

# STATE OF ALASKA

SEAN PARNELL, GOVERNOR

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

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February 24, 2011

File No.: 302.20 (TM)

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

Dudley Tarlton  
VP- ESOH  
TransMontaigne Operating Company L.P.  
1670 Broadway, Suite 3100  
Denver, CO 80202

Subject: **TransMontaigne Product Services Oil Discharge Prevention and Contingency Plan; ADEC Plan No. 10-CP-5183; Plan Approval and Distribution**

Dear Mr. Tarlton:

The Alaska Department of Environmental Conservation (Department) received the complete TransMontaigne Product Services Oil Discharge Prevention and Contingency Plan on November 12, 2010 for operations in the Cook Inlet Region of Alaska. The Department reviewed the Plan in accordance with 18 AAC 75.455.

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

Plan: **TransMontaigne Product Services Oil Discharge Prevention and Contingency Plan**

ADEC Plan No.: **10-CP-5183**

Plan Holder: **TransMontaigne Operating Company L.P.  
1670 Broadway, Suite 3100  
Denver, CO 80202**

Covered Vessels: **None at this time**

Region of Operation: **Cook Inlet**

**PLAN APPROVAL:** The Department granted approval of the above referenced Plan, effective **February 24, 2011**. 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 the plan holder has obtained a Department approved Certificate of Financial Responsibility.

The Department determined that the Plan, as represented by TransMontaigne Operating Company L.P., 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 with the Plan will result in complete containment, control or clean up of any given oil spill. TransMontaigne Operating Company L.P. 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. Revision of training information for vessel crews – In order for the training section of the Plan to be a useable guide, it must be in a format that provides enough information to determine necessary training for all crew members and associated positions. Please reconfigure the information found Section 2.1.1 into a usable format.
2. Scenario Revision: An error occurred in the Port of Anchorage scenario where Chadux was inaccurately listed as the primary response action contractor, not CISPRI. Please correct.
3. Documents required on board the vessel(s): While in state waters, a copy of the Certificate of Approval and the Plan, as defined in 18 AAC 75.425(e)(1), must be on board all covered vessels at all times.
4. Final copy of the Plan: TransMontaigne Operating Company L.P. must submit to the Department updated versions of the approved Plan, including all revisions instituted during the recent Plan review within 30 days of this letter. **You must send two complete Plan copies to the Department's Anchorage office and one complete copy to the Valdez office. In addition, you must send either a complete updated version of the Plan or a copy of the Plan edits and revisions to each holder of a controlled copy of the Plan.** Please be advised that no Plan material has been added to, deleted from or changed within your Plan since the Plan was submitted on November 12, 2010.

5. Amendments and renewal: All amendments and renewals must be submitted in a "red line" format that clearly identifies the proposed changes. This includes all changes, regardless of their significance. "Red line" format means that each and every change, addition or deletion must be clearly identified within the text of the Plan.
  
6. Notice of changed relationship with response contractor: TransMontaigne Operating Company L.P. relies on the use of response contractor(s) for its Plan implementation. TransMontaigne Operating Company L.P. must immediately notify the Department, in writing, of: (1) any change in the contractual relationship with Cook Inlet Spill Prevention and Response, Inc.; (2) any breach by either party to the response contract that may excuse a response contractor from performing; (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:** The Certificate of Approval for the Plan expires on February 23, 2016. Following expiration, Alaska law prohibits operation of the vessel(s) until an approved plan is once again in effect.

**RENEWAL:** TransMontaigne Operating Company L.P. must submit a completed renewal application and plan to the Department no later than 180 days prior to the expiration of the original Plan approval. This is to ensure the submitted plan is approved before the current approved Plan expires (18 AAC 75.420).

**REVOCATION, SUSPENSION OR MODIFICATION:** This approval is effective only while TransMontaigne Operating Company L.P. 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 TransMontaigne Operating Company L.P. 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:** TransMontaigne Operating Company L.P. 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 TransMontaigne Operating Company L.P.'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 TransMontaigne Operating Company L.P. 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 TransMontaigne Operating Company L.P. 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 TransMontaigne Operating Company L.P. 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, TransMontaigne Operating Company L.P. must submit an application for amendment to the Department at the above address. TransMontaigne Operating Company L.P. must adhere to all current applicable state statutes and regulations. This approval does not relieve TransMontaigne Operating Company L.P. 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) 269-7566 or by facsimile to (907) 269-8403. 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

TransMontaigne Operating Company L.P. 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 Samantha Smith at (907) 269-7566 or [Samantha.smith@alaska.gov](mailto:Samantha.smith@alaska.gov). You may also contact Vince Kelly at (907) 835-3038 or [vince.kelly@alaska.gov](mailto:vince.kelly@alaska.gov).

Sincerely,



Betty Schorr  
Program Manager

Electronic cc:

Leslie Pearson, Pearson Consulting

John Kotula, ADEC

Vince Kelly, ADEC

Bradley Dunker, Alaska Department of Fish and Game

Carol Fries, Alaska Department of Natural Resources

Martin Lydick, Kodiak Island Coastal Coordinator

Susan Lee, Matanuska Susitna Coastal Coordinator

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Thede Tobish, Anchorage Coastal Coordinator

Gary Williams, Kenai Coastal Coordinator

Vinnie Catalano, Cook Inlet Regional Citizens Advisory Council

Mike Munger, Cook Inlet Regional Citizens Advisory Council

cc:

Project File