

STATE OF ALASKA

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DEPT. OF ENVIRONMENTAL CONSERVATION

DIVISION OF SPILL PREVENTION AND RESPONSE INDUSTRY PREPAREDNESS PROGRAM

Exploration Production & Refineries

December 17, 2003

File No: 305.30 (5102)

OIL DISCHARGE PREVENTION AND CONTINGENCY PLAN APPROVAL

Mr. John (Jack) Bergeron, Jr.
Alaska Manager
TOTAL E&P USA, Inc.
4300 B Street, Suite 303
Anchorage, AK 99503

Dear Mr. Bergeron:

Subject: Approval for TOTAL E&P USA, Inc., North Slope Exploration Operations, Oil Discharge Prevention and Contingency Plan (plan): ADEC Plan Number 034-CP-5102.

The Alaska Department of Environmental Conservation (Department) has completed its review of the application for the TOTAL E&P USA, Inc., Oil Discharge Prevention and Contingency Plan (plan) dated August 18, 2003 with revisions through December 1, 2003.

This approval applies to the following Oil Discharge Prevention and Contingency Plan:

Plan Title: **TOTAL E&P USA, INC., North Slope Exploration Operations, Oil Discharge Prevention and Contingency Plan, dated August 2003.**

Supporting Documents: **Alaska Clean Seas (ACS) Technical Manuals as revised and updated.**

Plan Holder: **TOTAL E&P USA, INC., North Slope Exploration Program, Anchorage, Alaska.**

Covered Facilities: **Exploration Operations in the National Petroleum Reserve-Alaska (NPRA) area of the North Slope. This includes wells at the general areas of Caribou East Prospect, Caribou West Prospect and Fox Prospect as identified in the plan.**

PLAN APPROVAL: Approval of the referenced plan is hereby granted, effective December 17, 2003. A certificate of approval stating that the Department has approved the contingency plan is enclosed. **This approval is subject to the following terms and conditions:**

- 1) **Proof of Oil Spill Primary Response Action Contractor.** This approval is conditioned upon the planholder submitting to the Department fully executed statements of contractual terms with the attestations required by 18 AAC 75.445(i)(1) with the following registered primary response action contractors: Alaska Clean Seas, to provide response resources as identified in the plan and in the unexecuted statements of contractual terms submitted on October 31, 2003; ERST/O'Brien's, to provide primary support for staffing the incident command system as identified in the plan and submitted on August 18, 2003.

The planholder will submit these fully executed statements of contractual terms to the Department prior to undertaking any field activities on the project. The actual contracts are not required to be part of the contingency plan document. The Statement of Contractual Terms form can be found on the Department's website (www.state.ak.us/dec).

This condition is reasonable and necessary to meet the requirements at AS 46.04.030(e), 18 AAC 75.425(e)(3)(H) and 18 AAC 75.445(i).

- 2) **Notice of Changed Relationship with Response Contractor.** Because the plan relies upon the use of response contractor(s) for its implementation, the planholder must immediately notify the Department in writing of any change in the contractual relationship with the planholder'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 reasonable and necessary because there are certain risks associated with allowing a planholder 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 planholder. Given this risk, the Department must be promptly informed of any change of the contractual relationship between the planholder 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 planholder has continuous access to sufficient resources to protect the environment and to contain, clean up, and mitigate potential oil spills. [6 AAC 80.140, 18 AAC 75.445(i)]

- 3) **Seasonal Drilling Restrictions.** To reduce the risk or magnitude of an oil discharge and to ensure the effectiveness of planned spill response methods prior to periods of

break up and broken ice when the planned response methods are rendered ineffective by environmental limitations, all drilling operations into hydrocarbon bearing formations for the wells at Caribou East Prospect, Caribou West Prospect and Fox Prospect, must be completed by the end of drilling date as described on 3.1-3 of the plan (April 15 of each winter drilling season).

This condition is reasonable and necessary to ensure the planholder's compliance with specific temporary measures until environmental conditions improve to reduce the risk or magnitude of an oil discharge during periods of broken ice when planned spill response methods are rendered ineffective by environmental limitations consistent with the standards of the ACMP contained at 6 AAC 80.140, which are provided at 18 AAC 75.445(f). Additionally, the condition is necessary to ensure that oil produced during a formation flow test or other drilling operations is collected and stored in a manner that prevents the oil from entering the land or waters of the state consistent with the standards of the ACMP contained at 6 AAC 80.140, which are provided at 18 AAC 75.045(a) and 18 AAC 75.445(d)(2).

EXPIRATION: This approval expires **December 17, 2008**. After the approval expires, Alaska law prohibits operation of these facilities 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 180 days prior to the expiration of this approval. This is to ensure that the submitted plan is approved before the current plan in effect expires. (18 AAC 75.420).

AMENDMENT: Before any change to this plan may take effect, the plan holder must submit an Application for Amendment to the plan with any additional information needed to evaluate the proposed amendment. This is to ensure that changes to the plan do not diminish the plan holder's ability to respond to a discharge and to evaluate any additional environmental considerations that may need to be taken into account. (18 AAC 75.415).

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 non-operational 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**

Mr. John (Jack) Bergeron, Jr.
TOTAL E&P USA, Inc.

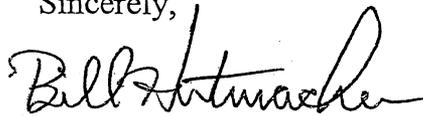
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requests must be delivered to the Division Director, 410 Willoughby Avenue, Suite 303, Juneau, Alaska 99801 within 15 days of the permit decision. **Adjudicatory hearing requests** must be delivered to the Commissioner of the Department of Environmental 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 Dianne Munson at 269-3080 or Lydia Miner at 269-7680.

Sincerely,



Bill Hutmacher
IP Program Manager

Enclosure: Certificate of Approval, Number 03CER-4616

cc w/o enclosure:

George Snodgrass, TOTAL E&P USA, INC.

Lydia Miner, ADEC, EP&R Section Manager

Ed Meggert, ADEC, PERP NART

Dianne Munson, ADEC, EP&R

Bob Britch, Northern Consulting Group

Carl Lautenberger, USEPA

Sam Means, ADNR, Anchorage

Rex Okakok, North Slope Borough

Mac McLean, ADNR, Habitat Division, Fairbanks

**ALASKA DEPARTMENT OF ENVIRONMENTAL CONSERVATION
DIVISION OF SPILL PREVENTION AND RESPONSE
INDUSTRY PREPAREDNESS PROGRAM**

**TOTAL E&P USA, INC., NORTH SLOPE EXPLORATION OPERATIONS, OIL
DISCHARGE PREVENTION AND CONTINGENCY PLAN**

**Summary of Basis for Department Decision
December 17, 2003**

Pursuant to 18 AAC 75.460(b)(1), the following is a summary of the basis for the Department's decision to approve the TOTAL E&P USA, INC., North Slope Exploration Operations, Oil Discharge Prevention and Contingency Plan, dated August 2003, including referenced portions of the Alaska Clean Seas (ACS) technical Manuals, subsequent plan revisions and additional information submitted by the applicant, with regard to key issues raised during the review period on the plan application.

Response Planning Standards (RPS)

The Department finds that the RPS of 82,500 bbls identified in the plan for a blowout is in accordance with the requirements of 18 AAC 75.434 (16,500 barrels for the first 72 hours, plus an additional 5,500 barrels for each day beyond 72 hours).

Response Scenarios

Pursuant to 18 AAC 75.425(e)(1)(f), the plan must contain a description of the discharge containment, control, and clean-up actions to be taken, which clearly demonstrate the strategies and procedures to conduct and maintain an effective response; presented in the form of a response scenario to a discharge of the response planning standard volume.

The Department finds that the response scenarios provide a logical plan of action with tactics, equipment and personnel requirements identified in the ACS Technical Manuals, or maintained on site during exploration operations, sufficient to demonstrate a response to a discharge of the RPS volume for this response zone.

North Slope Industry Guidance Planning Assumptions

The planning assumptions identified in the Alaskan Clean Seas Technical Manual have not been used in this plan.

Public Comments Received

No public comments were received for this plan.