

APR 19 '89 16:45 NICT (EPA)

P.2/18

STATEMENT OF WILLIAM K. REILLY, ADMINISTRATOR
U.S. ENVIRONMENTAL PROTECTION AGENCY
BEFORE THE SENATE ENVIRONMENT AND PUBLIC WORKS
SUBCOMMITTEE ON ENVIRONMENTAL PROTECTION

APRIL 19, 1989

Mr. Chairman and members of the Subcommittee, I am William K. Reilly, Administrator of the U.S. Environmental Protection Agency (EPA).

When I travelled to Alaska, I witnessed first hand the devastation that area is experiencing. The spill of over 10 million gallons of oil in one of the country's most pristine environments is the worst in U.S. history. It has spread over more than 3,000 sq. miles of water and has contaminated more than 1,300 miles of shoreline. It is affecting land and marine wildlife and birds, as well as the livelihood of thousands of Alaskan citizens and the quality of the environment in Prince William Sound. It is not certain how long it will take to recover from this devastating spill.

Given the serious implications of this incident for the environment, I appreciate the opportunity to discuss EPA's activities and concerns, along with the adequacy of oil spill contingency plans, Federal regulation and oversight, and current measures to protect air and water quality in the operation of the oil storage facility at the Port of Valdez. I have been directed to coordinate the long-range planning to restore the environment

APR 19 '89 16:46 NICT (EPA)

P.3/18

of Prince William Sound. You can be assured that EPA supports all cleanup activities and will continue to provide any assistance necessary to mitigate adverse effects and to help prevent such accidents from occurring again.

REPORT TO THE PRESIDENT

Since the Exxon Valdez incident on Friday, March 24, 1989, the National Response Team (NRT) has convened regularly to coordinate Federal response activities. In addition to the response itself, much attention has been focused on the President's charge to the NRT to prepare a report on the preparedness for, response to, and lessons learned from this incident (attached is the letter charging the NRT with this task). The report is to be submitted to the President in early May.

The NRT's Report will:

- provide a full description of the incident,
- address the status of preparedness for the incident,
- assess the response actions taken,
- provide a preliminary description of effects,
- identify follow-up actions needed (including supplemental reports), and
- discuss lessons learned.

APR 19 '89 16:47 NICT (EPA)

P.4/18

Both near and long term implications of this oil spill will be addressed. A major focus will be on how we can improve preparedness and response for such incidents, including the state of the art and availability of technology and equipment for responding to oil spills. Economic and energy impacts will also be addressed as appropriate. Unfortunately, there has not been much improvement in oil cleanup technology during the last decade, either in the public or the private sectors.

CONTINGENCY PLANS AND IMPLEMENTATION

For the purposes of clarification, there are several types of contingency plans that have an impact on this spill: the Federal National Oil and Hazardous Substances Pollution Contingency Plan, Regional, State and local government plans, and industry contingency plans. The plan with perhaps the greatest direct significance to this incident is the Oil Spill Contingency Plan for the Valdez Terminal developed by the Alyeska Pipeline Service Company. The most recent version of this plan, which was approved by the State of Alaska in 1987 under Title 18 of the Alaska State regulations, assigns Alyeska responsibility for directing cleanup of spills resulting from operation of tankers in Prince William Sound.

The National Contingency Plan, or NCP, was mandated after the Torrey Canyon ran aground in March, 1967 spilling close to 30

APR 19 '89 16:48 NICT (EPA)

P.5/18

million gallons of oil that eventually washed ashore on English and French beaches and causing massive environmental and economic damage. President Johnson directed the Department of the Interior to take lead responsibility in completing a multi-agency contingency plan for responding to such emergencies. From that effort, the first NCP was developed in 1968, and it established the Federal structure and responsibility for responding to oil spills and releases of hazardous substances. It also created the first National Response Team, which I will describe in greater detail later. In 1970, the National Contingency Plan was revised to designate EPA as the Chair of the NRT with Coast Guard as Vice-Chair. I am supplying, for the record, the current NCP (40 CFR Part 300). This intergovernmental plan has been a statutory requirement since 1970 and has served well in providing a coordinated Federal response to spills in the nation's waterways for nearly 20 years. In the current spill, the U.S. Coast Guard has the lead in furnishing the on-scene coordinator (OSC) and is being well supported by members of the Regional Response Team (RRT), which include the State of Alaska.

Second, there are the industry contingency plans which were required by the State of Alaska in connection with the permitting of the Alaska pipeline from Prudhoe Bay to Valdez. These plans are designed, funded, equipped, and implemented by industry. Much criticism has been voiced about the adequacy of these plans since the spill occurred. One may generally conclude that these plans

APR 19 '89 16:58 NICT (EPA)

P.1/13

were inadequate to control a spill of the magnitude of almost 11 million gallons of oil in Prince William Sound.

As you may already know, the NRT's 30-day Report to the President will address the overall adequacy of oil spill contingency plans. It is too soon to make any specific comments regarding the adequacy of the industry, State or Federal contingency plans implemented at the time of the incident in Alaska. Obviously, there are deficiencies and weaknesses, as evidenced by the tremendous amount of damage to the environment and wildlife of Prince William Sound. A team of NRT representatives (EPA, Coast Guard, and the Departments of the Interior and Energy) returned a few days ago from Alaska after reviewing industry and government (i.e. National, Regional, OSC, State and local) oil spill contingency plans. The team will complete a preliminary analysis of the Alaskan Regional Response Team efforts and determine the adequacy of resources in place, review the coordination, monitoring and exercising of State and local plans, examine prevention aspects, and finally, outline lessons learned and recommendations. Until that team has an opportunity to report on what they have learned, it is premature to make specific pronouncements on what was wrong with the plans or how they should be changed. The 30-day report will provide a framework for the more detailed and analytical report on port readiness, ordered by the President and to be completed in six months.

APR 19 '89 16:59 NICT (EPA)

The NRT report will further address the implementation of planning and its effect on preventing environmental damage from the oil spill in the sound. It will describe the response actions taken, identify events that created delays, assess effectiveness of cleanup operations, identify research needs, and outline lessons learned and recommendations.

It must be emphasized that the contingency planning process for ports and harbors must be driven at the State and local levels. Because of State and local entities' detailed knowledge of the area and the situation, they are in the best position to identify hazards and plan for responses to those hazards. The Federal government has the responsibility for developing guidance and providing technical assistance to States and local communities in their planning efforts. The Federal government, however, should not and cannot develop, revise, review and exercise all of these plans alone. Government at all levels and industry must work together to ensure that contingency plans are effective and useful.

NATIONAL RESPONSE TEAM

As stated earlier, the NRT was established in 1968 and has been actively addressing its responsibilities ever since. The NRT has met to consider numerous major oil and hazardous materials spills and has provided recommendations for improvements in Federal preparedness and response capabilities. For example, the NRT

P.3/13

APR 19 '89 17:00 NICT (EPA)

actively assisted in the St. Lawrence River spill, the Campeche (IXTOC) Incident and the Schuylkill River spill. It meets monthly to coordinate Federal preparedness and response policies and programs to ensure an adequate Federal capability to address such incidents as the Alaskan oil spill.

FEDERAL REGULATION AND OVERSIGHT

EPA has no regulatory authority to prevent releases associated with oil transport itself. The U.S. Coast Guard has authority over the Port of Valdez and over shipping into and from the Port. The Department of Transportation and the State of Alaska have the primary authority over the pipeline into Valdez. Because of this and the fact that the National Transportation Safety Board

and the Coast Guard Marine Safety Office are investigating the incident, it would be inappropriate for me to comment at this time on actions pursuant to those regulations and attendant oversight.

ON-SCENE COORDINATOR AND RESPONSIBILITIES

Either an EPA or Coast Guard employee assumes the role of on-scene coordinator (OSC), depending on the location of an oil spill. EPA's jurisdiction generally is over inland navigable waters above the tidal zone. The Coast Guard generally has jurisdiction for the coastal zone and tidal waters, the Great Lakes and specified ports and harbors of inland rivers such as the Port of St. Louis. The OSC is responsible for monitoring the cleanup (as in the case of

APR 19 '89 17:01 NICT (EPA)

the Exxon Valdez incident) or actually conducting the response action when the responsible party is not capable of responding or is not performing the response adequately, or when the incident is beyond the capability of State or local resources. The OSC has complete Federal responsibility for on-scene actions to assess prevent, contain, assure cleanup of, or otherwise mitigate spills of oil or hazardous substances. An OSC's authority in oil spills includes the ability to access the 311(k) Fund and to make any or all decisions necessary to protect public health and welfare, and the environment.

The National Contingency Plan establishes two main support mechanisms for the OSC. First, the Regional Response Team, which consists of Federal and State agencies which are immediately involved in or affected by the spill, provides advice and assistance on cleanup operations. Among other things, this may include coordinating with State and local agencies, assisting in establishing response priorities, providing scientific and technical expertise and equipment, and giving advice on how and when to use dispersants. Secondly, the National Response Team, with interests and expertise in various aspects of emergency response to pollution incidents, can help to coordinate the overall supply of equipment, personnel and other national level support which may be needed for a response. There are several special teams available to assist the OSC in responding to an incident, such as the Coast Guard's National Strike Force and Public

P.5/13

APR 19 '89 17:02 NICT (EPA)

Information Assist Team, EPA's Environmental Response Team (ERT), and the National Oceanic and Atmospheric Administration's Scientific Support Coordinators. As a result of strong coordination in the field and full cooperation of all appropriate departments and agencies, the NRT has not been required to provide direct assistance in this particular incident. It has, however, dealt with coordination of Federal agency actions at the national level and the public information processes.

EPA'S ROLE

Because the Exxon Valdez incident occurred in coastal waters, the Coast Guard has the Federal lead on response oversight and is the on-scene coordinator (OSC). EPA is in a supporting role to the Coast Guard OSC, by providing literally hundreds of support personnel in various aspects of the overall effort on site, at Headquarters, and in our laboratories and Regional Offices. EPA Region X, through the Regional Response Team, is providing direct logistical and technical support to the OSC. There are several Region X technical personnel from various media offices on-scene. They are involved in response oversight, environmental impacts assistance, and shoreline protection and cleanup priorities. Emergency Response Team staff are on the scene providing support to the OSC and the Alaska State Department of Conservation. Their capabilities include multi-media sampling and analysis, hazard evaluation, environmental assessment and cleanup techniques; and

APR 19 '89 17:03 NICT (EPA)

P.6/13

ERT personnel will be performing these functions as needed. Thus far, they have conducted overflights of the area to assess the situation visually and have made site visits to areas impacted by the spill to provide assistance to the agencies involved in studying environmental impacts. They are also providing advice regarding priorities for shoreline cleanup and methodologies plus fate and transport of the oil in the marine environment. Future activities for EPA personnel on-scene will include addressing the disposal of oily wastes and debris and determination of "How clean is clean?" towards the end of the cleanup process.

Within the EPA, we have activated the National Incident Coordination Team (NICT), which serves as a focal point for overall internal Agency coordination efforts during emergency events that have national or international implications. It brings together a multi-program team to deal with broad issues during extraordinary emergency situations. The NICT was formed in response to events such as the release of methyl isocyanate in Bhopal, India and the radiation release at Chernobyl. The Chair of the NICT is Jim Makris, Director of the Chemical Emergency Preparedness and Prevention Office in the Office of Solid Waste and Emergency Response, and the Incident Alternate Chair for this event is Tudor Davies, Director of the Office of Marine and Estuarine Protection in the Office of Water. The NICT is helping to organize EPA's contribution to the response and will continue to coordinate EPA's activities throughout this response.

P.7/13

APR 19 '89 17:04 NICT (EPA)

For the future, as I have previously stated, the President has asked me to coordinate the long range planning to restore the environment of Prince William Sound. We have started a number of activities that will draw on the Nation's leading scientists and oil spill experts as well as the other Federal agencies that are assessing the effects of the spill on the natural resources and wildlife of the Sound and the Gulf of Alaska.

I am establishing a Scientific Advisory Panel that will provide a continuing source of scientific advice on the technical issues related to restoration of the Sound. This group of expert scientists from universities, government agencies and the private sector will convene next month to review restoration activities already underway and to consider additional activities. The group will report directly to me and will meet as necessary over the next few years to ensure that all relevant ideas are evaluated and considered as part of the cleanup of the spill.

One of the immediate actions already begun is evaluation of some innovative cleanup techniques that may be able to speed recovery of the Sound. This week, the EPA research office convened a scientific workshop to investigate the feasibility of applying bioremediation techniques to clean up the oil. Bioremediation, or biological degradation, involves the use of microorganisms to break down the oil -- in this case the question is whether the naturally

P.8/13

APR 19 '89 17:05 NICT (EPA)

occurring organisms can be stimulated to speed up the process that occurs in nature. This group of technical experts will evaluate the existing techniques and assess their applicability to the conditions in Prince William Sound. Although this is a relatively new technology and we must be cautious about our expectations, this group may recommend proceeding with some tests or demonstration projects. EPA with other Federal agencies is preparing a long-term research plan which will be directed at studies on how to promote recovery of the productivity of the marine ecosystem. The Scientific Advisory Panel will have an active role in our research planning.

The preparation of a long-term research plan by EPA will augment the damage assessment program being conducted by the Natural Resources Trustees - Department of the Interior, Department of Commerce (NOAA), Department of Agriculture and the State of Alaska. The Trustees are recognized under the Federal Water Pollution Control Act as implemented by the NCP and Executive Order 12580. The Trustees are responsible for assessment of damages for injuries sustained by natural resources and ensuring compensation for environmental harm. The Trustees reached a financial agreement with Exxon last week to fund the damage assessment. By agreement with the Trustees, EPA will be an integral part of the process in order to insure that the Trustees' efforts provide the proper input to the subsequent efforts. In addition, EPA will provide technical support and assistance to the Trustees in such areas as monitoring,

APR 19 '89 17:06 NICT (EPA)

P.9/13

testing, sampling and technology. The thrust is to be certain that overlaps, redundancy and duplication are minimized or eliminated, and that all agencies with responsibilities are working together. The Trustee agreement goes a long way toward assuring that.

MEASURES TO PROTECT AIR AND WATER QUALITY

AIR ISSUES:

There is one issue regarding the implementation of the Clean Air Act and Alyeska. Questions have been raised by the State of Alaska and EPA Region X concerning the adequacy of the Alyeska Pipeline Service Company's air pollution controls on the Trans Alaska Pipeline System (TAPS). The two agencies have been investigating air quality of the Alyeska operation due to the introduction of increased amounts of natural gas liquids (NGLs) into the pipeline. In late 1986, the pipeline oil producers constructed a natural gas conditioning plant, resulting in a greater amount of NGLs entering the pipeline and ultimately arriving at the Valdez terminal. These added NGLs increase the volatile organic compounds (VOC) emitted, raising the issue of whether air quality violations have occurred. The increase in VOCs and other changes to terminal facilities have led the State and EPA to conclude that these may be major modifications and therefore, Alyeska may need to apply for appropriate air quality permits. The dispute concerns the operational and physical changes affecting

APR 19 '89 17:07 NICT (EPA)

P.10/13

control equipment along the TAPS and at the Valdez terminal. One possible outcome of the dispute would require Alyeska to file for new air containment discharge permits.

WATER ISSUES:

There are two major Clean Water Act (CWA) issues that relate to water quality concerns arising from the operation of the facility at the Port of Valdez. First of all, the Oil Pollution Prevention regulation (40 CFR Part 112) requires that owners and operators of non-transportation related facilities (the Valdez oil storage and loading terminal would be considered non-transportation related) prepare and implement a spill prevention, control and countermeasures (SPCC) plan. SPCC plans should analyze the potential sources of accidental spills of oil (e.g. failure of oil storage tanks, potential breaks in transfer lines used to load tankers, etc.) and identify prevention measures consistent with good engineering practice following the (non-prescriptive guidelines of the regulation. After the Ashland oil spill on January 2, 1988, in Florio, Pennsylvania, in which approximately one million gallons of oil were spilled into the Monongahela River, an interagency task force issued recommendations concerning the regulations that included, among other things, a recommendation that they be modified to make most current guidelines required practices. It also recommended that the regulation include more specific contingency planning requirements (that is actions taken

APR 19 '89 17:09 NICT (EPA)

P.11/13

to respond to a spill after it occurs rather than practices to prevent oil from being released) than are currently contained in the regulation. EPA is now taking action to implement these recommendations through amendments to the SPCC regulations.

Secondly, there are National Pollutant Discharge Elimination System (NPDES) permitting requirements established pursuant to the Clean Water Act. Facilities that discharge wastewater from a point source must have an NPDES permit. One of the major requirements placed in such a permit is limitations on the amount of pollutants that may be discharged with the wastewater. Limitations may be based on an analysis of the receiving water quality requirements or the available treatment technology, whichever is more stringent. A major source of wastewater at the Valdez terminal is ballast water unloaded from tankers taking on oil at the terminal. Since the ballast usually goes in the same tanks as the oil, it will be contaminated with oil from the previous load. Approximately 2.2 million barrels of oil per day is the oil transfer rate through the terminal. While ballast is not loaded on a one for one basis with oil, ballast water discharges from the Valdez terminal would be on the order of 2.5 million gallons per day. This water then undergoes treatment before it is returned to the Sound.

In addition, section 311 of the Clean Water Act is the primary Federal funding authority for dealing with oil spills into water. It provides for:

APR 19 '89 17:10 NICT (EPA)

P.12/13

- Federal authority for response to oil spills into or within the territorial seas, the coastal zone, and inland navigable waters, including adjoining shorelines;
- a notification mechanism for spills through the National Response Center (funded by DOT and EPA and operated by the Coast Guard);
- liability of the responsible party for the cleanup or the Federal costs of removal and damage to natural resources;
- establishment of a revolving fund (311(k) Fund) financed mostly through Federal appropriations from the General Treasury or responsible parties reimbursing the costs of Federal cleanup actions; and
- seeking injunctive relief in court.

CONCLUSION

In recognition of the enormity of the required effort, the President escalated the response, bringing in Secretary of Transportation Skinner and Admiral Yost, supported by the efforts of the Department of Defense to ensure that everything the Federal government can do is being done. Also, Exxon has provided \$15 million to a trust fund to begin the efforts to return the

APR 19 '89 17:11 NICT (EPA)

P.13/13

environment of Prince William Sound to its previous state. EPA is supporting these efforts with personnel, equipment and technical assistance. In addition to these efforts, the people of Alaska and throughout the United States are calling to volunteer their time and efforts to assist in the response and cleanup. Exxon and involved Federal agencies are coordinating the hiring and deployment of these committed workers to ensure their effective use.

A massive oil spill has taken place, causing significant adverse environmental and economic impacts to the citizens of Alaska and to the natural resources of the United States. The responsible party, Exxon, has assumed the lead for cleaning up the spill and dealing with the environmental and economic damage. The Coast Guard is responsible for ensuring that the cleanup activities are adequate. Many agencies of the Federal government, including EPA, are supporting the Coast Guard effort. EPA has marshalled its various resources to help minimize, to the best of its ability, the repercussions for the environment. This task will not be quickly accomplished, but EPA is committed to continuing its efforts until the job is done. Finally, EPA will fully participate in the report to the President on how the preparedness for and response to these incidents might be improved in the future.

That completes my prepared statement, Mr. Chairman. I would be pleased to answer any questions the Subcommittee may have.