



Regional Citizens' Advisory Council / "Citizens promoting environmentally safe operation of the Alyeska terminal and associated tankers."

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MEMBERS November 5, 2013

Alaska State
Chamber of
Commerce

Mr. Dale Gardner
Environmental Program Specialist III
Alaska Department of Environmental Conservation
555 Cordova Street
Anchorage, Alaska 99501

Alaska Wilderness
Recreation & Tourism
Association

Chugach Alaska
Corporation

SUBJECT: Alaska Regional Response Team (ARRT) Proposed Draft Amendment to the Alaska Unified Plan to Eliminate the Regional Stakeholder Committee (RSC)

City of Cordova

City of Homer

Dear Mr. Gardner:

City of Kodiak

This letter responds to your offer at the September 2013 Alaska Regional Response Team (ARRT) meeting to provide the Alaska Department of Environmental Conservation (ADEC) with input on the proposed draft amendment to the Alaska Federal/State Preparedness Plan for Response to Oil & Hazardous Substance Discharges/Releases (Unified Plan). That proposed draft amendment would, if approved and implemented, eliminate the Regional Stakeholder Committee (RSC). At the September 2013 ARRT meeting, the Prince William Sound Regional Citizens' Advisory Council ("PWSRCAC" or "Council") staff advised that this amendment would not likely be supported by the Council and the members it represents.

City of Seldovia

City of Seward

City of Valdez

City of Whittier

Community of
Chenega Bay

PWSRCAC strongly believes that the proposed change would significantly reduce access to information and the Unified Command for most stakeholder groups during an oil spill response and would be a major step backwards that may cause substantial harm to interests of both the public at large and Alaska. The PWSRCAC respectfully recommends, for reasons discussed below, that the proposed amendment be withdrawn and that in lieu of the proposed changes, the ARRT engage with the PWSRCAC and other stakeholders to genuinely improve and strengthen the current RSC process.

Community of
Tatitlek

Cordova District
Fishermen United

Kenai Peninsula
Borough

Kodiak Island
Borough

Kodiak Village Mayors
Association

The Unified Command currently provides the RSC under the Unified Plan:

Oil Spill Region
Environmental
Coalition

- A complete copy of the Incident Action Plan (IAP) on the same day it is produced;
- All information produced by the Joint Information Center (JIC);
- Responses to information or questions raised by the RSC;
- Support for the RSC in carrying out their duties and responsibilities; and,
- Access to the Unified Command within the planning cycle.

Port Graham
Corporation

Prince William Sound
Aquaculture
Corporation

The ARRT has proposed the following major changes to the Unified Plan:

1. The RSC would be eliminated and replaced with two groups that partition and segregate local governments and Tribes from all other affected stakeholders.
 - a. A Tribal and Local Government (TLG) Group would be formed to include local governments and Tribes and would communicate to the Unified Command through the Liaison Officer. As proposed, the TLG would have direct access to the Unified Command only “when feasible during the course of the response.”
 - b. An Affected Stakeholder (AS) Group would house all other stakeholders, including PWSRCAC, to be “informed” by the Liaison Officer who will “serve as a conduit to the Unified Command for delivering the recommendations or concerns of the group.”
2. The Incident Action Plan (IAP) would no longer be provided to local governments,¹ Tribes, or any other stakeholder, thus reducing access to information for all stakeholders.
3. Joint Information Center (JIC) materials would be provided to local governments and Tribes, but not to any other stakeholders.

PWSRCAC does not support these proposed changes. They would result in less public participation in a response by an overall less-informed public. We therefore recommend that the amendment be withdrawn.

The function and respective roles of the Regional Citizens’ Advisory Councils (RCAC) and the RSC are discussed in individual sections within the Unified Plan. The currently proposed revisions only encompass amendments to the RSC section of the Unified Plan. It is encouraging that the proposed changes do not affect the section in the Unified Plan [Annex B, Appendix II, (#4)] that articulates the public value and contributions of RCACs in an incident response. Unfortunately, the proposed amendments to the RSC section of the Unified Plan [Annex B, Appendix VIII] diminish the RCAC’s principal mechanism for delivering that public value by reducing frequent communication directly with the Unified Command and reducing access to incident response objectives and resources as under the current RSC process. These possibly conflicting roles of the RCACs are particularly worrisome as this could lead the Unified Command to conclusions of their own interpretation of which section of the Unified Plan and/or Subarea Plan to work with in regards to the RCAC’s participation.

If removal of conflicts within the plan is desired with the adoption of these revisions, additional cascading changes may be required. Amendments will likely be necessary to subordinate Subarea plans that further describe the roles of the RCACs. Our comments on the impacts of the proposed revisions take their described roles for the RCAC and other parties appearing in the new RSC section of the Unified Plan at face value. The early 2013 appearance of these changes in the subordinate Southeast Alaska Subarea Plan in advance of their consideration for adoption in the Unified Plan appears to validate these concerns regarding cascading changes to other plans and other sections for alignment.

Because of its broad span of memberships and nearly 25 years of experience, the PWSRCAC’s expertise, local knowledge and understanding of citizen concerns adds

¹ A local government that is eligible to participate as a Local On Scene Coordinator (LOSC) and chooses to participate as a LOSC would receive an IAP.

unique capabilities, public trust, and credibility to the Unified Command and Incident Management Team through our current incorporation into the RSC process. PWSRCAC's membership includes representatives from city and borough governments in the Exxon Valdez oil spill region, as well as from the Alaska State Chamber of Commerce, Alaska Native corporations, the commercial fishing industry, tourism, and the environmental community. During spills that would affect Prince William Sound and the Gulf of Alaska, the PWSRCAC would provide important analyses, as well as input and advice to the Unified Command, by providing highly-trained, experienced individuals to participate in the RSC that would bring to bear the experience of representatives and stakeholders from across the 1989 oil spill region.

The PWSRCAC has an obligation to represent all of its members, including Tribal members. We are particularly concerned that one of the stated intents for the proposed change is to update and address the federal consultation obligation with Federally Recognized Tribes in a real and meaningful way here in Alaska. However, stakeholder engagement is not the same as Tribal consultation, and the effect of the draft actually *diminishes* Tribal status and access to Unified Command and information instead of improving it.

The Oil Pollution Act of 1990 (OPA 90) authorized the establishment of two Regional Citizens' Advisory Councils (RCACs) in Alaska. The statute directs federal agencies to consult with these councils before taking any action with respect to permits, site-specific regulations, and other matters which affect or may affect the vicinity of the facilities covered by the RCAC's advisory purview. We believe this statutory provision was intended to provide the RCACs the *assurance* of participating in oil spill planning and response activities. The PWSRCAC cannot accomplish its mission fully as envisioned under OPA 90 without active participation in planning and response in its statutorily-mandated *advisory role*. During an incident, the PWSRCAC can actually improve communication efficiencies. The PWSRCAC would keep all its stakeholders informed, reducing the total number of stakeholders that the Unified Command and the Liaison Officer would have to independently inform. Elimination of the RSC and subsequent access to the IAP and information from the JIC would greatly hinder, and potentially prevent, the PWSRCAC from carrying out its duties as envisioned under OPA 90.

For over a decade ADEC has used the RSC process, and through that process, ADEC has been an exemplary role model, nationally and internationally, on how to successfully manage incidents on behalf of the State's and public's interests. The IAP, provided during past events, epitomizes the State's commitment and the public's high value placed on transparent communication with potentially impacted communities. ADEC has set a positive precedent where this information has been made available. PWSRCAC supports continuation of this practice that has proven effective and strongly recommends that it not be abandoned. Any change to diminish access to information would be a major step backwards in protecting the public's interests.

Allowing communities and stakeholders access to accurate information and the ability to participate in the RSC has enabled stakeholders to become part of the solution, rather than being excluded. Although such participation by the public adds some additional effort/work on the part of state, federal government and industry officials, it is far superior and unquestionably preferable to having a repeat of the public consternation with spill management in 1989. Any rewrite to this section should aim to go forward and improve on the current RSC process.

In summary, the PWSRCAC has the following concerns with the proposed draft:

- The segregation of local governments and Tribes from all other stakeholders would reduce communication and collaboration between those groups. Two separate stakeholder groups would create confusion, uncertainty, and unnecessary complexity during future incidents and be counterproductive.
- Access to the Unified Command would be effectively reduced for local governments, Tribes, and stakeholder groups.
- Groups such as PWSRCAC, which includes local governments, Tribes, and other types of non-governmental stakeholders, transcend municipal and tribal boundaries. The separation into two groups would create artificial boundaries and barriers to effective communications. Certain groups would likely be conflicted regarding the mechanism to use for stakeholder access.
- The AS Group would be “informed” by the Liaison Officer with no corresponding defined opportunity to provide input or feedback directly to individual members of the Unified Command. This eliminates the opportunity for members of the proposed AS Group, such as the PWSRCAC, from providing expertise on incident priorities, objectives and input on other technical or scientific matters directly to those making the decisions.
- Access to data, such as the IAP, for stakeholders, local, and tribal governments is reduced and/or eliminated.
- There is no basis under the Alaska Incident Management System (AIMS) for forming separate TLG or AS Groups.
- The proposed changes would create a significant administrative burden to government, industry, and the public, as it will trigger a series of amendments to other documents that rely on the Unified Plan or are tiered from it, including amendments to nine Subarea Plans in Alaska, the AIMS Guide, and all industry oil spill contingency plans in Alaska that currently use RSC language.

The PWSRCAC supports stakeholder involvement during oil spills as outlined in the current Unified and Subarea Plans and is committed to the success of the stakeholder involvement process. Over the years, the Council has worked cooperatively with ADEC, the U.S. Coast Guard, industry, and others to apply and refine the RSC approach during drills, exercises and actual incidents. In furtherance of that objective, PWSRCAC recently initiated a series of workshops aimed at informing local and Tribal governments and stakeholder groups about the ICS process and their established roles and constructive participation in spill incident management under the Alaska Incident Management System (AIMS) Guide and the RSC.

Thank you, in advance, for your favorable consideration of these recommendations that the proposed amendment be withdrawn and, in the alternative, that the ARRT engage with the PWSRCAC and other stakeholders to genuinely improve and strengthen the current RSC process.

The Board of Directors and staff of the Prince William Sound Regional Citizens' Advisory Council are available to meet with you and any other appropriate official(s) to discuss this



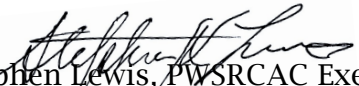
Dale Gardner
November 5, 2013
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matter further prior to the next ARRT meeting. Please confirm an opportunity, convenient to you, when such a meeting may be scheduled.




Sincerely,



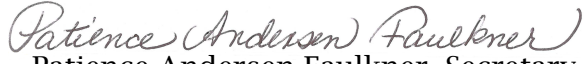

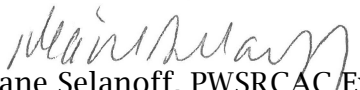
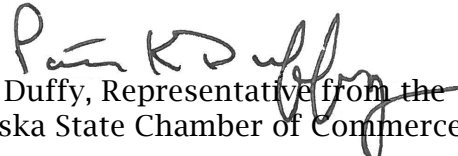
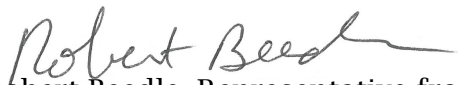

Mark A. Swanson
Executive Director


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Cc: ARRT Co-Chairs and Member Agencies