

## STATEMENT OF THE SECRETARY OF TRANSPORTATION

SAMUEL K. SKINNER

BEFORE THE

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

SUBCOMMITTEE ON ENVIRONMENTAL PROTECTION

UNITED STATES SENATE

APRIL 19, 1989

9:00 A.M., ROOM 216, SENATE HART BUILDING

**ALASKA OIL SPILL**

GOOD MORNING MR. CHAIRMAN,

THE OIL SPILL IN PRINCE WILLIAM SOUND IS ONE OF THE WORST ENVIRONMENTAL AND ECONOMIC DISASTERS THIS NATION HAS EVER FACED. THIS TRAGEDY NOT ONLY REQUIRES A MASSIVE COMMITMENT OF PEOPLE AND MONEY TO CONTAIN AND CLEAN UP THE SPILL BUT A REEVALUATION OF OUR WHOLE APPROACH TO THE WATER-BORNE TRANSPORTATION OF OIL. THAT INCLUDES REVIEW OF CONTINGENCY PLANS FOR DEALING WITH OIL SPILLS AND A FRESH COMMITMENT TO ENACTING COMPREHENSIVE OIL SPILL LIABILITY AND COMPENSATION LEGISLATION.

I WANT TO COMMEND THE COMMITTEE FOR ITS FORCEFUL LEADERSHIP IN THIS AREA. THE PRESIDENT AND I ARE TOTALLY COMMITTED TO THE PROTECTION OF OUR MARINE ENVIRONMENT AND LOOK FORWARD TO WORKING

WITH THIS COMMITTEE TO STRENGTHEN OUR LAWS, REGULATIONS AND OPERATING PROCEDURES.

I THINK THAT THE FEDERAL GOVERNMENT MOVED MORE QUICKLY AND BOLDLY THAN GENERALLY ACKNOWLEDGED AND THE DECISION NOT TO RELIEVE THE POLLUTER, THE EXXON CORPORATION, OF ITS PRIMARY RESPONSIBILITY FOR CLEANING UP THE DAMAGE IT HAS CAUSED, WAS THE CORRECT DECISION, UNDER THE CIRCUMSTANCES. NONETHELESS, THIS DISASTER HAS POINTED OUT AREAS WE CAN STRENGTHEN.

THIS MORNING I WILL BE ADDRESSING THE ADEQUACY OF THE OIL SPILL CONTINGENCY PLAN AND ITS IMPLEMENTATION IN PRINCE WILLIAM SOUND, AND THE ADEQUACY OF FEDERAL REGULATION AND OVERSIGHT IN THIS AREA.

THE CONTINGENCY PLAN FOR PRINCE WILLIAM SOUND, DEVELOPED AFTER ENACTMENT OF THE TRANS-ALASKA PIPELINE AUTHORIZATION ACT IN 1973, WAS REQUIRED BY THE STATE OF ALASKA AS A CONDITION OF THE FACILITY'S OPERATING PERMIT. THE FOCUS OF THE PLAN WAS THREEFOLD: NOTIFICATION; RECONNAISSANCE; AND SPILL CONTROL. ALL THREE OF THOSE FACTORS NEED REEVALUATION. CLEARLY, THE CONTINGENCY PLAN WAS INADEQUATE TO DEAL WITH THE ENORMITY OF THE EXXON VALDEZ SPILL. IT WAS BASED ON A MAXIMUM PROBABLE SPILL OF 74,000 BARRELS OF OIL. THE SPILL THAT OCCURRED WAS MORE THAN THREE TIMES THAT AMOUNT. FURTHERMORE, CONTAINMENT EFFORTS WERE HAMPERED BY THE RAPIDITY WITH WHICH THE OIL Poured INTO THE WATER, THE REMOTENESS OF THE LOCATION AND THE FACT THAT IT OCCURRED IN

THE MIDDLE OF THE NIGHT, AS WELL AS BY DEFICIENCIES IN THE PLAN AND ITS IMPLEMENTATION.

WITH REGARD TO ITS SPECIFIC DEFICIENCIES, WE ARE DEVELOPING A REPORT TO THE PRESIDENT IDENTIFYING EXACTLY WHAT WENT WRONG. THIS REPORT SHOULD BE AVAILABLE WITHIN THE NEXT FEW WEEKS. ALTHOUGH IT WOULD BE PREMATURE OF ME TO SPECULATE ON THE CONCLUSIONS THAT WILL BE REACHED, I WILL BE HAPPY TO MAKE THOSE FINDINGS AVAILABLE TO THE COMMITTEE WHEN THEY ARE COMPLETED.

THE PRESIDENT HAS ALSO DIRECTED A REVIEW OF CONTINGENCY PLANS NATIONWIDE, TO DETERMINE THEIR ADEQUACY IN LIGHT OF THE LESSONS LEARNED FROM THIS SPILL AND THE CRITICAL IMPORTANCE OF AN ADEQUATE AND TIMELY RESPONSE. THE NATIONAL RESPONSE TEAM, ESTABLISHED PURSUANT TO THE CLEAN WATER ACT AND THE COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION AND LIABILITY ACT HAS BEEN DIRECTED TO UNDERTAKE THIS REEVALUATION OF EXISTING PLANNING AND TO REPORT ITS FINDINGS AND RECOMMENDATIONS WITHIN THE NEXT SIX MONTHS. THIS TEAM IS CO-CHAIRLED BY THE COAST GUARD AND THE ENVIRONMENTAL PROTECTION AGENCY. ONE KEY ISSUE TO BE EXAMINED IS WHETHER THE MAXIMUM PROBABLE SPILL LEVELS NEED TO BE SIGNIFICANTLY INCREASED. IF THEY DO, THE CONTINGENCY PLANS WILL NEED TO BE STRENGTHENED AS WELL, TO REFLECT INCREASED MANPOWER AND EQUIPMENT NEEDS.

AS YOU ARE AWARE, WE ARE CURRENTLY ACTIVELY INVOLVED IN THE CLEANUP OPERATION IN PRINCE WILLIAM SOUND. THE PRESIDENT HAS ASKED ME TO SERVE AS HIS PERSONAL LIAISON TO THE CLEANUP EFFORTS AND TO BE RESPONSIBLE FOR MOBILIZING AND COORDINATING ALL OF THE FEDERAL DEPARTMENTS AND AGENCIES, AS NECESSARY. ADMIRAL YOST, THE COMMANDANT OF THE COAST GUARD, IS OVERSEEING THE OPERATION PERSONALLY AS THE COORDINATING DIRECTOR AND IS WORKING WITH EXXON AND THE GOVERNOR OF ALASKA. A SUBSTANTIAL COMPLEMENT OF COAST GUARD EQUIPMENT AND PERSONNEL IS ALREADY ON THE SCENE AND ADDITIONAL FEDERAL RESOURCES ARE BEING MADE AVAILABLE. I WILL PROVIDE TO THE COMMITTEE A DETAILED LIST OF THE FEDERAL RESOURCES NOW IN ALASKA. A SIMPLE, EXPEDITIOUS AND NON-EXCLUSIVE CLAIMS PROCEDURE IS BEING ESTABLISHED BY EXXON TO PROVIDE TEMPORARY ASSISTANCE TO THOSE DAMAGED BY THE SPILL. I WILL WORK WITH EXXON, THE ALASKA CONGRESSIONAL DELEGATION, STATE AUTHORITIES AND OTHER AGENCIES TO DEVELOP LOAN PROGRAMS TO ASSIST THOSE WHO HAVE SUFFERED ECONOMIC LOSSES. IDENTIFYING THE DEFICIENCIES OF ALYESKA'S CONTINGENCY PLAN, REEVALUATING--NATIONWIDE--THE ADEQUACY OF OUR CONTINGENCY PLANNING FOR EMERGENCIES OF THIS TYPE, AND COMMITTING A SUBSTANTIAL FEDERAL PRESENCE IN VALDEZ, ARE BUT THE FIRST STEP.

THE SECOND ISSUE I WANT TO ADDRESS THIS MORNING IS THE ADEQUACY OF FEDERAL REGULATION AND OVERSIGHT IN THIS AREA: SPECIFICALLY, WHETHER CERTAIN COAST GUARD LAWS AND REGULATIONS DEALING WITH

THE ISSUANCE, RENEWAL AND SUSPENSION AND REVOCATION OF MERCHANT MARINER'S LICENSES AND DOCUMENTS SHOULD BE STRENGTHENED; WHETHER FEDERAL APPROVAL SHOULD BE REQUIRED FOR ALL CONTINGENCY PLANS; AND WHETHER THE LAWS REGARDING FEDERALIZATION OF REMOVAL EFFORTS SHOULD BE CHANGED TO REQUIRE IMMEDIATE FEDERALIZATION IN ALL OIL SPILLS AND WHETHER OUR VESSEL TRAFFIC SERVICE IN THE PRINCE WILLIAM SOUND SHOULD BE IMPROVED.

UNDER CURRENT STATUTES AND REGULATIONS, ONCE AN APPLICANT FOR A LICENSE MEETS CERTAIN ELIGIBILITY CRITERIA AND HAS PASSED A SERIES OF COAST GUARD WRITTEN EXAMS, HE OR SHE IS ISSUED A LICENSE THAT IS VALID FOR A TERM OF FIVE YEARS, BARRING DISCIPLINARY ACTION. THE COAST GUARD CAN ALSO INITIATE PROCEEDINGS TO REVOKE OR SUSPEND A LICENSE IF, WHILE ACTING UNDER ITS AUTHORITY, THE LICENSE HOLDER VIOLATES A LAW OR MARINE SAFETY REGULATION, OR IS FOUND TO BE NEGLIGENT OR INCOMPETENT, OR GUILTY OF MISCONDUCT. EXCEPT FOR CONVICTION FOR A DANGEROUS DRUG OFFENSE OR USE OF OR ADDICTION TO DANGEROUS DRUGS A SEAMAN'S LICENSE CANNOT BE SUSPENDED OR REVOKED EXCEPT FOR CONDUCT WHICH OCCURS WHILE HE OR SHE IS ACTING UNDER THE AUTHORITY OF THAT LICENSE. A LICENSE MUST BE RENEWED EVERY FIVE YEARS, AND THE COAST GUARD CAN CHOOSE NOT TO RENEW A LICENSE IF A DETERMINATION HAS BEEN MADE THAT THE HOLDER DOES NOT HAVE "A SUITABLE CHARACTER OR HABITS OF LIFE." IN FACT, THE COAST GUARD HAS CHOSEN NOT TO ISSUE A LICENSE ON THE BASIS OF DRUNK DRIVING CONVICTIONS. FURTHERMORE, A DETERMINATION OF FALSE

STATEMENTS ON THE RENEWAL APPLICATION WOULD BE GROUNDS FOR NOT RENEWING. DURING THE RENEWAL PROCESS, THE LICENSEE IS ASKED TO PROVIDE INFORMATION CONCERNING ARRESTS. HOWEVER, THE COAST GUARD CURRENTLY DOES NOT HAVE ACCESS TO COMPUTERIZED INFORMATION SUCH AS THAT STORED BY THE NATIONAL DRIVER REGISTER OR NATIONAL CRIMINAL INFORMATION SYSTEM. THE COAST GUARD CURRENTLY HAS ACCESS TO THE FEDERAL BUREAU OF INVESTIGATION'S RECORDS AND USES THEM FOR INITIAL APPLICANT REVIEW, BUT THIS IS A LONG AND TEDIOUS PROCESS.

WE PLAN TO PROPOSE LEGISLATION SIMILAR TO THAT RECENTLY PASSED FOR THE AVIATION AND RAILROAD INDUSTRIES AUTHORIZING ACCESS TO THE NATIONAL DRIVER REGISTER AND ARE CONSIDERING WHETHER OTHER COMPUTERIZED FILES CAN BE USEFULLY EXPANDED TO THE COAST GUARD CERTIFICATION PROCESS FOR LICENSED SEAMEN. WE ALSO PLAN TO PROPOSE LEGISLATION TO AUTHORIZE THE COAST GUARD TO INITIATE PROCEEDINGS TO SUSPEND OR REVOKE A LICENSE FOR RELEVANT MISCONDUCT INVOLVING ABUSE OF ALCOHOL OR STATE ACTION AGAINST A MOTOR VEHICLE OPERATORS LICENSE. THIS IS THE SECOND STEP NEEDED TO INSURE ADEQUATE PROTECTION OF OUR MARINE ENVIRONMENT FROM THE DAMAGE CAUSED BY OIL SPILLS.

THE COAST GUARD CURRENTLY REVIEWS AND APPROVES THE OPERATIONS MANUALS FOR OIL TERMINALS THAT INCLUDE PROVISIONS FOR POLLUTION RESPONSE AT THE TERMINAL. THE COAST GUARD CAPTAIN OF THE PORT IS ALSO REQUIRED TO MAINTAIN A LOCAL OIL AND HAZARDOUS SUBSTANCES

RESPONSE PLAN FOR HIS ZONE. THIS PLAN ADDRESSES FEDERAL RESPONSE TO ALL SPILLS IN THE NAVIGABLE WATERS OF THE UNITED STATES. THERE IS NO FEDERAL REQUIREMENT FOR CONTINGENCY PLANS BY INDUSTRY, LOCAL OR STATE GOVERNMENTS. IN THE CASE OF VALDEZ, A UNIQUE SITUATION EXISTS. THE STATE OF ALASKA REQUIRED A CONTINGENCY PLAN BE WRITTEN BY ALYESKA AND APPROVED BY THE STATE. THE COAST GUARD DOES NOT HAVE THE AUTHORITY TO APPROVE THE PLAN.

IT IS TOO EARLY IN OUR REVIEW PROCESS TO DETERMINE THE EXTENT OF THE PROBLEM OF INADEQUATE CONTINGENCY PLANS AND WHAT STEPS WILL BE NECESSARY TO INSURE THAT ALL PLANS ARE ADEQUATE. HOWEVER, WE MUST BE ASSURED THAT WHENEVER THERE IS THE POTENTIAL FOR AN OIL SPILL, THERE WILL BE A PLAN IN PLACE WITH AN ADEQUATE CAPACITY FOR A TIMELY RESPONSE.

I BELIEVE THAT THE DECISION NOT TO FEDERALIZE THE REMOVAL ACTION IN PRINCE WILLIAM SOUND WAS THE CORRECT ACTION. FURTHERMORE, I BELIEVE IT WOULD BE A GRAVE MISTAKE TO SHIFT PRIMARY RESPONSIBILITY FROM THE POTENTIAL POLLUTER TO THE FEDERAL GOVERNMENT IN ALL OIL SPILL REMOVAL ACTIONS. THE GREATEST INCENTIVE TO THE POTENTIAL POLLUTERS TO MAKE SURE AN ACCIDENT NEVER OCCURS AND TO TAKE IMMEDIATE ACTION AFTER A SPILL IS TO HOLD THEM PRIMARILY RESPONSIBLE, NOT ONLY FOR PAYING TO CLEAN UP THE DAMAGE THAT THEY CAUSE, BUT ACTUALLY TO BE RESPONSIBLE FOR THE CLEANUP OPERATION. ONLY AFTER THE FEDERAL GOVERNMENT DETERMINES

THAT THEIR ACTIONS ARE INADEQUATE SHOULD THE REMOVAL ACTION BE FEDERALIZED WITH ASSESSMENTS OF APPROPRIATE PENALTIES TO BE BORNE BY THE POLLUTER.

I WILL ALSO BE LOOKING AT UPGRADING THE VESSEL TRAFFIC SEPARATION SYSTEM (VTS) TO ADD COVERAGE AND PLACE ALL TANKERS OPERATING BETWEEN VALDEZ AND THE HINCHINBROOK ISLAND UNDER THE POSITIVE CONTROL OF THE VTS.

FINALLY, I SHORTLY WILL BE SUBMITTING TO CONGRESS COMPREHENSIVE OIL SPILL LIABILITY AND COMPENSATION LEGISLATION AND URGE THE CONGRESS TO CONSIDER AND ACT UPON LEGISLATION PROMPTLY. IN ADDITION, THE PRESIDENT BELIEVES RATIFICATION OF PENDING INTERNATIONAL OIL POLLUTION LIABILITY AND COMPENSATION CONVENTIONS SHOULD RECEIVE PRIORITY ATTENTION BY THE SENATE. THE UNITED STATES WAS A LEADER IN THE DEVELOPMENT OF THOSE AGREEMENTS, WHICH WOULD PROVIDE UP TO \$260 MILLION FOR A SPILL SUCH AS THE EXXON VALDEZ AND IT IS TIME TO RATIFY THEM. THIS IS THE THIRD STEP OF OUR RESPONSE TO WHAT I BELIEVE IS ONE OF THE GREATEST ENVIRONMENTAL TRAGEDIES IN AMERICAN HISTORY.

ENACTMENT OF COMPREHENSIVE OIL SPILL LIABILITY AND COMPENSATION LEGISLATION IS LONG OVERDUE. NOW IS THE TIME TO WORK OUT OUR DIFFERENCES ON THIS EXTREMELY VITAL LEGISLATION AND PRODUCE A BIPARTISAN PACKAGE WHICH WOULD EFFECTIVELY CLOSE THE HOLES IN THE CURRENT LAWS.

THE REAGAN ADMINISTRATION TESTIFIED IN SUPPORT OF COMPREHENSIVE OIL SPILL LEGISLATION ON SEVERAL OCCASIONS, AND WE AGAIN URGE THE SENATE TO ACT ON A BILL. I REALIZE THAT THE ISSUE OF THE LIMITED PREEMPTION OF STATE LAW REQUIRED TO IMPLEMENT THE CONVENTIONS PREVENTED PASSAGE OF COMPREHENSIVE OIL SPILL LEGISLATION IN THE PAST. WE CAN NO LONGER ALLOW THIS ISSUE TO DIVIDE US.

ADDRESSING THE IMMEDIATE DEFICIENCIES THAT RESULTED IN THE PROBLEM AND STRENGTHENING AND TIGHTENING FEDERAL REGULATION AND OVERSIGHT IN THE AREA IS NOT ENOUGH. WE CANNOT ALLOW THE RESTORATION OF OUR MARINE ENVIRONMENT AND THE COMPENSATION OF OUR CITIZENS TO DEPEND UPON LUCK.

IT DOESN'T TAKE MUCH IMAGINATION TO ENVISION A CATASTROPHIC SPILL, PERHAPS OFF THE FLORIDA KEYS, WHERE THE TANKER IS FOREIGN -FLAGGED AND UNREACHABLE IN UNITED STATES COURTS, OR THE OWNER HAS NO ASSETS, THE CLEANUP AND DAMAGES COSTS WOULD BE UNCOMPENSATED OR FALL TO THE U.S TAXPAYERS. WE NEED TO BE A PARTY TO AN EFFECTIVE INTERNATIONAL SYSTEM TO PROTECT AGAINST THIS SCENARIO.

WE MUST PLACE RATIFICATION OF THE 1984 PROTOCOLS TO THE 1969 CIVIL LIABILITY CONVENTION AND THE 1971 FUND CONVENTION AND ENACTMENT OF COMPREHENSIVE OIL SPILL LIABILITY AND COMPENSATION LEGISLATION ONE OF OUR TOP PRIORITIES.

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THANK YOU FOR THE OPPORTUNITY TO APPEAR BEFORE THIS COMMITTEE.

I WOULD BE HAPPY TO ANSWER ANY QUESTIONS THAT YOU MIGHT HAVE.