

STATE OF ALASKA

TONY KNOWLES, GOVERNOR

**DEPT. OF ENVIRONMENTAL CONSERVATION
DIVISION OF SPILL PREVENTION AND RESPONSE
INDUSTRY PREPAREDNESS AND PIPELINE PROGRAM**

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November 29, 2001

File No: 306.20

CHRONOLOGICAL

OIL DISCHARGE PREVENTION AND CONTINGENCY PLAN APPROVAL

Robert I. Shoaf
Vice President
Alyeska Pipeline Service Company
1835 S. Bragaw Street, MS 542
Anchorage, AK 99512

Dear Mr. Shoaf:

**SUBJECT: Trans-Alaska Pipeline System, Pipeline Oil Discharge Prevention and Contingency Plan; ADEC Plan Number: 015-CP-4131.
PLAN APPROVAL**

The Alaska Department of Environmental Conservation has completed review of the May 30, 2001 application the following oil discharge prevention and contingency plan (plan):

The Trans-Alaska Pipeline System, Pipeline Oil Discharge Prevention and Contingency Plan, CP-35-1, Fourth Edition, Revision 0, dated May 2001, consisting of General Provisions and Region Plans one through five. Revision A, dated August 24, 2001 and Revision B, dated October 12, 2001.

Supporting Documents: Environmental Atlas of the Trans-Alaska Pipeline System, EA-119, dated June 1993.

Alyeska Pipeline Emergency Telephone Book, dated October 2001.

Plan Holder: Alyeska Pipeline Service Company

Covered Facilities

Pipeline and Pump Station operations for the Trans-Alaska Pipeline System from Pump Station 1 to the boundary of the Valdez Marine Terminal, including Pump Stations 1 through 12.

PLAN APPROVAL: The Department has determined that the referenced plan satisfies minimum planning standards and other requirements established under applicable statutes and regulations with the exception of the specific spill prevention and response issues associated with the TAPS Mile Post 400 Release.

On October 4, 2001, the Trans-Alaska Pipeline was struck by a bullet resulting in a spill of 6800 barrels of crude oil. An incident investigation report is currently being conducted by the Department, the associated agencies of the Joint Pipeline Office, and Alyeska Pipeline Service Company. The report, titled "Joint After Action Report for the TAPS Bullet Hole Response", is expected to be published in January 2002. The report will identify recommended improvements, including, but not limited to contingency plan amendments.

The Department will review the contents of the report and incorporate the recommendations into a legal settlement agreement with the plan holder under the Department's authority (AS Title 46). The settlement agreement will specifically outline required plan amendments under the authority of 18 AAC 75.490. The proposed amendment will undergo public review using Department review procedures set out at 18 AAC 75.455.

Therefore, the **Trans-Alaska Pipeline System, Pipeline Oil Discharge Prevention and Contingency Plan** is hereby approved, effective November 30, 2001. All issues associated with the TAPS Mile Post 400 Release will be addressed under the Department's settlement agreement authority (AS Title 46). This approval supersedes the previous plan approval and certificate of approval issued by the Department for facilities covered by this plan.

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

This approval is subject to the following terms and conditions:

TERMS AND CONDITIONS:

Condition Number 1. Multi-year Exercise Schedule Public Review Requirement

The plan holder has taken pro-active steps committing to develop a comprehensive exercise program that is referenced in the plan. To assist the Department with communicating the details of the exercise program to the public, the plan holder will, by January 1, 2002, provide to the Department a) a three year Oil Spill Response Exercise Program Schedule that will be carried out through the three year term of the plan approval, b) a listing of the exercises that are

commensurate with the plan scenario exercises completed during the previous three year plan approval period and c) an explanation of the scope and objectives of each type of exercise to be conducted over the next three year plan approval period. The exercise program schedule will be submitted to the Department as a Supplementary Information Document to the plan and will be subject to public review. To ensure that the public has adequate opportunity to review and comment on non-routine plan amendments, the amendment will be reviewed in accordance with the Department review procedures outlined in the regulations under 18 AAC 75.455.

In the pursuit of continuous plan improvement, and as a demonstration of plan compliance, the plan holder has added text to Section 2.8.10 of the plan stating that at each plan renewal, the plan holder will provide the Department and the associated agencies of the Joint Pipeline Office a three year schedule of oil spill response exercises.

This condition is reasonable and necessary as a plan implementation condition to ensure the plan holder's continuous compliance with the plan through periodic training, response team exercises, and verifying access to inventories of equipment, supplies and personnel (AS 46.04.030(e)(1)-(3)) as well as to ensure that the plan holder demonstrate that designated oil spill response personnel are trained and kept current in the specifics of plan implementation, including deployment of containment boom, operation of skimmers and lightering equipment, and organization and mobilization of personnel and resources (18 AAC 75.445(J). The department uses the procedures set out in 18 AAC 75.455 to review non-routine plan amendments.

Condition Number 2. Revised Response Scenarios Public Review Requirement

The plan holder pro-actively committed to re-formatting the plan response scenarios. The scenarios will be reformatted by a team comprised of the plan holder, the Department, and the associated agencies of the Joint Pipeline Office. A plan amendment consisting of the final revised response scenarios will be submitted to the Department on or before May 30, 2003. To ensure that the public has adequate the opportunity to review and comment on non-routine plan amendments, the amendment will be reviewed in accordance with the Department review procedures outlined in the regulations under 18 AAC 75.455.

In the pursuit of continuous plan improvement, the plan holder has added text to Section 1.7.1 of the plan stating that the response planning scenarios will be reformatted within one year of plan approval. This condition gives the plan holder additional time to make these formatting changes. The new matrix format is proposed to be consistent with that currently under development for use with the Valdez Marine Terminal Oil Discharge Prevention and Contingency Plan. The response planning scenarios are being presented in an improved format, beyond the minimum regulatory requirements, to more readily demonstrate compliance with 18 AAC 75.445(d)(3), 18 AAC 75.445(d)(4), 18 AAC 75.445 (d)(5) as well at to provide continuing improvements to the plan. The department uses the procedures set out at 18 AAC 75.455 to review non-routine plan amendments.

Condition Number 3. Plan Edits

Within 45 days of this plan approval action, the plan holder will publish and distribute final copies of the plan.

This condition is reasonable and necessary as a plan condition under AS 46.04.030(e) to ensure the plan holder's compliance with the approved plan.

Condition Number 4. Response Contractors

Because the plan relies on the use of response contractor(s) for its implementation, the plan holder must immediately notify the Department in writing of any change in the contractual relationship with the plan holder's response contractor(s), 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 reasonably 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 it 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.

EXPIRATION: This approval expires **November 30, 2004**. After the approval expires, operation of the facility is prohibited by Alaska law until an approved plan is once again in effect.

RENEWAL: To renew this approval, the plan holder must submit a completed renewal application and plan to the Department no later than **May 30, 2004**. This is to ensure the submitted plan is approved before the current plan in effect expires. (AS 04.030(d) and 18AAC 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.

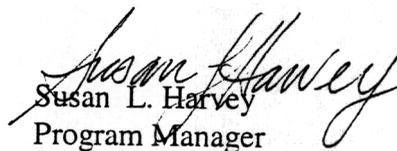
COMPLIANCE WITH APPLICABLE LAWS: If amendments to the approved plan are necessary to meet the requirements of any new laws or regulations, the plan holder must submit an application for amendment to the Department at the above address. The plan holder must adhere to all applicable state statutes and 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 the decision may request an adjudicatory hearing by serving upon the Commissioner a request for hearing that complies with the requirements of 18 AAC 15.200-310. Hearing requests must be delivered to the Commissioner of the Department of Environmental Conservation at 410 Willoughby Ave, Suite 105, Juneau, AK 99801-1795 within 30 days of receipt of this letter. If a hearing is not requested within 30 days, the right to a hearing is waived and the decision becomes final. Please send a copy of the hearing request to the undersigned.

If you have any questions, please contact Ms. Bonnie Friedman at (907) 271-4113 or me at the above number.

Sincerely,


Susan L. Harvey
Program Manager

Enclosure: Certificate of Approval Number 01-CER-5440

cc: Bill Howitt, APSC
Alan Ritchey, APSC
Larry Shier, APSC
Jim Taylor, DOT/OPS
Jerry Brossia, JPO/AO
John Kerrigan, JPO/SPC
Carl Lautenberger, JPO/EPA
Mike Wrabetz, JPO/BLM
Dennis Gnath, JPO/ADF&G
Sam Means, ADNR
John Devens, PWS RCAC
David Parson, Cordova
Carol Smith, Valdez
Gordon Brower, NSB
Tom Lakosh
Pete Lowney
Ruth McHenry, CCA
Ross Coen, AFER
Joan Darnell, NPS
Bonnie Friedman, ADEC



ALASKA DEPARTMENT
of
Environmental Conservation
Certificate of Approval
for

Oil Discharge Prevention and Contingency Plan



Certificate Number: 01-CER-5440

Plan Number: 015-CP-4131

Name of Plan: Trans-Alaska Pipeline System, Pipeline Oil Discharge Prevention and Contingency Plan.

Name of Facility: Trans-Alaska Pipeline.

Facility Address/Location: 1835 S. Bragaw Street, MS 542, Anchorage, AK 99512

Telephone: (907)787-8933 Fax: (907) 787-8443

Region(s) of Operation (18 AAC 75.495): North Slope, Interior, and Prince William Sound Regions

Date of Approval: November 30, 2001

Expiration Date: November 30, 2004

This approval is subject to the terms and conditions of the applicable Department of Environmental Conservation contingency plan approval letter dated November 29, 2001, and continuing compliance with the requirements of AS 46.04 and 18 AAC 75.

A renewal application for contingency plan approval must be received by the Department at least one-hundred-eighty days prior to the expiration date noted above.


Susan L. Harvey, Approving Authority Date 11/29/01
Manager, Industry Preparedness & Pipeline Program