STATE OF ALASKA

FRANK H. MURKOWSKI, GOVERNOR

DEPT. OF ENVIRONMENTAL CONSERVATION
DIVISION OF SPILL PREVENTION AND RESPONSE
INDUSTRY PREPAREDNESS PROGRAM
Terminals and Tank Farms Section

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

November 13, 2003

File No. 304.20.3023

OIL DISCHARGE PREVENTION AND CONTINGENCY PLAN APPROVAL

FILE COPY

Joseph M. Stankiewicz
North Slope Borough
PO Box 69
Barrow, AK 99723

Dear Mr. Stankiewicz:

SUBJECT: **Point Hope Bulk Fuel Storage Facility, Oil Discharge Prevention and Contingency Plan, Dated December 2003, Plan Number 053-CP-3128.**

The Alaska Department of Environmental Conservation (Department) completed the review of the following oil discharge prevention and contingency plan (plan). The renewal application was received June 3, 2005:

Plan Title:	Point Hope Bulk Fuel Storage Facility, Oil Discharge Prevention and Contingency Plan, Dated November 2005
Plan Holder:	North Slope Borough
Covered Facility:	Point Hope Bulk Fuel Storage Facility, Point Hope, Alaska

PLAN APPROVAL: The Department has determined that the referenced plan satisfies minimum planning standards and other requirements established under applicable statutes and regulations. Therefore, the Point Hope Fuel Storage Facility plan is hereby approved effective November 13, 2005. This approval supersedes the previous plan approval and certificate of approval issued by the Department dated June 30, 2003, for the facility covered by this plan.

A certificate of approval stating that the plan has been approved by the Department is enclosed.

This approval is subject to the following terms and conditions:

APPROVAL CONDITIONS:

EXPIRATION: This approval expires November 12, 2010. After the approval expires, operation of the facility is prohibited by Alaska law until an approved plan is once again in effect.

Printed on Recycled Paper

RENEWAL: To renew this approval, 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 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 nonoperational 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 thereunder, 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 it 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 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.

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 that the plan holder is still required to comply with all other applicable laws.

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.

If you have any questions, please contact Natalie Howard at (907) 451-5960.

Sincerely,

Bill Hutmacher
Program Manager

Enclosure: Certificate of Approval, Number 05CER-3649

cc: Eric Breitenberger, TTF Section Manager
Bill Piedlow, Public Works, Barrow
Carole Fries, ADNR, Anchorage
Todd Nichols, ADF&G, Fairbanks
Matt Carr, USEPA, Anchorage
Dan Wood, Marsh, Anchorage
Capt. Mark DeVries, MSO, Anchorage