE BE IT RESOLVED, that, in its statutory advisory role, the Prince William Sound Regional Citizens' Advisory Council strongly advises against any legislative or regulatory changes that erode oil spill prevention and response standards, increase the risk of a catastrophic spill, or demonstrate a return of the complacency on the part of oil the industry and regulators that Congress determined to be a primary cause of the *Exxon Valdez* oil spill;

BE IT FURTHER RESOLVED, that the Prince William Sound Regional Citizens' Advisory Council believes that, if the system created after the 1989 spill is weakened, Alaskans will likely face an increased risk of reliving another major oil spill that could damage Alaska's commercial, sport and subsistence fishing, sport and subsistence hunting, other businesses, fish, wildlife, environment, and the culture and quality of life of the people;

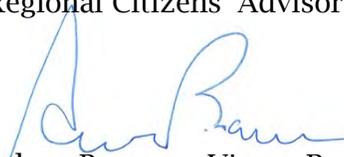
BE IT FURTHER RESOLVED, that the Prince William Sound Regional Citizens' Advisory Council advises that the State of Alaska halt this Public Scoping process until detailed information is provided to the public as to the driving factors that led to this regulatory and statutory reform initiative, identifying the Alaskans, including individuals, companies and organizations, who have contacted them with claims that the existing regulations are too burdensome, and by providing information on the statutes and regulations the Department claims can be eliminated or significantly reformed; and

BE IT FURTHER RESOLVED, that the Prince William Sound Regional Citizens' Advisory Council strongly recommends that Alaskans interested in maintaining safety standards designed to protect the state's environment, people, and economy from catastrophic oil spills contact the Alaska Department of Environmental Conservation to register their views regarding any weakening of existing safeguards.

PASSED and APPROVED by the Prince William Sound Regional Citizens' Advisory Council Board of Directors on this 29th day of October, 2019.



Robert Archibald, President of PWSRCAC and Executive Committee Member, Representative from the City of Homer



Amanda Bauer, Vice President of PWSRCAC and Executive Committee Member, Representative from the City of Valdez

Wayne Donaldson

Wayne Donaldson, Treasurer of PWSRCAC and Executive Committee Member, Representative from the City of Kodiak

Bob Shavelson

Bob Shavelson, Secretary of PWSRCAC and Executive Committee Member, Representative from the Oil Spill Region Environmental Coalition

Thane Miller
Thane Miller, Executive Committee Member-at-Large, Representative from the Prince William Sound Aquaculture Corporation

Peter E. Andersen
Peter Andersen, Executive Committee Member-at-Large, Representative from the Chugach Alaska Corporation

Unavailable for Signature

Rebecca Skinner, Executive Committee Member-at-Large, Representative from the Kodiak Island Borough

Patience Andersen Faulkner
Patience Andersen Faulkner, Representative from Cordova District Fishermen United

Luke Hasenbank
Luke Hasenbank, Representative from the Alaska State Chamber of Commerce

Michael Bender
Michael Bender, Representative from the City of Whittier

Conrad Peterson
Conrad Peterson, Representative from the Kodiak Village Mayors Assn.

Rob Chadwell
Rob Chadwell, Representative from the City of Seward

Roy Totemoff
Roy Totemoff, Representative from Tatitlek Corporation and Tatitlek IRA Council

Michael Vigil
Michael Vigil, Representation from Chenega Corporation and Chenega IRA Council

Dorothy M. Moore
Dorothy Moore, Representative from the City of Valdez

Mako Haggerty
Mako Haggerty, Representative from the Kenai Peninsula Borough

Robert Beedle
Robert Beedle, Representative from the City of Cordova

Kirk Zinck
Kirk Zinck, Representative from the City of Seldovia

This page intentionally left blank.