

STATE OF ALASKA

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

April 27, 2005

File Number: 302.30

Dan Nutt
Sirius Maritime LLC.
309 S. Cloverdale St. Suite D-21
Seattle, WA 98108-4572

SUBJECT: Sirius Maritime LLC Oil Discharge Prevention and Contingency Plan
ADEC Plan Number 022-CP-5094, Vessel Addition

Dear Mr. Nutt:

The Alaska Department of Environmental Conservation (ADEC) has received and reviewed the referenced Oil Discharge Prevention and Contingency Plan amendments, received April 26, 2005. The amendments included routine updates and specific information for the addition the barge Antares (1153165). The Department has determined that the addition of this vessel does not diminish Sirius Maritime's ability to respond to an oil discharge of the response planning standard for the subject plan. As allowed by 18 AAC 75.415 (b) and (c) the Department approves the addition of the barge Antares to the plan and accepts the routine updates. New certificate 03-CER-2603.1, enclosed, replaces 03-CER-2603. Please insure that all Sirius vessels operating in Alaska waters have a copy of this new certificate.

This approval applies to the following oil discharge prevention and contingency plan (C-plan):

Plan Title: **Sirius Maritime Oil Discharge Prevention and Contingency Plan (March 1, 2002 as amended May 1, 2002, September 27, 2002, October 8, 2002 and April 26, 2005).**

Supporting Documents: **SEAPRO Tech Manual and Chadux Tech Manual.**

C-plan Holder: **Sirius Maritime, LLC
309 S. Cloverdale St.
Suite D-21
Seattle WA, 98108-4572**

Covered Vessels: **Noho Hele (D649722), Rigel (991836), Capella (1129491),
Leo (1136725) and Antares (1153165)**

PLAN APPROVAL: The Department has determined that the referenced plan satisfies minimum planning standards and other requirements established under applicable statutes

and regulations. The Sirius Maritime plan is hereby approved effective April 27, 2005. This approval supersedes the previous plan approval and certificate of approval issued by the Department for vessels covered by this plan.

A Certificate of Approval for the vessels listed 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

1. Notice of Changed Relationship with Response Contractors. The planholder must immediately notify the Department in writing of any change in the contractual relationship with the C-plan holder's response contractor(s). 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 C-plan.

This condition is reasonable and necessary because there are certain risks associated with allowing a C-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 C-plan holder.

EXPIRATION: This approval **expires May 24, 2007**. After the approval expires, operation of the vessels is prohibited by Alaska law until an approved C-plan is again in effect.

RENEWAL: To renew this approval, the C-plan holder must submit a completed renewal application and plan to the Department no later than 180 days prior to this plans expiration date. This is to ensure the submitted plan is approved before the current plan in effect expires. (18 AAC 75.420)

REVOCACTION, SUSPENSION, OR MODIFICATION: This approval is effective only while the C-plan holder is in "compliance with the C-plan" as approved on April 27, 2005, and any subsequent amendments approved by the Department while the C-plan is in force, 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 C-plan if the C-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 C-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 C-plan becomes non-operational or is removed from its

designated storage location, the C-plan holder must notify the Department in writing and provide a schedule for equipment substitution, repair, or return to service (18 AAC 75.475(b)).

CIVIL AND CRIMINAL SANCTIONS: Failure to comply with the C-plan may subject the C-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 AND VERIFICATION OF EQUIPMENT, SUPPLIES AND PERSONNEL: The Department has the right to verify the ability of the C-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 C-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 C-plan and the terms and conditions (AS 46.04.030(e) and AS 46.04.060). The C-plan holder shall conduct exercises for testing the adequacy of the contingency plan and its implementation (18 AAC 75.480 and 485).

FAILURE TO PERFORM: In granting approval of the C-plan, the Department has determined that the C-plan, as represented to it by the applicant in the C-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 C-plan holder, or any other person or entity: (1) the accuracy or validity of the information or assurances relied upon; (2) that the C-plan is or will be implemented; or (3) that even full compliance and implementation with the C-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 C-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 C-plan are necessary to meet the requirements of any new laws or regulations, the C-plan holder must submit an application for amendment to the Department at the above address. The C-plan holder must adhere to all applicable state statutes and regulations as they may be amended from time to time.

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. We request the notification be made, as soon as possible after addressing resultant safety concerns, 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, operations underway, identity of any facilities or other vessels involved, and a brief analysis of any known cause of the spill. We request you submit a copy of the final USCG report within thirty days of the incident.

Mr. Dan Nutt
Sirius Maritime Company

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April 27, 2005

Please ensure a complete copy of this plan amendment is delivered to:

Robin Willis
Statewide Services
Alaska Department of Fish and Game
333 Raspberry Road
Anchorage, AK 99518-1599

John Kotula
ADEC
P. O. Box 1709
Valdez, AK 99686

Sam Means
Department of Natural Resources
Southcentral Region Land, Mining & Water
550 W. 7th Ave., Suite 900 C
Anchorage, AK 99501-3557

This approval does not relieve the C-plan holder of the responsibility for securing other federal, state or local approvals or permits, and that the C-plan holder is still required to comply with all other applicable laws.

APPEAL: This is a final decision. Aggrieved persons with standing may appeal this decision to the Alaska Superior Court within 30 days as provided by the Alaska Rules of Appellate Procedures.

If you have any questions, please contact Bob Flint at (907) 269-7681.

Sincerely,



Betty Schorr
Section Manager

Enclosure: Certificate of Approval: 02-CER-2458.3

cc w/enclosure: Mr. Robert C. Dorn, Sirius Maritime LLC
Mr. Sam Means, ADNR, Anchorage
Ms. Robin Willis, ADFG, Anchorage
Mr. Mark Fink, ADF&G, Anchorage
Mr. Terry Bryant, CIRCAC
Project File