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Transportation Research Board
The National Academies
500 Fifth Street, NW
Washington, D.C. 20001
c/o Dr. Beverley Huey via email: bhuey@nas.edu

RE: Comment on the NAS Scoping of Risk of Vessel Accidents and Spills in the Aleutian Islands: A Study to Design a Comprehensive Risk Assessment

Dear Dr. Huey, Committee and Board Members:

Would you please consider these comments and my communications with Dr. Huey, (16 prior emails with attached and referenced documents), in preparation of your scoping study for spill risk assessment in the Aleutian Islands? Although there are many risks and risk mitigation measures that should be considered in your study, my primary concern and overriding impediment to effective risk mitigation is the deliberate resistance to implementation of risk mitigation measures already promulgated in state and federal regulations and otherwise mandated by legislation. It is well understood that examination regulatory oversight is a far departure from normal risk assessment, given a broadly accepted perception of the good faith of regulators, the expressed and implied resistance to implementation of both general and explicit regulatory requirements in this instance presents overwhelming evidence that typical risk assessment would be largely futile in the present regulatory climate that harbors untenable conflicts of interest and derelict regulators. A fair consideration of the evidence presented herein necessarily requires findings and a conclusion in the scoping study that the comprehensive risk assessment to come must, as a prerequisite, closely examine both regulatory policy and practice that has been a monumental impediment to implementation of codified spill prevention and mitigation in the Aleutian region. Any future substantive risk mitigation measures developed from this process must be considered equally at the mercy of derelict regulators.

The most obvious dereliction is the USCG refusal to require Geographic Specific Appendices to Vessel Response Plans for regulated vessels transiting the Aleutian Exclusive Economic Zone on route to or from US ports as expressed in the previously supplied letter to Senator Murkowski from Admiral Allen. My inquiry into this matter started three years ago when I was preparing the previously supplied Report on the

Selendang Ayu Incident for Parker Associates, Inc. The applicable regulations are unambiguous in that without a compliant GSA for all Captain of the Port zones transited, barring one initial qualified exemption, regulated vessels may not be permitted to enter US ports and are subject to penalties for violating the regulations. My inquiries to multiple levels of USCG command were met with resistance, specious regulatory interpretations and false information regarding the lack of tanker traffic through the Aleutians, (emails attached and previously supplied). My concerns were renewed when these same omissions and misrepresentations were proffered during the Port and Waterways Safety Assessment regarding Aleutian vessel traffic. Communications with Captain Hudson of USCG District 17 garnered the same misrepresentations but eventually revealed that there was indeed significant tanker traffic through the Aleutians but the identities of these tank vessels were deliberately concealed despite repeated requests to Capt. Hudson. Most of the above referenced communications, relevant information and a letter of inquiry, (letter previously supplied with the suggestion to acquire the CDs from Smith), were later sent to the Commandant's representative, LCDR Rob Smith, subsequent to a direct inquiry on the matter when Admiral Allen accepted public inquiry during a Washington Journal interview last year. Although LCDR Smith stated the Commandant's response to my inquiry was completed in December, (letter and email previously supplied), he also stated that the response was delayed for review by USCG legal counsel. Admiral Allen's response has not been received to date and the USCG continues its questionable regulatory practices that, as shown, has placed subsidy of international trade over law enforcement, (see recounting of communications between Arne Fuglvog and the USCG Congressional Liaison as well as my communications with Capt. Hudson).

The latest example questionable regulatory practice is the permitting of the Zaliv Amerika. The attached files show that this tanker, carrying persistent oils between Cook Inlet and Asian ports, has been granted Alternative Compliance for the Western Alaska COTP zone despite Capt. Stanton's assurance that such permits were only to be issued to non-persistent oil carriers on a temporary basis, (1997 Agreement attached). These temporary compliance waivers were started in 1991 and required full compliance by 2003 but have been expanded in time and scope to now include international persistent oil trade, well beyond the initial justification of subsidizing fuel costs to remote Alaskan villages. The Alaska Department of Environmental Conservation has been a party to these illegitimate agreements despite the lack of any state statutory or regulatory authority to grant such waivers and in clear violation of state law requiring permittees' planning for tanker spills out to 200 nm from state shorelines, (see Issue #1 Geographic Scope in attached Informal Review documents).

Irrespective of the legitimacy of the permits issued or willful blindness to under-regulated vessel traffic, both state and federal laws require planning and preparation for government response to spills from unidentified sources and vessels in innocent passage to the same degree that is otherwise required for regulated vessels, (see Report and supporting regulations). The only response resources listed in the joint state and federal Aleutian Subarea Contingency Plan are the resources of the Alaska Chadux Corporation that are, at best, only appropriate for response in calm, low-current inland waters and whose members are also receiving the contestable waivers from full regulatory compliance while supplying their resources for inclusion in the Subarea Plan without payment of OSRO membership fees by the responsible government agencies. The Subarea Plan and the Alternative Compliance Agreements are so much more suspect where the listing of skimmers and boom are obviously made in bad faith where there are virtually no commensurate dedicated deployment or oil storage vessels capable of open ocean operation shown in the plans, necessarily rendering any of the required timely lightering, skimmer deployment or oil recovery operations impotent. There are similarly no in-region salvage, firefighting or source control resources and spill detection tracking resources listed as required by federal and state laws respectively.

These failures to fully regulate vessels subject to regulation and accept responsibility for unregulated traffic raises the necessary adjunct of assigning costs to the appropriate responsible parties that will remain a major “stumbling block” to implementation of any and all risk mitigation recommendations that may result from a comprehensive risk assessment. These deficiencies portend an exacerbated conflict among regulated shippers and between shippers and regulatory agencies over the costs for a greatly expanded set of spill prevention and response assets need to fully comply with all applicable laws in the Aleutian region. It is therefore requested that the scoping study include an assessment of cost liabilities across the full range of regulated vessels and regulatory agencies. A prime example of the dispute to come involves costs associated with salvage towing vessels required to comply with USCG regulations anticipated to come into effect in February of next year. These rescue tugs will need to serve a wide range of vessel sizes and the smallest regulated vessels will not want to pay an equal share of the cost of the very powerful tugs needed to bring the largest tankers and cargo ships under control in the severe Aleutian conditions. A comprehensive risk assessment must therefore posit an equitable cost-sharing matrix for a single set of appropriate resources to ensure timely deployment of the assets without encumbering OSROs, shippers and regulators with the undue burden of acquiring redundant assets appropriate to each of the vastly different size vessels subject to regulation. A similar problem will undoubtedly occur in

consideration of the spill response assets required for large tankers as opposed to non-tank vessels.

There are additional logistical and technological problems apart from the institutional constraints cited above that would also affect the efficacy of risk mitigation:

- Although the USCG is overdue in implementing the statutory requirement to perform satellite tracking of vessels, there is apparently no commensurate requirement to actually perform the vessel traffic management that would be necessary to timely detect disabled vessels and prevent traffic conflicts, particularly in narrow passages between islands.
- Laden tanker escorting should be considered as a required spill prevention measure in these high traffic passages, particularly Unimak Pass.
- Spill prevention and cargo lightering is particularly essential for risk reduction for regulated chemical tankers that carry soluble cargo as there is no hope of recovery of the cargo once spilled. Regulators must require sufficient numbers of dedicated lightering vessels that can timely respond and pump/store a wide range of caustic chemicals and oils. The lightering vessels must be capable of “standoff” lightering as this use of high capacity pumps can accomplish in hours what took months in the case of the Selendang Ayu with helicopters.
- Vessel groundings and some foundering events could be reduced with improved anchoring systems- The grounding of the Selendang Ayu was ultimately caused by two failures of the redundant anchoring system. The vessel dragged each anchor in heavy seas and each anchor line snapped when the anchor finally held ground. Multiple BP tankers have recently had anchors fail simply riding in their mounts in heavy seas. Improved anchoring systems should be investigated to develop legislation requiring higher standards for anchor weight and strength as well as anchor line length and strength to provide for effective anchoring in deeper waters and in more severe weather/current conditions. More stringent inspection should also be required.
- Vessel groundings, collisions and foundering could be substantially reduced if ships were constructed with fully independent propulsion, steering, electric power and fuel systems- Although the Braer had redundant propulsion, it grounded due to contaminated fuel and these systems should be fully independent with advanced fuel filtering and inspection requirements.
- Vessel fuel tank locations in the ship can substantially affect the probability of puncture and fire control- The president of Totem Shipping testified in a Congressional hearing on the Cosco Busan Spill that he has built all of his vessels

to minimize the potential of fuel tank punctures by installing the fuel tanks vertically and inset from the outer hull, effectively creating a double hull for the ships' fuel tanks. Federal legislation would be required to phase out use of horizontal fuel tanks coincident with the outer hull of the ship in US waters. The feasibility of retrofitting the inset, vertical fuel tank configuration should be studied to assess the need for grandfathering or delaying implementation on older ships, but new construction ships past a date certain, (2011?), should have this configuration mandated. Fire control is also enhanced where there is less fuel surface area in vertical tanks.

- Despite a delay of more than 18 years, the proposed USCG firefighting regulation does not appear to set any discernable standard for firefighting assets and industry standards appear equally vague. Recent designs for European salvage tugs, escort tugs and fireboats for oil terminals are generally categorized as at least FIFI I with several ABS classed as FIFI II, FIFI I & II or FIFI III at the total discretion of the naval architect. A minimal standard of FIFI I should be required for VLCCs with FIFI I & II recommended for new built rescue towing/salvage vessels.
- The only area on the planet with substantially more severe receiving environments is the Antarctic Ocean. Responders must be prepared to transit and operate in severe sea states, high currents in fiords and between islands and cope with surface icing around islands and in ice floes where currents can cause oil migration Northward from the Transpacific shipping lanes, (http://images.google.com/imgres?imgurl=http://www.ecofoci.noaa.gov/images/1995Apr.gif&imgrefurl=http://www.ecofoci.noaa.gov/efoci_photoborder.shtml&h=512&w=640&sz=20&hl=en&start=6&tbnid=_GYVBapFw7-BmM:&tbnh=110&tbnw=137&prev=/images%3Fq%3Dmap%2Bof%2Bice%2Bin%2Bbering%2Bsea%26gbv%3D2%26hl%3Den%26safe%3Doff%26sa%3DG). Potential oil production in the region requiring crude oil tanker traffic as well as existing North/South vessel traffic present a spill threat to the Aleutian region from both oil migration and vessel routes. All tugs, lightering vessels, skimming vessels, skimmers and boom must be designed to cope with operation in all of these severe and problematic conditions under the proposed USCG regulations and existing ADEC regulations. To that end, I have suggested “straw man” designs for a rescue/salvage/firefighting tug-SXT 121, a lightering/heavy lift barge and the AP OSRV with Tow Pods, (see emails to Shell and SERVS Open Water 3.pdf).
- The “best” real time spill tracking required by state regulation is totally absent in the Aleutians and woefully understated elsewhere in Alaska. I have therefore suggested that the Be-200 aircraft with the Canadian Dash 8 sensor package be

considered in the required comparative technology analysis of real time spill tracking options, (see Informal Review documents and SERVS Open Water 3.pdf). A laser fluorosensor and microwave radiometer long used by German surveillance aircraft, (attached), would also be helpful in positively identifying the pollution and quantifying the volume of oil in the spill. The data link capability of the Eurohawk should be considered as the “best technology” standard and an essential element of aerial surveillance and spill response fleet management.

Although there are many other concerns regarding regulatory oversight and risk mitigation, many of these issues have already been, at least partially, addressed by other stakeholders and my prior commitment to Prince William Sound issues demands I leave the more comprehensive analyses to your further investigation. Please provide a comprehensive listing of the documents you have/will collect in this matter and provide an opportunity to further contribute to public meetings and any resultant work product.

Sincerely, Tom Lakosh