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Maritime Transportation Regulatory Issues:  
Alternative Planning Criteria for Western Alaska

Before the  
Subcommittee on Coast Guard and Marine Transportation  
Committee on Transportation and Infrastructure  
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Good morning Chairman Hunter, Ranking Member Garamendi, and Members of the Subcommittee. My name is Steven Candito, former President & CEO of National Response Corporation (NRC), one of the founders of 1 Call Alaska along with Resolve Marine Group (Resolve). NRC and Resolve are leading Oil Spill Removal Organizations (OSROs) and Salvage & Marine Fire Fighting (SMFF) providers in the United States, respectively. As a result of my position, I am intimately familiar with both the regulatory and operational aspects of providing OSRO and SMFF services in Alaska. As parent companies to 1 Call Alaska, joining me today are leadership from both Resolve and NRC, but more importantly, we are happy to have in attendance from Alaska senior members of our local 1 Call Alaska team, who are the true response experts. Their presence is especially important as they represent the core of 1 Call Alaska, which first and foremost is an emergency response organization with the overarching goals to prevent, prepare for, and respond to marine casualties in Western Alaska

I thank the Subcommittee for the opportunity to testify about vessel response plans under the Alternative Planning Criteria (APC) for Western Alaska. I respectfully disagree with the need for Section 107 of HR 5978 and fear its adverse impact on the expansion and improvement of spill response coverage in Alaska. Additionally, I will clarify some of the inaccurate rhetoric surrounding this topic provided by organizations advocating in their own interests to stifle competition in the area at the detriment of Alaskan spill response and cloud the core issues. Specifically, Section 107 would undermine one of the key goals of the Oil Pollution Act of 1990 (OPA 90) -- robust oil spill response capability along all US coastlines. That goal has been met along the US East, West and Gulf coasts due to the investments in personnel and equipment made by the response industry to meet the high standards set by OPA 90.

Achieving the ambitious targets set by OPA 90 in Western Alaska has been challenging due to its vast, remote coastline, and challenging operating environment. Under the Coast Guard's implementation of APC, the response industry is making substantial strides in improving coverage -- investing in vessels and aircraft, building staging facilities, and hiring experienced manpower, most of which is based in Alaska. Section 107 would stifle further investment required to raise response

standards by restricting competition. It would discourage further commitment of the resources needed to move Alaska closer to the higher OPA standards of protection achieved in the lower 48.

The **Exxon Valdez** spill exposed how ill-prepared the US government and the maritime industry was to respond to a major oil spill, particularly one in Alaska. When Congress enacted the OPA 90, it established the foundation for creating the world's most extensive spill response industry. Before OPA 90 the spill response industry consisted of primarily local cooperatives with limited equipment. There was very limited ability to respond to large, open-water oil spills. Congress and the industry saw the urgent need to jump-start the creation of a robust nation-wide capability equipped to respond with major oil spills. OPA 90 set high standards and provided the key incentives that successfully transformed the spill response industry.

Congress established four critical conditions that brought about this transformation: OPA (1) clarified the role of federal, state and local agencies in planning and overseeing the National Contingency Plan (NCP); (2) designated the private sector, not the government, to acquire and deploy the response equipment, and to retain manpower; (3) incentivized private investments in response assets by requiring any entity that handles oil including refiners and tank vessels trading in US waters (Congress later added non-tank vessels) to contract with qualified response organizations that could meet tiered response standards up to the level of "worst case" spills; and (4) to encourage investment exempted from liability those responders acting under the NCP.

These OPA provision, coupled with vigorous, open competition led to the battle-tested US spill response industry that has invested billions of dollars in highly specialized physical assets and that has accumulated technical expertise on a global scale, often responding in extraordinarily demanding conditions.

The APC provision in OPA 90 is a pragmatic measure that acknowledges the potential obstacles in meeting the OPA 90 high response standards. The Coast Guard's current implementation of APC by the Captain of the Port (COTP) for Western Alaska provides the

necessary flexibility to improve coverage for vessels operating in the Western COTP. Section 107 type legislation will impede the expansion of response resources by excluding additional companies with the most experience and the largest inventory of open water assets already in Alaska.

It appears the push for such legislation has been premised on the following false assertions: One, competition will drive fuel prices up in Alaska. Two, there will be a price war between providers, ultimately ending at an unsustainable price of \$0.00. Three, competitors will provide duplicative resources driving up costs.

I will address each of these contentions separately, but as a general matter and proven in the lower 48, competition ultimately drives down prices while increasing resources. The fallacy that a not for profit monopoly provides the most resources at the lowest cost is simply not true. Rather, these entities become inefficient bureaucracies that stifle innovation and ultimately only benefit the few high-priced employees.

With regard to fuel prices in Alaska, included in our written testimony is a fuel price report published by Alaska's department of Commerce, Community, and Economy. Published in January 2017 reviewing the previous year, this report concluded: "heating fuel and gasoline prices in most regions of the state are at their lowest since early in 2009, and most surveyed communities have seen significant declines." With regard to remote coastal communities, the report noted "remote communities have higher shipping costs, resulting in fuel prices that are significantly higher than the statewide average. However, since most communities receive at least one fuel delivery a year, they are continuing to benefit from the lowering costs of fuel that affected the rest of the country in late 2014." Thus, the primary drivers of fuel cost in Alaska are the price per barrel, the fixed cost per shipment and infrequency of delivery rather than any minimal APC market pressure.

Secondly, I can affirm 1 Call Alaska has not participated in a price war. Where our pricing structure for non-tank vessels is dependent on our cost of operations and number of customers (vessels covered), that scale has largely remained steady and as of right now, we continue to be the most expensive service provider. In actuality, it is the non-profit

service provider making this argument which consistently undercuts our listed prices seeking to participate in competition, which they should not be doing, given their not for profit status.

Finally, with regard to the assertion multiple providers create onerous duplicity in response resources, I note the significant number of regional maritime rescues we have conducted and specific investments in Alaska 1 Call Alaska has made. Simply put, the main reason an APC is needed is that currently the resources are insufficient to meet OPA 90's high standards. Thus, competition has caused us to ADD the personnel, equipment and resources. Further, the resources we added are not necessarily the same type that existed. Since inception, 1 Call Alaska represents a \$44,000,000 investment in aircraft, equipment, vessels and fixed facilities. Between the parent companies' footprint in Alaska, we employ full time more than 130 Alaskans. On top of that, over the last year alone, we have cooperated with the Coast Guard to save 100+ lives, prevent the discharge of millions of gallons of oil and preserve the pristine Alaska environment through intervening in numerous Ship Casualty events. Key to note, the majority of the casualties we respond to (detailed in our written supplement) were not subscribers to our APC service. In fact, our services were called upon out of necessity, as the entities advocating for this legislative language to force us and other potential competitors out of the market could not effectively respond to their customer's needs in time of emergency.

I challenge any emergency response organization in the state of Alaska, short of the Coast Guard, to compare their success to ours over the last year and you will easily identify they pale in comparison.

In closing, as emergency responders, we are proud to announce preparations to expand our service to the entire Western Captain of the Port Zone. In the future, whether the incident be a stricken 4.2 million gallon refined product tanker, a disabled fishing vessel 114 nm from Dillingham AK with 100 souls on board, or flying our aircraft in support of Coast Guard Search and Rescue missions to augment persistence, 1 Call Alaska will consistently endeavor to prevent, prepare for, and respond to marine casualties in Western Alaska.

Thank you.