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April 14, 2023

Hon. Lisa Murkowski
United States Senate
522 Hart Senate Office Bldg.
Washington, DC 20510

Hon. Dan Sullivan
United States Senate
302 Hart Senate Office Building
Washington, DC 20510

Hon. Mary Peltola
U.S. House of Representatives
153 Cannon House Office Bldg.
Washington, DC 20515

SUBJECT: Assessment of Risks and Safety Culture at Alyeska's Valdez Marine Terminal and Request that Congress Initiate a GAO Audit to Determine the Adequacy of the Present Regulatory Oversight of the VMT

Dear Sen. Murkowski, Sen. Sullivan, and Rep. Peltola:

The purpose of this letter is to transmit to you as members of the Alaska Congressional Delegation a report with recommendations regarding a recent review of system integrity and safety culture issues at the Alyeska Pipeline Service Company's (Alyeska) Valdez Marine Terminal (VMT). This report, titled "Assessment of Risks and Safety Culture at Alyeska's Valdez Marine Terminal," was prepared by Ms. Billie Pirner Garde, a contractor to the Prince William Sound Regional Citizens' Advisory Council (PWSRCAC or Council), and has been reviewed with Alyeska by Ms. Garde and several representatives of PWSRCAC.

The citizen and technical volunteers, and professional staff of the PWSRCAC strive to diligently carry out their responsibilities under the statutory authorization for the Council in the Oil Pollution Act of 1990 (33 U.S.C. 2701-2761, OPA 90). This work is conducted to help protect Alaska, its residents, fish and wildlife and their habitats, and the marine, terrestrial and atmospheric environments of the state. The assessment and report by Ms. Garde is but one of many tools that the PWSRCAC utilizes in fulfilling those responsibilities.

OPA 90 mandates for the Council include developing long-term partnerships with government and industry, while also directing it to take steps to eliminate the previous complacency of those groups that led up to the 1989 *Exxon Valdez* oil spill. This is a challenging mission to try to achieve. It is difficult to maintain productive relationships with those to whom you must also provide critical feedback, especially during times of serious reductions in staffing, resources, and budgets for those

entities. While PWSRCAC recognizes that this report could generate tension with its relationship with Alyeska, we hope that our coordination with Alyeska officials prior to its release and commitment to support their work to address these issues will lead to a constructive and productive path forward.

Key finding from the report

The purpose of the assessment documented in the report was to reach a determination, based on the information provided to PWSRCAC, on whether there is a current level of unacceptable safety risk to the VMT, its workforce, the community of Valdez, and the environment. After reviewing all information available through the assessment, it is Ms. Garde's conclusion that there currently is an unacceptable safety risk to the VMT and consequently that there is no reasonable assurance that the VMT is operating safely and in compliance with its regulatory requirements.

Inadequate resources and budget pressures run through all of the issues addressed throughout the report. There is no substantive information in this report regarding safety or process safety issues that is not already available to Alyeska. The failure of the company to act on the information regarding safety that it has is one of the primary deficiencies identified by the assessment.

The Exxon Valdez oil spill in 1989, and Alyeska's failure to respond effectively, changed the industry and Alaska forever. It should have permanently changed, and hopefully will change, Alyeska's respect for the dangers inherent in its operations as well. Unfortunately, the current situation reveals that changes in the organization – resources, quality and audit, maintenance and system upgrades, operational integrity and compliance – have suffered significantly under more recent corporate management. At the same time, regulatory oversight at the VMT has also diminished.

Report recommendations

The PWSRCAC Board of Directors endorses all recommendations contained in Ms. Garde's report. This includes PWSRCAC recommending that Congress initiate a GAO audit to determine the adequacy of the present regulatory oversight of Alyeska's VMT operations by federal and state agencies with responsibility over the VMT, including compliance with the Federal Grant of Right-of-Way and Stipulations, and the State Lease.

Over the past several years, the PWSRCAC has become increasingly concerned with budget cuts and reductions in staffing levels at agencies with key oversight responsibilities at the VMT, including the Bureau of Land Management (BLM), which has traditionally been the lead federal agency. Ms. Garde further recommends that a GAO audit include the following actions/aspects:

- Identify any gaps in regulatory oversight created by the changes in recent years within federal agency responsibilities;
- Determine if the TAPS Improvement Plan, submitted to Congress in 1994 following the 1993 Oversight Committee hearings, and the Updated Plan in 1997, remains a commitment to Congress with expected conformance;
- Encompass a detailed review of the Alyeska Quality and Audit departments, their independence, resources, effectiveness, and reliability; and,
- Consider recommending legislative action that requires Agency coordination at the VMT.

Per the report recommendations, the PWSRCAC is also planning to request the federal Occupational Safety and Health Administration to conduct or commission a full independent audit of applicable VMT systems for compliance with Process Safety Management.

The main recommendations include specific requests for Alyeska and the TAPS Owners to:

- Commission an independent full assessment of the Alyeska safety management systems and determine a specific timeline for actual completion of the necessary changes to ensure safe operations;
- Commission an immediate independent audit to be conducted of all deferred maintenance at the VMT; and
- Provide mandatory training for all supervisory and management personnel on their responsibilities to manage in a manner that promotes a strong safety culture, upholds a compliance culture, and does not tolerate harassment, intimidation, retaliation, or discrimination.

These recommendations and requests include more details, which can be found in the Recommendations section of the report.

The importance of the operational integrity of the VMT can't be overstated because an incident or accident could interrupt the flow of oil from the Alaska North Slope, thus endangering U.S. energy supplies and energy security, in addition to endangering lives, livelihoods, and the marine, terrestrial and atmospheric environments.

Past GAO reports

Ms. Garde has included, as an attachment to her report, the August 1995 United States General Accounting Office (now the Government Accountability Office or GAO) Report to Congressional Requesters titled "TRANS-ALASKA PIPELINE – Actions to Improve Safety Are Under Way." This GAO audit was requested by the late Congressmen Don Young and John Dingell. As predicted by the GAO, lowered throughput of oil, reduced Alyeska budgets, and serious cutbacks in State of Alaska and federal funding for the BLM and other state and federal agencies, have all contributed to reduced oversight activities and presence (GAO, 1995, p. 52). The consequences of such reduced oversight have generally never been favorable for the Alaska public and its environment and were not in this instance.

In the agency comment section of the GAO's 1995 report, agency officials acknowledged that such independent assessments of their work are valuable, stating their belief that "periodic, comprehensive oversight from an independent source is critical to ensure that the JPO [Joint Pipeline Office] and Alyeska continue their improvement efforts" (GAO, 1995, p.6). The JPO is an interagency group of 13 state and federal regulators formed in 1990 to create a systemic, comprehensive, and coordinated oversight of the Trans Alaska Pipeline System, including the VMT. The 1995 GAO audit concluded that:

"In 1991, we reported that federal and state monitoring agencies had not effectively overseen TAPS' operations. BLM officials told us at that time that JPO was not a regulator. Instead, the agencies relied on Alyeska to police itself. We noted that, for example, the regulators did not systematically or independently assess Alyeska's corrosion or leak detection systems, nor did they require that Alyeska demonstrate that it could respond adequately to a large-scale pipeline oil spill. We concluded that absent effective monitoring, the regulators could

not ensure the safe operation of TAPS. We also reported that regulatory efforts had been hampered by a lack of coordination between the various agencies. We concluded that the recent establishment of JPO was a positive step but that its success was potentially hindered unless leadership, firm commitments from all regulatory agencies, and secure funding sources were in place” (GAO, 1995, p. 17).

The PWSRCAC believes that it is time for, and would be appropriate and very helpful for, Congress to request that the GAO reassess the operational safety of the VMT. This should include the monitoring and enforcement of oil spill prevention and response capabilities by the federal and state agencies that make up the JPO. An updated audit, nearly 30 years after the 1995 GAO audit, is especially important in light of the diminishment in staffing and regulatory oversight due to budget cuts and shift in management philosophies over the past decade among many of the 13 agencies that make up the JPO. Such a GAO audit report could well help ensure that the combined efforts of Alyeska, the shippers, and state and federal regulatory agencies will be able to continue to protect Alaska, its people, fish and wildlife, livelihoods, and the environment from another devastating oil spill.

Background on developing the report

Regarding Ms. Garde, she is an attorney who has worked on a number of issues directly for Alyeska before working most recently with the PWSRCAC. Her professionalism and thoroughness are remarkable and should be a notable asset to Alyeska. As you will see from her report, Ms. Garde received a considerable amount of information from both current and former Alyeska employees. While Ms. Garde is an attorney, the agreement between the PWSRCAC and Ms. Garde is not for legal services, but rather for consulting work. Please see more information on Ms. Garde’s background and experience that can be found in the Introduction section of the attached report. Ms. Garde’s assessment and recommendations have unique and special weight which should be very helpful to Alyeska as it looks at addressing the matters raised in the report. As you will see, Ms. Garde has been very careful and judicious to protect the identities of those with whom she consulted.

Alyeska, the state and federal regulators, and this Council all do their best to work with all parties in a highly professional and positive manner, seeking results that will help prevent any further oil spills or other accidents. That mature collegial and cooperative approach has helped protect Alaska from another Exxon Valdez-type of oil spill or other devastating accident over the past three plus decades. But, as Ms. Garde’s findings indicate, it takes constant vigilance, training, and monitoring to help ensure that Alaska will be spared another major oil spill.

Next steps

The Alaska Congressional Delegation has shown consistent concern and dedication for oil spill prevention and response measures over the years. With that in mind, this Council is seeking to ensure you are alerted to these problems and recommendations so that you are better prepared to bring your experience and judgment to bear in helping to remedy these issues where appropriate. As Alaskans know all too well, if such problems are allowed to persist unabated, the environments, communities, economy, and livelihoods of Alaska will be put at unacceptably high risk of serious harm at a time when the state is challenged on many levels.

The membership of the PWSRCAC from across the entire Exxon Valdez oil spill region, which includes Prince William Sound and portions of the Gulf of Alaska, genuinely appreciates the

constructive and steadfast assistance of the Alaska Congressional Delegation, including the help and guidance of our mutual late friend Congressman for All Alaska Don Young. The PWSRCAC Board respectfully requests that as members of the Alaska Congressional Delegation you request that a GAO audit be initiated as soon as possible in order to determine the adequacy of the present regulatory oversight of Alyeska's VMT operations by federal and state agencies with responsibilities over the VMT, as outlined in the enclosed report.

The PWSRCAC plans no further distribution of this report until 7-10 days from the date of this letter. At that time, the PWSRCAC will send copies of Ms. Garde's report to the JPO members made up of representatives from federal agencies and the State of Alaska, the Environmental Protection Agency, the Occupational Safety and Health Administration, and Alyeska Pipeline Service Company, as well as making it available to the public. After you and your staff have the opportunity to review this report, please let us know of any questions that you may have or issues that you wish to raise with this Council. We will, of course, be ready and glad to take into consideration for potential action whatever you wish to bring to the attention of the PWSRCAC.

We know that Alyeska and the associated regulatory agencies have dedicated staff working daily on the Trans Alaska Pipeline System, doing their best to ensure it is operated as safely as possible with the resources they are given. We also recognize that Alyeska has a full plate in fulfilling its mission which benefits our nation in terms of safe oil production, management, and transport. And, considering the events taking place in global affairs, that mission's importance continues to grow.

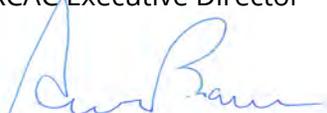
The PWSRCAC recognizes that while zero defects in such a mission as Alyeska's is the clear intended goal, we also acknowledge that there will be times when issues, problems, and deficiencies will arise that must be dealt with and resolved once identified. The view of the PWSRCAC as authorized by Congress is that the work of this Council should be carried out in a collegial, cooperative, and constructive manner so as to be of substantial assistance to the mission of Alyeska in producing, managing, and transporting oil safely through the VMT and associated tankers. We are pleased to note that Alyeska leadership seems to be responding to the enclosed report with a spirit of cooperation. We will continue to work in concert with Alyeska leadership to help keep Alaska safe from another devastating oil spill or other accident.

Thank you for your consideration of the matters contained in this letter and enclosures and of your and your staff's recurring assistance in the work of the Prince William Sound Regional Citizens' Advisory Council.

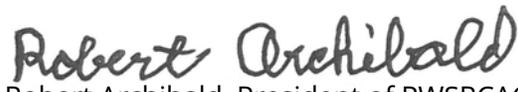
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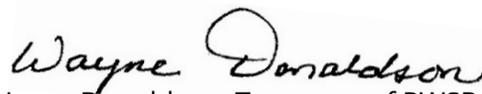
Donna Schantz,
PWSRCAC Executive Director



Amanda Bauer, Vice President of PWSRCAC
and Executive Committee Member,
Representative from the City of Valdez



Robert Archibald, President of PWSRCAC and
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Representative from the City of Homer



Wayne Donaldson, Treasurer of PWSRCAC
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Representative from the City of Kodiak

Bob Shavelson, Secretary of PWSRCAC and Executive Committee Member, Representative from the Oil Spill Region Environmental Coalition

Angela Totemoff, Executive Committee Member-at-Large and Representative from Tatitlek Corporation and Tatitlek IRA Council

Michael Bender, Representative from the City of Whittier

Patrick Domitrovich, Representative from the City of Seward

Luke Hasenbank, Representative from the Alaska State Chamber of Commerce

Elijah Jackson, Representative from the Kodiak Village Mayors Assn.

Melvin Malchoff, Representative from Port Graham Corporation

Michael Vigil, Representation from Chenega Corporation and Chenega IRA Council

Kirk Zinck, Representative from the City of Seldovia

Robert Beedle, Executive Committee Member-at-Large, Representative from Cordova District Fishermen United

Ben Cutrell, Executive Committee Member-at-Large, Representative from the Chugach Alaska Corporation

Nick Crump, Representative from the Prince William Sound Aquaculture Corporation

Mako Haggerty, Representative from the Kenai Peninsula Borough

Jim Herbert, Temporary Recreation Seat

David Janka, Representative from the City of Cordova

Dorothy Moore, Representative from the City of Valdez

Aimee Williams, Representative from the Kodiak Island Borough

Enclosure: "Assessment of Risks and Safety Culture at Alyeska's Valdez Marine Terminal," Billie Pirner Garde, February 2023

cc: Kevin Swanson, Legislative Assistant, Office of Sen. Lisa Murkowski
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Larry Burton, Chief of Staff, Office of Sen. Dan Sullivan
Scott Leathard, Legislative Assistant, Office of Sen. Dan Sullivan
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