

STATE OF ALASKA

**DEPT. OF ENVIRONMENTAL CONSERVATION
DIVISION OF SPILL PREVENTION AND RESPONSE
INDUSTRY PREPAREDNESS PROGRAM
Exploration Production and Refineries**

SEAN PARNELL, GOVERNOR

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April 8, 2011

File No: 305.30
(Buccaneer CIX)

Andy Rike
Buccaneer Alaska Operations, LLC
2500 Tanglewilde Avenue, Suite 340
Houston, TX 77063

Subject: **Buccaneer Alaska Operations, LLC Oil Discharge Prevention and Contingency Plan for Cook Inlet Operations. ADEC Plan Number 10-CP-5182. Plan Approval**

Dear Mr. Rike:

The Alaska Department of Environmental Conservation (Department) is reviewing the Buccaneer Alaska Operations, LLC (Buccaneer) Oil Discharge Prevention and Contingency Plan (plan), Plan Number 10-CP-5182, dated January 2011 that was submitted for renewal. The Department is coordinating the State of Alaska's public review for compliance with 18 AAC 75, using the review procedures outlined in 18 AAC 75.455.

The public review period began November 15, 2010, and review comments were due by December 14, 2010. Based on the Department's review, additional information and/or plan revisions were required in order to complete the plan. The Department has received those revisions, and has reviewed the additional information and/or revisions, which were dated January 18, 2011.

This approval applies to the following plan:

Plan Title: **Buccaneer Alaska Operations, LLC Oil Discharge Prevention and Contingency Plan for Cook Inlet Operations, January 2011.**

Supporting Documents: **Alaska Chadux Corporation Oil Spill Response Manual, dated September 2008, as revised and updated.**

Plan Holder: **Buccaneer Alaska Operations, LLC
2500 Tanglewilde Avenue, Suite 340
Houston, TX 77063**

Covered Facilities: **Exploration drilling activities for two or more wells associated with the North Sterling Prospect on the east side of Cook Inlet near the city of Kenai, Alaska.**

PLAN APPROVAL: Approval of the referenced plan is hereby granted, effective **April 8, 2011**. A certificate of approval stating that the Department has approved the contingency plan is enclosed. **This approval is subject to the following terms and conditions:**

TERMS AND CONDITIONS

The following items must be completed and/or received as specified to complete the plan in accordance with AS 46.04.030(e).

- 1. Proof of Oil Spill Primary Response Action Contractor.** The plan holder must submit to the Department a fully executed Statement of Contractual Terms with the attestations required by 18 AAC 75.445(i)(1) with Alaska Chadux Corporation to provide response resources as identified in the plan.

The plan holder has submitted a completed Statement of Contractual Terms to the Department prior to undertaking drilling operations on the project. The actual contracts are not required to be part of the contingency plan document. The Statement of Contractual Terms form can be found on the Department's website (www.dec.alaska.gov).

This condition is reasonable and necessary to assure ADEC that all the necessary contracts to implement a response to a discharge or well control event are in place prior to the start of drilling operations. 18 AAC 75.425(e)(3)(H) and 18 AAC 75.445(i)

- 2. Notice of Changed Relationship with Response Action Contractor.**

Because the plan relies on the use of response contractors for its implementation, Buccaneer must immediately notify us in writing of any change in the contractual relationship with the plan holder's response action contractors, and of any event including but not limited to any breach by either party to the response contract that may excuse a response contractor from performing, that indicates a response contractor may fail or refuse to perform, or that may otherwise affect the response, prevention, or preparedness capabilities described in the approved plan.

This condition is reasonable and necessary because there are certain risks associated with allowing a plan holder to rely in part or total upon a response contractor instead of obtaining its own response capability. The risks arise, in part, because the certainty of the contractor's response is dependent upon the continuation of the legal relationship between the contractor and the plan holder. Given this risk, the Department must be promptly informed of any change of the contractual relationship between the plan holder and the response contractor, and of any other event that may arguably excuse the response contractor from performing or that would otherwise affect the response, prevention, or preparedness capabilities described in the approved plan. The Department may seek appropriate modifications to the plan or take other steps to ensure that the plan holder has continuous access to sufficient resources to protect the environment and to contain, cleanup, and mitigate potential oil spills. 18 AAC 75.425(e)(3)(H) and 18 AAC 75.445(i)

- 3. Blowout Contingency Plan.** A copy of the Blowout Contingency Plan (BCP) must be maintained at the active drill site and made available to the Department for inspection upon request.

These conditions are reasonable and necessary to provide compliance with 18 AAC 75. The Department will review the blowout contingency plan required by 18 AAC 75.425(e)(1)(I) when performing site inspections under 18 AAC 75.480.

- 4. Oil Storage Tanks.** An amendment must be submitted to the Department to address storage tank issues if a tank with a greater than 10,000-gallon capacity will be used. The amendment must include a description of the oil storage containers greater than 10,000 gallons that will be used in conjunction with drilling operations for each drilling location. The description must include a tank identification number, capacity, construction date, specifications, application, date and type of the last API 653 inspection, and any other information as required by 18 AAC 75.425(e)(3)(A)(i) and (ii). The tanks must be placed on the pad and an updated pad layout drawing reflecting the location of the tanks must be submitted to the Department. The amendment must revise Part 5 to include a tank response planning standard (RPS) and must revise Part 1 to include a tank scenario.

This condition is reasonable and necessary so that the plan reflects specific details of the tanks in place to guide proper response actions. A scenario is needed to address the requirements of 18 AAC 75.425(e)(1)(F) and 18 AAC 75.434.

- 5. Transfer Procedures.** Section(s) 1.6.8 and 3.1.4 should include a description of the transfer procedures as required by 18 AAC 75.425(e)(3)(A)(vi). Buccaneer has specified that the transfer procedures used be the Standard Operating Procedures of the drilling supervisor.

This condition is reasonable and necessary to ensure the plan holder's ability to transfer from/to tanks, in accordance with 18 AAC 75.425(e)(3)9A)(vi).

- 6. Actual Flow Rate and Response Planning Standard.** Once the flow rate of an exploration well has been tested, if that flow rate exceeds 5,500 barrels per day and the facility is to continue operations, Buccaneer must refer and adhere to the requirements specified in 18 AAC 75.434(d).

This condition is reasonable and necessary to ensure the plan holder's ability to respond to a larger volume discharge than was originally planned for in accordance with 18 AAC 75.434.

- 7. Plan Amendments for Additional Drill Sites.** If Buccaneer proposes drilling at additional drill sites, an application for amendment approval must be submitted in accordance with 18 AAC 75.415 and 18 AAC 75.455 prior to commencing drilling activities.

This condition is reasonable and necessary to ensure that Buccaneer operates in compliance with 46.04.030, 18 AAC 75 Article 4, and the approved plan.

- 8. Amendment Prior to Mobilization.** Buccaneer will be required to submit an amendment to the Department which includes a site-specific addendum with a facility diagram detailing each proposed exploration well project(s) and location(s) to be drilled prior to commencing drilling activities. The drawing must detail the geographic orientation of the pad and relative locations of the drilling rig, access road, facilities, oil storage tanks, testing tanks, crew office and quarters, and equipment stored on the pad.

This condition is reasonable and necessary to keep the facility descriptions current in order to facilitate efficient response in the event of an emergency. 18 AAC 75.415 and 18 AAC 75.425(e).

- 9. Contact Information and Communications:** Prior to drilling, Buccaneer must update all contact information for personnel and supporting operations referenced in Section 1.1 (Emergency Action Checklists) in accordance with 18 AAC 75.425(e)(1)(A) and (B).

Additionally, any changes to the Incident Management Team (shown in Section 1.0 Response Action Plan) or other references to Buccaneer or support personnel must be provided as updates to the plan as required by 18 AAC 75.415(b). Phone numbers and radio communication channels for on-site personnel must be provided prior to drilling as required by 18 AAC 75.425(e)(1)(D).

This condition is reasonable and necessary in order to comply with the above-referenced regulations.

10. Final Copy of the Plan. Within 30 days of this letter, the plan holder must submit to the Department updated versions of the approved plan, including all revisions instituted during the recent plan review. Buccaneer must send two complete plan copies to the Exploration, Production & Refineries Section. In addition, you must send an updated version of the plan to each reviewer and controlled document holder of your plan.

11. Financial Responsibility. Buccaneer must establish proof of Financial Responsibility approved by the Department prior to commencing drilling activities.

This condition is reasonable and necessary to ensure the operator has financial ability to comply with AS 46.04.040.

EXPIRATION: This approval **expires, April 8, 2016**. After the approval expires, Alaska law prohibits operation of the facility until an approved plan is once again in effect.

AMENDMENT: Before any change to this plan may take effect, the plan holder must submit an Application for Amendment to the plan with any additional information needed to evaluate the proposed amendment. This is to ensure that changes to the plan do not diminish the plan holder's ability to respond to a discharge and to evaluate any additional environmental considerations that may need to be taken into account (18 AAC 75.415).

RENEWAL: To renew this approval, the plan holder must submit a completed renewal application and plan to ADEC no later than 180 days prior to the expiration of this approval. This is to ensure that the submitted plan is approved before the current plan in effect 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 contingency 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 contingency plan (AS 46.04.020).

NOTIFICATION OF NON-READINESS: Within twenty-four (24) hours after any significant response equipment specified in the plan becomes non-operational or is removed from its designated storage location, the plan holder must notify the Department in writing and provide a schedule for the equipment's substitution, repair, or return to service (18 AAC 75.475[b]).

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, AND 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 its contingency plan and access to inventories of equipment, supplies, and personnel through such means as inspections and discharge exercises, 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 and the terms and conditions (AS 46.04.030[e] and AS 46.04.060). The plan holder shall conduct exercises for the purpose of testing the adequacy of the contingency plan and its implementation (18 AAC 75.480 and 485).

FAILURE TO PERFORM: In granting approval of the plan, the Department has determined that the plan, as represented to the Department by the applicant in the plan and application for approval, satisfies the minimum planning standards and other requirements established by applicable statutes and regulations, taking as true all information provided by the applicant. 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 cleanup 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.

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 applicable state statutes and regulations as they may be amended from time to time. This approval does not relieve the plan holder of the responsibility for securing other federal, state, or local approvals or permits, and the plan holder is still required to comply with all other applicable laws.

INFORMAL REVIEW OR 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, PO Box 111800, Juneau, Alaska 99811-1800 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, PO Box 111800, Juneau, Alaska 99811-1800, within 30 days of the permit decision. If a hearing is not requested within 30 days, the right to appeal is waived. Anyone who submits a request for an informal review or an adjudicatory hearing should also send a copy of the request to the undersigned.

If you have any questions, please contact Jeanne Swartz at 907-269-7604.

Sincerely,



Betty Schorr
Program Manager

Attachment: Summary of Basis for Department Decision

Mr. Andy Rike
Buccaneer Alaska Operations, LLC

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April 8, 2011

Enclosure: Certificate of Approval, Number 11 CER-008

Electronic cc: (w/o enclosure)

Scott Pexton, ADEC
John Brown, ADEC
Gary Folley, ADEC
Samantha Carroll, ADNR
Bradley Dunker, ADFG
Matt Carr, USEPA
Steve Catalano, CIRCAC
Gary Williams, KPB
Lynnda Kahn, USF&WS
Nina Brudie, ADNR OPMP
Bob Shavelson, Cook Inletkeeper
Legal Director, Trustees for Alaska
Rich Koch, City of Kenai
Mike Franger, Mental Health Trust Authority
Bob Britch, Northern Consulting Group