

John Devens, United States of America
“Alaska - experience of challenges clearance of oil and gas industry development”

Where we came from

The oil industry has rightly received much public credit for the extensive safety improvements made in Prince William Sound since 1989.

What's less well known is that citizens were calling for improvements like these long before 1989. In fact, the calls began even before the first barrel of Prudhoe crude started down the trans-Alaska pipeline to Valdez in June 1977.

We believe that there are two very important elements that make a citizens' advisory group successful. The first is to make certain that the local citizens receive benefits from the development and extraction of resources in their communities. An excellent example of this type of organization is the Sullom Voe Association in the Shetland Islands of Scotland, which I will be discussing in depth later in my presentation. The second element is to make certain industry is doing what they promise, and held accountable for their actions. The PWSRCAC is an excellent example of this type of oversight.

Between the Prudhoe Bay oil strike in 1968 and the 1989 oil spill 21 years later, citizens called for, among other things, double-hull tankers, escort tugs, and comprehensive preparations for cleaning up an oil spill.

In 1986, the city of Valdez attempted to take matters into its own hands by imposing a special tax on oil-industry property, with the proceeds to be used for building and equipping an oil-spill response facility. The idea died because of a lawsuit by the state of Alaska, which argued successfully that Valdez lacked authority to levy the tax.

The public also called for independent, adequately funded citizens' advisory councils to oversee industry operations and to monitor the actions of regulatory agencies like the U.S. Coast Guard and the Alaska Department of Environmental Conservation.

Those calls, like the demands for better tankers and escort tugs, went unheeded until the 1989 oil spill made it clear the old way wasn't working.

Sensing the shift in the political landscape, a group of citizens formed the Prince William Sound Regional Citizens' Advisory Council as a non-profit corporation in December 1989.

In February 1990, Alyeska Pipeline Service Co. signed a contract with the council laying out its oversight powers and guaranteeing funding. Today, Alyeska provides about \$2.7 million annually, some 95 percent of total council funding. The contract also guarantees the independence of the council, which is referred to as the "Committee". The oil industry we work with includes Alyeska and the three major oil shippers.

In August 1990, the council acquired federal authority when President George Bush signed into law the Oil Pollution Act of 1990.

Citizen oversight had become a reality.

Who we are

The PWSRCAC or council is an organization of organizations. Our 18 member entities are communities and interest groups in the region oiled in 1989, an area

stretching from Prince William Sound to Kodiak Island to Cook Inlet.

Each member entity chooses one representative to our board. The lone exception is Valdez. It has two representatives, giving our board a total of 19 members. The board meets three times each year. The January meeting is held in Anchorage, the May meeting is in Valdez, and the September meeting rotates among other member communities in the oil-spill region.

Who serves on the board?

The names and faces change, but current and recent board members have included commercial fishermen, a schoolteacher, a college president, the chief executive of a regional Native corporation, tour-boat operators, an oilfield engineer, and a village mayor.

The board is supported by a staff of approximately 18, with offices in Anchorage and Valdez.

The council is also supported by four technical advisory committees with a combined membership of 35-40 people.

What we do

PWSRCAC's powers and duties come from two documents: our contract with Alyeska, and the Oil Pollution Act of 1990. In accordance with these documents, we perform a variety of functions aimed at reducing pollution from crude-oil transportation activities in and through Prince William Sound and the Gulf of Alaska:

- We monitor, review and comment on the oil-spill response and prevention plans prepared by the oil industry.
- We monitor, review and comment on the environmental protection capabilities of the oil industry, as well as on the environmental, social and economic impacts of their activities. We review and make recommendation on government policies, permits, and regulations relating to the oil terminal and tankers. The council strives constantly to ensure that existing rules aren't weakened as legislatures, Congresses, presidents, governors and agency personnel come and go. We also try to change existing laws and regulations where necessary to improve environmental safety.

As part of these undertakings, we regularly retain experts in various fields to conduct independent research on issues related to oil transportation safety.

Our contract with Alyeska also calls on us to inform the public about the company's oil-spill response, spill prevention and environmental protection capabilities, as well as the actual and potential environmental impacts of terminal and tanker operations.

Occasionally, we decide to take on a project that falls outside the scope of our contract, and consequently cannot be financed with the funds we receive from the oil industry. In such cases, we obtain grant funds from other organizations.

Are we an environmental group?

Because of the nature of our mission and the fact that nothing exactly like us exists outside Alaska, we are often asked if we are an environmental group.

Our answer: Yes and no.

We certainly want to protect the marine environment from oil spills, so in that sense we are an environmental group.

But there are important ways in which we're not an environmental group, at least not in the same way that Greenpeace and the Sierra Club are environmental groups.

For one thing, we are neither pro-development nor anti-development as an organization. The council, for example, has never taken a position on one of the most prominent environmental issues in Alaska: oil development in the Arctic National Wildlife Refuge. Our only position is that, if development does proceed, it must be conducted without harming the environment we are charged with protecting: the waters and communities of Prince William Sound, the Gulf of Alaska and Cook Inlet.

For another thing, we take as much interest in protecting the socioeconomic environment as we do in protecting the natural environment. The council has spent hundreds of thousands of dollars on research into the problems that oil spills cause for communities and individuals, and on devising solutions to those problems.

In short, our goal is to protect the environment in all its dimensions - natural, social, and economic - because all of those aspects suffer when oil is spilled.

Are we really independent?

No matter what our contract may say, it's only natural for people to wonder if we can really remain independent of the oil industry while getting most of our operating budget from the industry.

The short answer is, yes, we can. The oil industry has essentially no control over what we do, as long as we operate within the scope of the rights and duties laid out in the contract.

For example, Alyeska couldn't cancel the contract just because it objected to a position we took or a project we conducted. The contract is written to remain in force as long as there is oil in the trans-Alaska pipeline, and for a transition period afterward while the facilities are removed and the land is restored to its natural condition.

Nor could Alyeska arbitrarily cut our funding. The contract lays out a system of payments that can only be changed by mutual consent of Alyeska and the council. In the event of a disagreement that cannot be resolved by negotiation, the contract provides for arbitration or litigation.

The same is true of specific items within the budget. If Alyeska believed a particular council expenditure fell outside the scope of the rights and duties laid out in the contract, the matter would go to arbitration.

Thanks to the clarity of the contract, and the good faith efforts of both the council and Alyeska, there have been relatively few disputes over what the council can and cannot do since its inception in 1989.

What we've accomplished

Since its formation in 1989, the council has tackled numerous issues affecting the safety of oil transportation, and it has prevailed on many of them.

Double-hull tankers

From inception, the council was a staunch advocate of double-hull tankers to reduce the risk and size of crude oil spills. Immediately after the 1989 oil spill, council volunteers worked with Congress and the Coast Guard to include double-hull requirements in the Oil Pollution Act of 1990. In July 2001, ConocoPhillips' double-hull Polar Endeavour became the first such tanker built specifically for the

Valdez trade to enter service. This marked a major step forward for Alaska, the oil industry, and our council.

Escort tugs

In the mid-1990s, the council played a lead role in forming a partnership of citizens, industry and government to analyze tanker risks in Prince William Sound. The resulting technical studies contributed to the world-class system of escort tugs serving tankers in the Sound today.

Iceberg detection radar

Icebergs from Columbia Glacier figured in the Valdez spill, and a mid-1990s risk assessment identified icebergs as the greatest remaining threat to tankers in the Sound. In response, the council led a collaborative effort to install ice-detection radar on a small island near Bligh Reef, site of the Valdez spill. The system links electronically to Alyeska and the Coast Guard so that tanker captains and other mariners can be warned of ice in the shipping lanes.

Community Healing

The need to repair the social and economic damage of manmade disasters was largely unaddressed until the council took it up in the early 1990s. After studying the impacts of the Valdez spill on the commercial fishing town of Cordova, the council created "Coping with Technological Disasters," a guidebook for communities hit by oil spills and other man-made catastrophes. The council also produced a four-part video to train community members in peer listening, a counseling technique explained and recommended in the guidebook.

Geographic Response Strategies

Once spilled oil escapes containment in the immediate vicinity of the tanker, the battle shifts to nearshore response: protecting vulnerable resources like beaches, salmon streams and hatcheries. The council led a successful campaign to bring a new technique called Geographic Response Strategies to oil-spill planning in Alaska. These are detailed plans on how to protect nearshore resources identified as being of most importance. Geographic Response Strategies are now in place or under development for Prince William Sound, Gulf of Alaska, Kodiak Island and lower Cook Inlet.

Vapor control

Thousands of tons of crude oil vapors are forced out when tankers take on cargo at Alyeska's Valdez terminal. Initially, those vapors were vented to the atmosphere, threatening the health of terminal workers and Valdez citizens. The council opposed this practice and called for a system to capture the vapors, backing up its position with a series of scientific studies. In 1995, the EPA required such equipment. It began operating in Valdez in 1998.

Dispersant research

The council, because of years of concerns and debate about the efficacy and toxicity of dispersants urges regulatory agencies to take a conservative approach towards their use and supports mechanical recovery as the primary oil spill response strategy. The council promotes research and testing to increase knowledge about chemical dispersants and the environmental consequences of their use on oil spills in Alaskan waters. Over the next several years, we hope to determine if chemical dispersants stockpiled in our region are effective and how toxic they are to the environment.

The Council participates in two dispersant work groups operating under the auspices of the Alaska Regional Response Team. One of the work groups identifies

research gaps in the dispersant field and recommends how to fill them. The other is reviewing and revising the guidelines for dispersant use in Prince William Sound. The guidelines now in effect were adopted before the 1989 oil spill ever took place.

Fire safety

After serious questions were raised about the adequacy of the fire-fighting system at the Alyeska tanker terminal, the council and Alyeska worked out a unique agreement to jointly fund the work of two fire protection and response experts. These experts worked directly with terminal personnel to identify needed improvements in the facility's fire prevention and response system.

The consultants reported directly to the council's staff and committees to ensure the council was kept well informed about problems identified and corrective actions taken, and also to ensure that the public's concerns were fully communicated to Alyeska. Significant improvements were made to the terminal's fire protection system, including new foaming equipment at the metering facilities, two new fire engines, and a greatly improved working relationship with the Valdez City Fire Department.

Non-indigenous species

The council spearheaded efforts to prevent an invasion of Prince William Sound by aquatic nuisance species traveling in the ballast water of oil tankers and other large vessels. The council brought all stakeholders together - government, industry and citizens - and commissioned two major studies of the problem by the Smithsonian Environmental Research Center. These studies established that non-indigenous species are, in fact, being carried to the Sound in tanker ballast water. The council is now seeking ways to combat the problem, including joining with BP in an experiment testing whether ozone can be used to sterilize tanker ballast water en route.

I have described PWSRCAC in some detail because that is the citizen organization that I know best, but there are a number of other models that exist and have their own strong points.

In chronological order, we begin with the Sullom Voe Association in the Shetland Islands of Scotland. This group began in 1978 when the local government made an agreement with more than 30 oil companies to establish a non-profit corporation called the Sullom Voe Association (SVA) to supervise the construction and operation of the Sullom Voe Terminal. All decisions are by consensus and industry pays all costs.

The SVA appoints expert advisory groups including local special interest groups. The Council used "eminent domain" to acquire land which was leased back to industry. This rental agreement was in disagreement between SVA and industry for more than 15 years. The Council built and owned four tanker loading jetties to be paid for by the industry. These repayments were also a major financial dispute between SVA and the oil industry.

The SVA holds 51% share in the tug company, which had exclusive rights to the terminal until 2000. The Council also took share in a joint venture to run one of the terminal construction companies.

In addition to property tax, industry paid millions in "disturbance money" for the additional costs of providing infrastructure for industry during the construction boom.

Industry paid SVA between 1.6 and 3.2 cents (US) on every metric tonne of oil

shipped. The Council established the "Harbor Reserve Fund" worth around \$128 million (US) and the Shetland Island Council Charitable Trust worth around \$350 million (US). They use oil money "for the benefit of the inhabitants of the Shetland Islands", including projects in social welfare, leisure, recreation, environmental education and economic development.

In 1980 following the Amoco Cadiz oil spill off the coast of Brittany, the Syndicat Mixte, currently know as Vigipol, was formed. Vigipol is made up of elected officials from the area affected by the Amoco Cadiz spill. This group is funded from legal settlements and some government funding. Vigipol does an excellent job of preventing complacency. They sent a delegation to Alaska after the 1989 oil spill to provide assistance and advice.

Following the Exxon oil spill in 1989, the US Congress passed a bill that mandated two citizen groups in Alaska, the Cook Inlet and Prince William Sound Regional Citizens' Advisory Councils. The Prince William Sound group had signed a contract with the industry just prior to the passage of the Oil Pollution Act of 1990 giving it very secure funding, and guaranteeing it with total independence. [New slide] Cook Inlet RCAC is very similar to PWSRCAC but lacks secure funding. Their funding comes through negotiations with the oil industry and some funding from local municipalities.

Following the 1999 pipeline explosion in Bellingham, Washington, the courts set up a four million dollar trust to fund the Pipeline Safety Trust which began in 2003 and is a truly independent citizen organization that monitors pipeline safety nationally. The Pipeline Safety Trust has 10 Board members and three staff and are independent of government and industry. The Pipeline Safety Trust's mission statement is "to promote fuel transportation safety through education and advocacy, by increasing access to information, and by building partnerships with residents, safety advocates, government and industry, that result in safer communities and a healthier environment.

The most recent citizens group was established in August 2005 by the Washington State Legislature. This group, the Washington Oil Spill Advisory Council, has at the time of this writing a 13 person Board and reports to the Governor of Washington State. Funding for the Washington Oil Spill Advisory Council comes from state appropriations.

Conclusion

Many of the council's achievements have come despite initial opposition from the oil industry. How did this happen?

We have learned that the best way to resolve contentious issues is with solid science and a partnership approach. We hire expert consultants to make the scientific case for our position, and we include industry representatives in the process at all stages. In the end we have a result that works for all parties. Many times, the industry ends up highlighting these outcomes in advertisements touting its concern for environmental protection.

One reason the Oil Pollution Act called for the creation of citizens' councils was the need to improve trust between the public, the oil industry, and government regulators. The post-Exxon Valdez era has seen great strides in that direction. We at the council look forward to continuing and strengthening this crucial relationship in years to come so that future generations never have to learn first-hand what Alaskans experienced in 1989.