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The Honorable Edward Kennedy, Chair
SENATE HEALTH, EDUCATION, AND PENSIONS COMMITTEE
428 Dirkson Senate Office Building
Washington, DC 20510

The Honorable George Miller, Chair
HOUSE EDUCATION AND LABOR COMMITTEE
2181 Rayburn House Office Building
Washington, DC 20515

The Honorable Henry Waxman, Chair
COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM
2157 Rayburn House Office Building
Washington, DC 20515

Dear Mr. Chairman Kennedy, Mr. Chairman Miller, and Mr. Chairman Waxman:

We, the undersigned public health, labor, environmental health and justice organizations request your assistance to hold oversight hearings and/or initiate a Government Accountability Office (GAO) investigation with the goal of amending the Occupational Safety and Health Act (OSHA) and related legislation to improve protections from and remedies for work-related chemical-induced illnesses. We appreciate the commitment and leadership that you have demonstrated to protect health and the environment.

This letter is prompted by our concern that the cleanup workers for the 1989 Exxon Valdez oil spill (EVOS) are suffering from long-term health problems resulting from chemical exposures and that the lack of adequate OSHA and National Institute of Occupational Safety and Health (NIOSH) standards and oversight have contributed to these devastating outcomes. Most of these workers have been deprived of (a) accurate diagnoses, (b) appropriate treatment of their illnesses, and (c) fair compensation, and thus fundamental justice. A significant number of the workers have died. Illnesses include neurological impairment, chronic respiratory disease, leukemia, lymphoma, brain tumors, liver damage, and blood diseases. As workers blasted oiled beaches with hot seawater from high pressure hoses, they were engulfed in toxic fumes containing aerosolized crude oil—benzene and other volatile compounds, oil mist, and polycyclic aromatic hydrocarbons. While media and public attention focused on the thousands of oil-coated and dead seabirds, otters, and other wildlife, little attention was given to the harm done to the cleanup workers.

Our evidence suggests that thousands of workers may still be experiencing serious chronic and debilitating illnesses from Exxon's cleanup. We believe that there are more than 3,000 former cleanup workers who are suffering from spill-related illnesses, many now disabled or dead. Further, we have evidence to demonstrate that Exxon has known of this epidemic, but has used loopholes in the OSHA safety regulations and legal technicalities in court to cover it up. Further, since the regulatory deficiencies that emerged in the wake of the Exxon Valdez disaster have not been seriously addressed, workers responding to other disaster-related

hazardous waste cleanups (including the 9/11, Katrina responders, as well as those called to respond to chemical or refinery facility explosions/leaks) have also been deprived of necessary measures to safeguard their health from chemical exposures.

Over the past several years, two Alaska-based non-governmental organizations (Alaska Forum for Environmental Responsibility, and Alaska Community Action on Toxics) documented that EVOS workers were exposed to harmful levels of benzene, oil vapors, mists and aerosols that exceeded even the OSHA Permissible Exposure Limit (PEL) and the NIOSH Recommended Exposure Limit. (We say “even” because these exposure limits are vastly less protective than environmental exposure limits set for the same chemicals.) A pilot study conducted through the Yale School of Public Health found that fourteen years after the spill a statistically significant number of beach clean-up workers—one-third of the participants—had higher self-reported respiratory, central nervous system, and chemical sensitivities than workers who were not on the beaches. In addition to crude oil vapors, mists, and aerosols, a subset of workers applied chemical solvent-based cleanup products to “treat” beaches. Workers were required to dispense Exxon’s experimental “bioremediation” product Inipol EAP22 from leaking backpack containers without requisite information about health hazards and without protective equipment. Anecdotal reports indicate that workers suffered headaches, nausea, and blood in their urine shortly after applying Inipol—symptoms indicative of acute exposure. Inipol and other industrial solvent-based products used on the spill were not screened for environmental or health effects.

During the first few days of the spill, it is likely that all responders—laborers, fishermen, Natives, scientists, volunteers, Coast Guard, Alaska State personnel, and Exxon employees--were excessively exposed while enveloped in the smog of vaporization from an estimated 70,000 gallons of benzene, a chemical associated with leukemia, anemia, and neurological damage. During the subsequent weeks and months of the cleanup, workers were exposed to “heavier” components of the oil, including the class of chemicals known as polycyclic aromatic hydrocarbons (PAHs)—a class of 100 different chemicals, many of them carcinogenic and highly persistent. The U.S. Environmental Protection Agency classifies 22 PAHs on the list of the most hazardous of chemicals—persistent bioaccumulative toxins, and requires companies to report these compounds under the Community Right-to-Know law. Neither regulatory standards for releases to air and water and nor worker exposure standards have yet caught up with the science that demonstrates the extreme toxicity of PAHs to fish, wildlife and people at exquisitely low concentration levels.

To this day, no one has conducted a comprehensive investigation of long-term health effects to the cleanup workers. State and federal agencies and Congress have failed in their responsibility to investigate this occupational health disaster. Regulatory agencies and Congress have also failed to ensure the health and well being of thousands of American workers who helped to clean up the largest and most devastating oil spill in U.S. history.

So-called ‘no fault’ workers compensation systems do not provide adequate service or justice for chemically injured workers. Several reasons stand out: first, the system was designed to address physical injuries where cause and effect are immediately apparent. The full impact of workplace chemical exposure may not appear for as much as forty years. Second, the paltry compensation available when a link between exposure and disease is made in no way makes up for what the worker has already lost. This same woeful inadequacy of compensation works as a disincentive to precaution—in the short-run it is cheaper for an employer not to practice precaution and to take chances on sick workers bringing “successful” claims for compensation than to prioritize and invest in worker health and protection. This so-called ‘bottom line’ approach is shortsighted for industry in the long-run of course, not to mention the lives and productivity destroyed in the process. But unless and until the real economic incentives are in place that preserve and protect the health and lives of all

workers, and especially chemically-exposed, hazardous waste and emergency response workers, this ugly scenario will persist. We can do better and we must.

Worker right-to-know laws fail to provide workers with adequate information about the chemical exposures during an oil spill or other industrial or large-scale natural or human-induced disasters. Companies have a vested interest in using cleanup chemicals that may be expedient, but not account for chronic and long-term health consequences for workers.

We seek a Congressional investigation about the health of Exxon Valdez oil spill workers with the intent of reforming the law to protect all workers from harmful chemical exposures. The problems we identify for the EVOS cleanup workers are only symptomatic of a larger problem that affects workers in chemical manufacturing, refining, oil shipping and port facilities. Without Congressional action, workers will continue to suffer preventable health effects and injustice. We call upon you to exercise your leadership in Congress to remedy this through the following actions that would benefit workers who face on-the-job chemical exposures:

- ✓ Set health protective Permissible Exposure Limits at levels well below those known to cause either acute or chronic health effects, and bring these PELS in line with thresholds for community exposure established by other agencies. The long-standing and truly shocking disparity between workplace and environmental PELS for chemicals known to cause cancer and/or developmental harm is a disgrace. (see Office of Environmental Health Hazard Assessment report detailing the impact of the double standard between how workers are protected versus how the community at large is protected against toxics, for example).
- ✓ Establish and enforce health protective Permissible Exposure Limits for all chemicals to which workers are exposed, rather than enforcing limits for only 0.5% of exposures (500 out of 100,000).
- ✓ Require companies to implement the Hierarchy of Health and Safety Controls as described in the Louisville Charter (www.louisvillecharter.org).

Based on our investigation, we urge you to hold oversight hearings on the human health effects of the EVOS cleanup for the following purposes:

1. Improve OSHA and NIOSH oversight in anticipation of, as well as during and after hazardous waste cleanups by taking measures to recognize and try to prevent chemical-induced illnesses.

- a. Require reporting of illnesses diagnosed as colds and flu for hazardous waste cleanups (removes exemption), and screen for chemical exposures.
- b. Require that OSHA PELs and NIOSH RELs be based on the actual compound(s) of concern rather than surrogate compounds (*e.g.*, no substitutions of OSHA PEL for mineral oil, for crude oil mist, or particulate dust for PAH aerosols).
- c. Require release of medical, clinical, environmental monitoring data, and other health related records to OSHA for hazardous waste cleanups (removes need for subpoena).
- d. Require OSHA to establish a public repository of hazardous waste cleanup records.

- e. Revamp OSHA injury and illness coding system to include chemical-induced neurotoxicity and other illnesses associated with chemical exposures.
 - f. Increase statute of limitation for filing toxic torts for chemical-induced illness from two to thirty years, the same time period required for responsible parties to retain hazardous waste cleanup records—retroactive to January 1, 1989.
 - g. Establish stockpiles of hazardous waste cleanup personal protective equipment.
- 2. Revamp the EPA procedures for testing and listing chemical cleanup products to include realistic tests and protection for humans.**
- a. Remove regulation that allows effectiveness tests to be averaged.
 - b. Ban products that contain human health hazards.
 - c. Establish de-listing procedures that include notification of the U.S. EPA, reason for de-listing, and product recall procedures.
 - d. Establish procedures to test stockpiled product for effectiveness.
- 3. Provide redress to injured EVOS cleanup workers, which cannot be readily obtained through the legal system.**
- a. Subpoena Exxon’s medical records, clinical data, and environmental monitoring data from the Exxon Valdez cleanup (Exxon required to hold records for thirty years).
 - b. Based on subpoenaed records, require NIOSH to conduct a new Health Hazard Evaluation for EVOS cleanup.
 - c. Require and fund a community-based feasibility and epidemiology study through NIOSH of the former EVOS workers for the purpose of building a public database on human health effects of crude oil exposure, especially PAHs.
 - d. Establish an EVOS Cleanup Workers Fund for former workers who have chronic illnesses stemming from cleanup to receive compensation for medical bills, including treatments that detoxify chemicals.

Thank you for your consideration of our requests. For more information, please contact: Riki Ott, PhD, (phone: 907-424-3915; email: info@soundtruth.info) or Pamela Miller, Executive Director, Alaska Community Action on Toxics, (phone 907-222-7714; email: pkmiller@akaction.net).

Sincerely,

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