STATE OF ALASKA

DEPT. OF ENVIRONMENTAL CONSERVATION

DIVISION OF SPILL PREVENTION AND RESPONSE
INDUSTRY PREPAREDNESS PROGRAM

SEAN PARNELL, GOVERNOR

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September 3, 2009

OIL DISCHARGE PREVENTION AND CONTINGENCY PLAN
PLAN APPROVAL EXTENSION

Mr. John Kwietniak
Manager, Contingency Planning and Response
Tesoro Alaska Company
P.O. Box 3369
Kenai, AK 99611-3369

Subject: **Tesoro Alaska Company Cook Inlet Vessel Oil Discharge Prevention and Contingency Plan (ADEC Plan No. 041-CP-2039); Plan Approval Extension.**

Dear Mr. Kwietniak:

The Alaska Department of Environmental Conservation (Department) is in the process of reviewing the Tesoro Alaska Company Cook Inlet Vessel Oil Discharge Prevention and Contingency Plan (Plan) received on June 23, 2009. The current plan approval for this operation expires on September 15, 2009. However, Tesoro has requested an extension of the current plan approval due to several complex issues raised during the review period.

Tesoro has complied with the time frames outlined in 18 AAC 75.420 and .455 regarding application for renewal of the referenced plan. Based on our review of the renewal application and currently approved plan, Tesoro is in substantial compliance with the existing plan approved on September 16, 2004. In addition, the Department has determined that there is no reduction in Tesoro's response capabilities. Therefore, the Department has determined that a short-term plan approval extension for the operation through December 15, 2009 is appropriate to allow for completion of the plan renewal application.

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

Plan:	**Tesoro Alaska Company Cook Inlet Vessel Oil Discharge Prevention and Contingency Plan**
ADEC Plan No.:	**041-CP-2039**
Supporting Documents:	**CISPRI Technical Manual, dated June 2003**

Printed on Recycled Paper

Plan Holder: **Tesoro Alaska Company**
PO Box 3369
Kenai, Alaska 99611

Covered Vessels: ***Seabulk Arctic* (1072069)**
***Seabulk Pride* (1072068)**
***Captain H. A. Downing* (1046031)**
***Overseas Boston* (1207239)**
***Overseas Nikiski* (1215187)**

Region of Operation: **Cook Inlet**

PLAN APPROVAL: The short-term plan approval extension is hereby approved **effective September 15, 2009.** This approval supersedes the current plan Approval and Certificate of Approval. A Certificate of Approval is enclosed. A copy of the Certificate of Approval and the Plan must be on board any vessel(s) operating under this Plan while in state waters. This Certificate of Approval is only valid when the plan holder has obtained a Department approved Certificate of Financial Responsibility.

The Department determined that the Plan, as represented by Tesoro Alaska Company in the Plan and application for approval, satisfied 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 with and implementation of the Plan will result in complete containment, control or clean up of any given oil spill. Tesoro Alaska Company is encouraged to take any additional precautions and obtain any additional response capabilities 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 control, contain and clean up an oil discharge.

This approval is subject to the following **terms and conditions**:

1. Documents required on board the vessel(s): While in state waters, a copy of the Certificate of Approval and the Plan, as defined in 18 AAC 75.425(e)(1), must be on board all covered vessels at all times.

2. Notice of changed relationship with response contractor: Tesoro Alaska Company relies on the use of response contractor(s) for its Plan implementation. Tesoro Alaska Company must immediately notify the Department, in writing, of: (1) any change in the contractual relationship with the response contractors listed in the plan; (2) any breach by either party to the response contract that may excuse a response contractor from performing as required by the plan; (3) any indication a response contractor may fail or

refuse to perform; or (4) any event that may otherwise affect the response, prevention or preparedness capabilities described in the approved Plan.

EXPIRATION: This approval expires **December 15, 2009.** Following expiration, Alaska law prohibits operation of the vessel until an approved plan is once again in effect.

RENEWAL: Tesoro Alaska Company must complete the currently underway plan renewal prior to the plan expiration date shown above.

REVOCATION, SUSPENSION OR MODIFICATION: This approval is effective only while Tesoro Alaska Company 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 modification of the approved Plan if Tesoro Alaska Company is not in compliance with the Plan 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 a plan may not operate in state waters (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 control, contain and cleanup the discharge regardless of the adequacy or inadequacy of the Plan (AS 46.04.020).

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

CIVIL AND CRIMINAL SANCTIONS: Failure to comply with the Plan may subject Tesoro Alaska Company 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 thereunder 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 Tesoro Alaska Company to carry out the provisions of this Plan and to access inventories of equipment, supplies and personnel. Verification may be through means such as inspections and discharge exercises. Verification may be with or without prior notice to Tesoro Alaska Company. The Department has the right to enter and inspect the covered vessel(s) in a safe manner at any

reasonable time for these purposes and to otherwise ensure compliance with 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, Tesoro Alaska Company must submit an application for amendment to the Department at the above address. Tesoro Alaska Company must adhere to all current applicable state statutes and regulations. This approval does not relieve Tesoro Alaska Company of the responsibility to secure other federal, state or local approvals or permits or to comply 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 the vessel(s) covered by this Plan, in transit to or from Alaska waters, is involved in: (1) a reportable incident as defined by United States Coast Guard (USCG) regulation or (2) is not in compliance with the vessel's USCG Certificate of Inspection. The Department requests a report as soon as possible after addressing resultant safety concerns either via telephone at (907) 835-4698 or by facsimile to (907) 835-2429. 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(s). The Department requests that Tesoro Alaska Company submit a copy of the final USCG report within thirty days of the incident.

INFORMAL REVIEWS AND ADJUDICATORY HEARINGS: Any person who disagrees with this Plan approval 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 Plan Approval. **Adjudicatory hearing requests** must be delivered to the Department Commissioner, 410 Willoughby Avenue, Suite 303, Juneau, Alaska 99801, within 30 days of the Plan approval. If a hearing is not requested within 30 days, the right to appeal is waived. Please send a copy of an informal review or hearing request to the undersigned.

If you have any questions regarding this process please contact John Kotula at (907) 835-3037 or john.kotula@alaska.gov.

Sincerely,

Betty Schorr

Betty Schorr
Program Manager

Enclosure: Certificate of Approval, Number: 09CER-008

Electronic cc w/ enclosure:

Eric Haugstad, Tesoro
John Kotula, ADEC

Electronic cc w/out enclosure:

Gayle Martin, ADFG
Carol Fries, ADNR
Bud Cassidy, Kodiak Island Borough
Gary Williams, Kenai Peninsula Borough
Thede Tobish, Municipality of Anchorage
Mike Munger, CIRCAC
Vinnie Catalano, CIRCAC
Tom Lakosh
Bob Shavelson, Cook Inletkeeper

cc:

Project file