

STATE OF ALASKA

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

SARAH PALIN, GOVERNOR

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August 14, 2007

OIL DISCHARGE PREVENTION AND CONTINGENCY PLAN AMENDMENT APPROVAL

File No: 303.40 (K-Sea)

Mr. Dave Godel
Sea Coast Transportation, LLC
2700 West Commodore Way
Seattle, WA 98199-1264

Subject: K-Sea Transportation, LLC, doing business as, Sea Coast Transportation, LLC, Oil Discharge Prevention and Contingency Plan. ADEC Plan Number 06-CP-2217 Plan name change

Dear Mr. Godel:

The Alaska Department of Environmental Conservation (Department) has received and approved the application for approval of an amendment to the Sea Coast Transportation, LLC (Sea Coast) Oil Discharge Prevention and Contingency Plan (plan). The amendment changes the name of the plan to K-Sea Transportation, LLC, DBA Sea Coast Transportation, LLC, Oil Discharge Prevention and Contingency Plan. ADEC Plan Number 06-CP-2217. The application for approval was reviewed under 18 AAC 75.415.

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

Plan Title: K-Sea Transportation, LLC, DBA Sea Coast Transportation, LLC Oil Discharge Prevention and Response Plan and Vessel Response Plan

**Plan Holder: K-Sea transportation, LLC
2700 West Commodore Way
Seattle, WA 98199-1264**

Covered Vessels: *BB-110 (D569653), Barge 340 (657024), Barge 344 (D674179), Cascades (990194), Kay's Point (1088088), Columbia (996165), Pacific (996165), PM 230 (D659615), Puget Sounder (981972), Sasanoa (1110781), S.E.A. 76 (519398), SCT-180 (630338), SCT-280 (587804) and SCT-282 (596502)*

Area of Operation: Statewide

PLAN APPROVAL: Approval of the referenced amendment is hereby granted, effective August 14, 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. For Amendments and Renewals: 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 and the conforming plan edits submitted by and agreed to by the plan holder in their application to the Department dated August 14, 2007. You must send two complete plan copies to the Department's Anchorage office unless specified otherwise. In addition, you must send a complete updated version of the plan to each controlled document holder of your contingency plan. Please be advised that no plan material(s) has been added to, deleted from or changed within your plan since the August 5, 2007 revision to the plan was submitted for review on August 13, 2007
3. Amendments and Renewal. All amendments and renewals, with the exception of the addition of a spot charter vessel, 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. This plan relies on the use of response contractor(s) for its implementation. The plan holder must immediately notify the Department, in writing, of: (a) any change in the contractual relationship with the plan holder'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.

5. Prior Approvals. Meet all of the terms and conditions of the July 11, 2007 approval as amended.

EXPIRATION: This approval **expires July 10, 2012**. After the approval expires, Alaska law prohibits operation of the vessels until an approved plan is once again in effect.

RENEWAL: The plan holder 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 Martin Farris at 907-269-8487, or martin.farris@alaska.gov.

Sincerely,



John Kotula
Section Manager

Enclosure: Certificate of Approval, Number: 07-CER-021.2

cc: w/o enclosure

Cindy Anderson, ADEC
Louis Audette, Sea Coast Towing
Mark Fink, ADFG, Anchorage
Carol Fries, ADNR, Anchorage
Thede Tobish, Anchorage Coastal Coordinator
Gary Williams, Kenai Peninsula Borough Coastal Coordinator
Susan Lee, Matanuska-Susitna Coastal Coordinator
Jim Goossens, Cordova Coastal Coordinator
Mark Earnest, Whittier Coastal Coordinator
Carol Smith, Valdez Coastal Coordinator
Tina Anderson, Aleutians East Coastal Coordinator
Karol Kolehmainen, Aleutians West Coastal Coordinator
Morris Nassuk, Bering Straits Coastal Coordinator
Richard Abboud, Bethel Coastal Coordinator
John Oscar, Cenaliulriit CRSA Coastal Coordinator
Jim Dory, Nome Coastal Coordinator
Walter Porter, Northwest Arctic Coastal Coordinator
John Merculief, St. Paul Coastal Coordinator
Johnny Aiken, North Slope Coastal Coordinator
Yvonne Kopy, Bristol Bay Coastal Coordinator
Andrew DeValpine, Bristol Bay CRSA Coastal Coordinator
Mary Ogle, Kodiak Coastal Coordinator
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Brian Templin, Craig Coastal Coordinator
Scott Hansen, Haines Coastal Coordinator
Jerry Medina, Hoonah Coastal Coordinator
Steven Dilts, Hydaburg Coastal Coordinator
Paul Reese, Kake Coastal Coordinator
Erin Reeve, Ketchikan Coastal Coordinator
Harry Staven, Klawock Coastal Coordinator
Allan Stewart, Pelican Coastal Coordinator
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Marlene Campbell, Sitka Coastal Coordinator
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Teri Camery, Juneau Coastal Coordinator
Mike Munger, Cook Inlet Regional Citizens Advisory Council
John Devens, Prince William Sound Regional Citizens Advisory Council
Project File