

STATE OF ALASKA

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

SEAN PARNELL, GOVERNOR

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

May 12, 2011

File No.: 302.40 (AE)

**OIL DISCHARGE PREVENTION AND CONTINGENCY PLAN
PLAN APPROVAL EXTENSION**

Mike Baker
Aleut Enterprises, LLC
4000 Old Seward Hwy
Suite 301
Anchorage, AK 99503

Subject: **Aleut Enterprises, LLC Oil Discharge Prevention and Contingency Plan; ADEC Plan Number 011-CP-5076; Plan Approval Extension.**

Dear Mr. Baker:

The Alaska Department of Environmental Conservation (Department) has received a request dated April 26, 2011 to extend the approval of the Aleut Enterprises, LLC (Aleut) Oil Discharge Prevention and Contingency Plan (Plan) for a period of 90 days beyond the plan expiration date of June 14, 2011. This Plan approval is being requested due to the loss of oil discharge response equipment in a fire on March 24, 2011.

After Aleut reported the loss of response equipment, the Department sent a "Letter of Non-Readiness," dated March 24, 2011 to Aleut restricting chartered tank vessel operations until Aleut demonstrates full compliance with the plan as required by 18AAC 75.400-18AAC 75.495.

Presently, Aleut is awaiting the arrival of new response equipment before submitting the application for Plan renewal as required by 18 AAC 75. 420. Therefore, the Department has determined that a short-term Plan approval extension through September 13, 2011 is appropriate to allow for new response equipment arrival and completion of the Plan renewal application.

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

Plan: **Aleut Enterprises, LLC. Oil Discharge Prevention and Contingency Plan**

ADEC Plan No.: **011-CP-5076**

Supporting Documents: **CHADUX Oil Spill Response Manual, dated September 2008**

Plan Holder: **Aleut Enterprises LLC
12019 76th Place NE
Kirkland, WA 98034-2437**

Covered Vessels: **OSV Dove (9205809)**

Region of Operation: **Aleutian Region**

PLAN APPROVAL: The short-term Plan approval extension is hereby approved **effective May 12, 2011**. 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 Aleut has obtained a Department approved Certificate of Financial Responsibility.

The Department determined that the Plan, as represented by Aleut Enterprises, LLC 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. Aleut Enterprises, LLC. 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. Tank vessel operations: No chartered tank vessel operations are allowed until Aleut is in full compliance with the Plan, as defined in 18 AAC 75.400- 18AAC 75.495.
2. Notice of changed relationship with response contractor: Aleut Enterprises, LLC relies on the use of response contractor(s) for its Plan implementation. Aleut Enterprises, LLC 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 **September 13, 2011**. Following expiration, Alaska law prohibits operation of the vessel(s) until an approved plan is once again in effect.

RENEWAL: Aleut Enterprises, LLC must complete the plan renewal process prior to the plan expiration date shown above.

REVOCATION, SUSPENSION OR MODIFICATION: This approval is effective only while Aleut Enterprises, LLC 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 Aleut Enterprises LLC 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: Aleut Enterprises, LLC 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 Aleut Enterprises, LLC's 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 Aleut Enterprises, LLC 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 Aleut Enterprises, LLC 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 Aleut Enterprises, LLC. 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, Aleut Enterprises, LLC must submit an application for amendment to the Department at the above address. Aleut Enterprises, LLC must adhere to all current applicable state statutes and regulations. This approval does not relieve Aleut Enterprises, LLC 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 Aleut Enterprises, LLC 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
Program Manager

Enclosure: Certificate of Approval, Number: 06-CER-008.1

Electronic cc:

John Kotula, ADEC
Martin Farris, ADEC
Bradley Dunker, ADFG
Samantha Carroll, ADNR
Michael Daingeault, ADF&G
Karol Kolehmainen, ALEUTIANS WEST
Tina Anderson, ALEUTIANS EAST

cc:

Project file