

Briefing for PWSRCAC Board of Directors – May 2025

INFORMATION ITEM

Sponsor: Linda Swiss, OSPR Committee, TOEM Committee, C-Plan Project Team, and the Secondary Containment Project Team

Project number and name or topic: 651 Update on Request for Adjudicatory Hearing on VMT C-Plan

1. **Description of agenda item:** On November 6, 2024, the Alaska Department of Environmental Conservation (ADEC) approved the renewal of the Valdez Marine Terminal Oil Discharge Prevention and Contingency Plan (VMT C-Plan) and issued its Basis of Decision on the renewal. The 5-year renewal is effective as of November 6, 2024, and expires on November 5, 2029. ADEC's approval letter and Basis of Decision document can be found [HERE](#).

The following is a timeline of actions since the plan was approved:

Date	Action
Nov 6, 2024	ADEC issues VMT C-Plan approval
Nov 26, 2024	PWSRCAC files Request for Informal Review
Dec 3, 2024	ADEC (SPAR) determines PWSRCAC's request has merit
Feb 24, 2025	ADEC (SPAR) issues final decision on PWSRCAC's request
March 1, 2025	Deadline for Alyeska to submit final report of secondary containment liner testing method to be used in satisfaction of COA #1A
March 26, 2025	PWSRCAC submits Request for Adjudicatory Hearing on ADEC's decision on Request for Informal Review
April 1, 2025	Deadline for Alyeska to submit a timeline outlining dates for key deliverables and project milestones, with completion of liner by November 2028 required
April 7, 2025	Acting ADEC Commissioner issues decision on Request for Adjudicatory Hearing
April 9, 2025	Acting ADEC Commissioner issues clarification on April 7, 2025 decision

ADEC's approval includes **Condition of Approval (COA) #1 East Tank Farm Secondary Containment Area Required Evaluation**. As outlined in Issue #7 in the Basis of Decision document, section 2.1.7.1 of the plan, further analysis of the liners is required. This renewal requires Alyeska to complete the following:

- A. *Submit the final report of secondary containment liner testing method to be used to evaluate the condition of the East Tank Farm secondary containment area by March 1, 2025.*

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B. Complete liner investigations of the East Tank Farm secondary containment area within the plan cycle (prior to plan submittal of the 2029 renewal).

On November 26, 2025, PWSRCAC submitted a Request for Informal Review to the SPAR Director on these conditions of approval that submissions to ADEC should go through public review, establish a schedule for completing liner inspections to the end of 2025, and requirements for corrective actions on liners. The SPAR Director has the ultimate responsibility to determine whether the request has merit.

On February 24, 2025, ADEC SPAR issued a final decision that required Alyeska submit a timeline outlining target dates for key deliverables and project milestones with completion of liner evaluation by November 2028 by April 1, 2025, and that work should begin by July 2026.

On March 26, 2025, PWSRCAC filed a Request for Adjudicatory Hearing to the Acting ADEC Commissioner asking that ADEC's conditions of approval should require any changes to schedules of inspections and corrective actions be subject to a major amendment and public review process; that the schedule for starting inspections of the liners should begin by 2025 for completion by 2028; and that corrective actions be required if liner does not meet "sufficiently impermeable" standard. Both Alyeska and the City of Valdez filed Requests for Adjudicatory Hearings on the secondary containment liner.

On April 7, 2025, the Acting ADEC Commissioner issued decisions to PWSRCAC, Alyeska, and the City of Valdez denying PWSRCAC's and Alyeska's hearing requests and allowing hearings on some of the City's requests. The Acting Commissioner granted PWSRCAC's request for a remand (meaning back to the SPAR Director) of her November 6, 2024 COA 1 decision. We believe this means the SPAR Director is tasked with either going back to the original COA 1 issued on November 6, 2024 or revising that COA. In addition, the Acting Commissioner directed that a public review take place, which was also part of PWSRCAC's request. The Acting Commissioner also directed the parties to confer on the issues related to the secondary containment liner.

Regarding the City of Valdez's request, the Acting Commissioner denied the City's hearing request on removing the 60% prevention credit for the secondary containment liner and vacated and remanded that decision back to the SPAR director for further consideration. On April 9, 2025, the Acting Commissioner clarified the decision on the prevention credit for the secondary containment liner by removing the word "vacated," and therefore only remanded this decision back to the SPAR director for further consideration.

2. **Why is this item important to PWSRCAC:** This item is important to PWSRCAC because the secondary containment liners in the East Tank Farm are there to prevent the contamination of ground and surface water in the event of an oil or other hazardous liquid spill. The issue with the secondary containment liner (also known as the "catalytically blown asphalt liner" or "CBA liner") is if the integrity of the liner is compromised, such as having through holes, cracks, and gaps, the risk of an oil spill causing environmental damage

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increases. To date, visual inspections of the CBA liners in the East Tank Farm have shown areas where the liner integrity was compromised. Alyeska receives a 60% prevention credit from the Response Planning Standard volume from a catastrophic spill for a “sufficiently impermeable secondary containment liner.” PWSRCAC has been following this issue for more than 20 years and has questioned the reasonableness of this prevention credit when the integrity of the liners cannot be verified. This secondary containment integrity issue was also the subject of a 2019 Request for Informal Review and a 2022 Request for Adjudicatory Hearing.

3. **Previous actions taken by the Board on this item:**

<u>Meeting</u>	<u>Date</u>	<u>Action</u>
XCOM	12/4/19	Authorized staff to submit requests for informal review on VMT C-Plan renewal.
Board	1/27/22	Approval to authorize Executive Director to file request for adjudicatory hearing on the VMT C-Plan related to secondary containment liner.
XCOM	4/28/22	Approval of contract with Dr. Craig Benson for secondary containment liner work.
Board	1/26/23	Accepted report “Methodologies for Evaluating Defects in the Catalytically Blown Asphalt Liner in the Secondary Containment System at the Valdez Marine Terminal” by Dr. Craig Benson dated 11/29/22 as meeting the terms of contract 6512.22.02; direct staff to send report to Alyeska, state and federal regulators with cover letter.
Board	11/26/24	Authorized staff to request an informal review on the VMT C-Plan renewal on COA #1 on the VMT C-Plan renewal related to the secondary containment liner.
Board	3/19/24	Authorized Executive Director to request an adjudicatory hearing on COA #1 on the VMT C-Plan related to the secondary containment liner.

5. **Committee Recommendation:** The C-Plan Project Team, Secondary Containment Project Team, and the TOEM and OSPR Committees have been updated on this issue.

6. **Relationship to LRP and Budget:** Project 651 - Contingency Plan Review is in the approved FY2025 budget and annual work plan.

7. **Action Requested of the Board of Directors:** None, this item is for information only.