

STATE OF ALASKA

SARAH PALIN, GOVERNOR

DEPT. OF ENVIRONMENTAL CONSERVATION
DIVISION OF SPILL PREVENTION AND RESPONSE
INDUSTRY PREPAREDNESS PROGRAM
Marine Vessels Section

555 Cordova Street
Anchorage, AK 99501
PHONE: (907) 269-3094
FAX: (907) 269-7687
<http://www.dec.state.ak.us>

May 15, 2007

OIL DISCHARGE PREVENTION AND CONTINGENCY PLAN APPROVAL

File No.: 303.30(Ruby Marine)

Matt Sweetsir, President
Ruby Marine, Inc
PO Box 269
Nenana, AK 99760

Subject: **Ruby Marine Inc. Oil Discharge Prevention and Contingency Plan**
ADEC Plan Number 07-CP-5129

Dear Mr. Sweetsir:

The Alaska Department of Environmental Conservation (Department) has received and approved the application for approval of the Ruby Marine Inc. (Ruby Marine) Oil Discharge Prevention and Contingency Plan (plan). The application for approval was submitted in accordance with 18 AAC 75.410.

This approval applies to the following oil discharge prevention and contingency plan:

Plan Title: **Ruby Marine Inc. Oil Discharge Prevention and Contingency Plan**

Plan Holder: **Ruby Marine Inc.**
P.O. Box 269
Nenana, Alaska 99760

Covered Vessels: ***Novi (1197922) and Melozi (1197923)***

Area of Operation: **Interior, Bristol Bay and Western Alaska. Rivers Only.**

PLAN APPROVAL: Approval of the referenced plan is hereby granted, effective May 15, 2007. A Certificate of Approval stating that the plan has been approved by the Department is enclosed. A

copy of the Certificate of Approval and Response Action Plan must be on board any vessel operating under this plan while in State of Alaska waters.

In granting approval of the plan, the Department has determined that the plan, as represented by the applicant in the plan and application for approval, satisfies the minimum planning standards and other requirements established by applicable statutes and regulations. The Department does not warrant to the applicant, the plan holder or any other person or entity: (1) the accuracy or validity of the information or assurances relied upon; (2) that the plan is or will be implemented; or (3) that even full compliance and implementation with the plan will result in complete containment, control or clean-up of any given oil spill, including a spill specifically described in the planning standards. The plan holder is encouraged to take any additional precautions and obtain any additional response capability it deems appropriate to further guard against the risk of oil spills and to enhance its ability to comply with its duty under AS 46.04.020(a) to immediately contain and clean up an oil discharge.

This approval is subject to the following terms and conditions:

TERMS AND CONDITIONS:

1. Documents Required On Board the Vessel. A copy of the Certificate of Approval and the Response Action Plan as defined in 18 AAC 75.425(e)(1) must be on board the vessels at all times while in State of Alaska waters.
2. Final Copy of the Plan. Within 30 days of the date of this letter, Ruby Marine must send two final paper copies of this approved plan to the Department. The final copies must incorporate all revisions approved during the review process. The plan holder must send a paper copy to the Alaska Department of Fish and Game and Alaska Department of Natural Resources. The plan holder must also provide a copy of the plan to each affected coastal district in the plan holder's area of operation. Please contact these organizations for their format preference, paper or electronic.
3. Amendments and Renewal. All amendments and renewals must be submitted in a "red line" format that clearly identifies the changes proposed. This includes all changes, regardless of their significance. "Red line" format means that each and every change must be clearly stated within the text of the plan to identify each and every addition and deletion.
4. Notice of Changed Relationship with Response Contractor. Ruby Marine relies on the use of response contractor(s) for its plan implementation. Ruby Marine must immediately notify the Department, in writing, of: (a) any change in the contractual relationship with Ruby Marine's response contractor(s); (b) any breach by either party to the response contract that may excuse a response contractor from performing; (c) any indication a response contractor may fail or refuse to perform; or (d) any event that may otherwise affect the response, prevention or preparedness capabilities described in the approved plan.

EXPIRATION: This approval **expires May 14, 2012**. After the approval expires, Alaska law prohibits operation of the vessel until an approved plan is once again in effect.

RENEWAL: Ruby Marine must submit a completed renewal application and plan to the Department no later than 180 days prior to the expiration of this approval. This is to ensure the submitted plan is approved before the current approved plan expires (18 AAC 75.420).

REVOCATION, SUSPENSION, OR MODIFICATION: This approval is effective only while the plan holder is in compliance with the plan and with all of the terms and conditions described above. The Department may, after notice and opportunity for a hearing, revoke, suspend or require the modification of an approved plan if the plan holder is not in compliance with it, or for any other reason stated in AS 46.04.030(f). In addition, Alaska law provides that a vessel or facility that is not in compliance with the plan may not operate (AS 46.04.030). The Department may terminate approval prior to the expiration date if deficiencies are identified that would adversely affect spill prevention, response or preparedness capabilities.

DUTY TO RESPOND: Notwithstanding any other provisions or requirements of this plan a person causing or permitting the discharge of oil is required by law to immediately contain and cleanup the discharge regardless of the adequacy or inadequacy of a plan (AS 46.04.020).

NOTIFICATION OF NON-READINESS: Within 24 hours after any significant response equipment as specified in the plan is removed from its designated storage location or becomes non-operational the plan holder must notify the Department in writing. This notification must provide a schedule for equipment substitution, repair or return to service [18 AAC 75.475(b)]. This notification does not in itself waive any provision of this plan approval. If the Department accepts the plan holder schedule for equipment substitution, repair or return to service they will provide an approval in writing.

CIVIL AND CRIMINAL SANCTIONS: Failure to comply with the plan may subject the plan holder to civil liability for damages and to civil and criminal penalties. Civil and criminal sanctions may also be imposed for any violation of AS 46.04, any regulation issued there under or any violation of a lawful order of the Department.

INSPECTIONS, DRILLS, RIGHTS TO ACCESS, VERIFICATION OF EQUIPMENT, SUPPLIES AND PERSONNEL: The Department has the right to verify the ability of the plan holder to carry out the provisions of this plan and access to inventories of equipment, supplies and personnel. Verification may be through such means as inspections and discharge exercises. Verification may be with or without prior notice to the plan holder. The Department has the right to enter and inspect the covered vessel or facility in a safe manner at any reasonable time for these purposes and to otherwise ensure compliance with the plan terms and conditions [AS 46.04.030(e); AS 46.04.060; 18 AAC 75.480 and 485].

COMPLIANCE WITH APPLICABLE LAWS: If amendments to the approved plan are necessary to meet the requirements of any new laws or regulations, the plan holder must submit an application for amendment to the Department at the above address. The plan holder must adhere to all current applicable state statutes and regulations. This approval does not relieve the plan holder of

the responsibility for securing other federal, state or local approvals, permits or compliance with all other applicable laws.

VOLUNTARY INCIDENT REPORTING: In the interests of early identification and reduction of spill risks in Alaska waters, the Department requests that it be notified if a vessel covered by this plan, in transit to or from Alaska waters, is involved in a reportable incident as defined by USCG regulation or is not in compliance with the vessel's USCG Certificate of Inspection. We request the notification be made, as soon as possible after addressing resultant safety concerns, at (907) 269-7539 or by facsimile to (907) 269-8403. The initial report of the incident should contain the date, time, location, weather conditions, vessel operations underway, identity of any facilities and other vessels involved and a brief analysis of any known cause. We request you submit a copy of the final USCG report within thirty days of the incident.

ADJUDICATORY HEARING: Any person who disagrees with this decision may request an adjudicatory hearing in accordance with 18 AAC 15.195 - 18 AAC 15.340 or an informal review by the Division Director in accordance with 18 AAC 15.185. **Informal review requests** must be delivered to the Division Director, 410 Willoughby Avenue, Suite 303, Juneau, Alaska 99801, within 15 days of the permit decision. **Adjudicatory hearing requests** must be delivered to the Commissioner of the Department of Environmental Conservation, 410 Willoughby Avenue, Suite 303, Juneau, Alaska 99801, within 30 days of the permit decision. If a hearing is not requested within 30 days, the right to appeal is waived. Please send a copy of the hearing request to the undersigned.

If you have any questions, please contact Elizabeth Stergiou at (907) 269-7539.

Sincerely,



Betty Schorr
Industry Preparedness Program Manager

Enclosure: Certificate of Approval, Number: 07-CER014

cc: John Kotula, ADEC
Mark Fink, ADF&G
Carol Fries, ADNR
Morris Nassuk, Bering Straits Coastal Coordinator
Richard Abboud, Bethel Coastal Coordinator
John Oscar, Cenaliulriit CRSA Coastal Coordinator
Yvonne Kopy, Bristol Bay Coastal Coordinator
Andrew DeValpine, Bristol Bay CRSA Coastal Coordinator
Marv Smith, Lake & Peninsula Coastal Coordinator
Project file