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April 24, 2023

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Subject: Transmitting the report titled "Assessment of Risks and Safety Culture at Alyeska's Valdez Marine Terminal," prepared by Ms. Billie Pirner Garde

Dear Members of the Joint Pipeline Office:

The purpose of this letter is to formally transmit to you the attached report titled "Assessment of Risks and Safety Culture at Alyeska's Valdez Marine Terminal," prepared by Ms. Billie Pirner Garde, a contractor to the Prince William Sound Regional Citizens' Advisory Council (PWSRCAC or Council). This report was initiated in June 2022, in response to safety concerns at the Valdez Marine Terminal (VMT) brought to PWSRCAC by current and former Alyeska employees. The final draft of this report was vetted with Alyeska leadership by Ms. Garde and representatives of PWSRCAC on March 16, 2023, before being finalized in early April.

The Council is an independent nonprofit corporation whose mission is to promote the environmentally safe operation of the VMT and associated tankers. Our work is guided by the Oil Pollution Act of 1990 (OPA 90) and our contract with Alyeska Pipeline Service Company. PWSRCAC's member organizations are communities in

the region affected by the 1989 Exxon Valdez oil spill, as well as commercial fishing, aquaculture, Alaska Native, recreation, tourism, and environmental groups. The Board of Directors, technical committee volunteers, and 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). This work is done to help protect Alaska's residents, communities, economies, and environment.

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 achieve. It can be difficult to maintain productive relationships with those to whom you must also provide critical feedback, especially during times of serious reductions in staffing and budgets for those entities. While PWSRCAC recognizes this report could generate tension with Alyeska and some of the state and federal regulatory agencies with oversight responsibilities at the VMT, we hope to work with all parties to address these issues in a manner that will lead to a constructive and productive path forward.

Alyeska, state and federal regulators, and the Council all do their best to work with all parties in a highly professional manner, seeking results that will help prevent further oil spills or accidents. This 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 the report findings indicate, it takes constant vigilance, training, and monitoring to help ensure that Alaska will be spared another major oil spill.

The report's author, Ms. Garde, is an attorney who has worked on numerous issues directly for Alyeska before working with the PWSRCAC. Although she is an attorney, the agreement between PWSRCAC and Ms. Garde is not for legal services, but rather consulting work. The Council believes her professionalism and thoroughness is an asset to Alyeska and the regulatory agencies with oversight responsibilities at the VMT. As you will see from her report, Ms. Garde received a considerable amount of information from both current and former Alyeska employees, and she has been very careful and judicious to protect the identities of those with whom she consulted.

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 no reasonable assurance that the VMT is operating safely and in compliance with its regulatory requirements.**

Inadequate resources (e.g., staffing, equipment, adequate safety and reporting systems) and budget pressures are a common theme in all 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 it has is one of the primary weaknesses identified by the assessment.

The Exxon Valdez oil spill in 1989, and Alyeska's failure to perform effective response capability, changed the industry and Alaska forever. It should have permanently changed Alyeska's respect for the dangers inherent in its operations as well. Unfortunately, the current situation reveals that due to changes in the organization, availability of resources, quality and audit functions, maintenance and system upgrades, and 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 Government Accountability Office (GAO) audit to determine the adequacy of the present regulatory oversight of Alyeska's VMT operations by state and federal agencies with responsibility over the VMT**, including compliance with the Federal Grant of Right-of-Way and Stipulations, and the State Lease.

In addition to the request for a GAO audit, PWSRCAC is also recommending that the Alaska State Legislature request that the Legislative Budget and Audit Committee conduct an assessment, or audit, of state regulatory agency capabilities specific to oversight of the VMT.

The importance of the operational integrity of the VMT cannot 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. With new oil development on the horizon, every effort must be made to ensure the integrity of systems and infrastructure within the Trans Alaska Pipeline System (TAPS). An incident or accident could also contribute to the occurrence of another major oil spill that would be devastating for the public, livelihoods, fish and wildlife, and the marine and terrestrial environment.

Over the past several years, 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, and the Alaska Department of Environmental Conservation. 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 and state 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, PWSRCAC is also planning to request that the federal Occupational Safety and Health Administration (OSHA) 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 Council acknowledges that there are recommendations directed internally to PWSRCAC, and we will be considering appropriate actions in an effort to address these.

Past GAO reports

As the report calls out, the JPO was originally created in the wake of the Exxon Valdez oil spill and after 1990 disclosures regarding quality problems along the pipeline, by the federal BLM under the Department of the Interior and the Alaska Department of Natural Resources (ADNR), along with other state and federal agencies. This was done to increase oversight of and better coordinate the numerous, and often duplicative, federal and state regulatory efforts. The regulators acknowledged that their role had become reactive to events, incidents, whistleblowers, and other external disclosures, instead of preventing accidents or incidents.

In response to congressional requests, 1992 whistleblower disclosures of thousands of flaws in numerous locations, and 1993 Congressional hearings, the JPO (and contingent agency personnel) staffed up, occupied a joint office, and played an active role in Alyeska oversight. For years it operated as the principal coordinator to ensure Alyeska was subject to regulatory oversight in compliance with requirements and operated safely.

The August 1995 U.S. General Accounting Office (now the Government Accountability Office or GAO) report titled, "TRANS-ALASKA PIPELINE – Actions to Improve Safety Are Under Way," is included as an attachment to Ms. Garde's report. 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 reduced oversight have, generally, never been favorable for the Alaska public and its environment.

In the agency comment section of this 1995 GAO 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 JPO [Joint Pipeline Office] and Alyeska continue their improvement efforts" (GAO, 1995, p.6). The 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).

Based on the information in Ms. Garde's report, the PWSRCAC believes that it is time 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, and an assessment by the Legislative Budget and Audit Committee are especially important in light of the diminishment in staffing and regulatory oversight due to budget cuts and shifts in management philosophies over the past decade among many of the 11 agencies that make up the JPO.

The report notes that after the important work coordinated by JPO in the past, the role of the JPO has seriously diminished, including no longer having an actual joint office. This was further emphasized when the Council reached out to confirm the recipient list for this letter and had to go through numerous contacts to determine the current agencies that make up the JPO. When the list was provided to the Council, it now notes 11 regulatory agencies in membership, down from the 13 noted in the report. Without the coordination previously provided by the JPO, state and federal oversight is limited, fragmented, and does not appear to be providing the critical overall view of the status of risks to the VMT, the public, and each other.

Next steps

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 and the associated regulatory agencies all have full plates in fulfilling their missions which benefit our nation in terms of safe transport and storage of Alaska North Slope crude oil. And, considering the events taking place in global affairs, the importance of those missions continues to grow.

PWSRCAC recognizes that while zero defects in such missions is the clear intended goal, we also acknowledge there will be times when issues, problems, and deficiencies 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, and the associated state and federal regulatory agencies, in transport and storage of oil safely through the VMT and associated tankers.

PWSRCAC sincerely appreciates the spirit of cooperation present at its March meeting with Alyeska and hopes to continue to support their work to address the issues raised in the report in the long term. The Council's Board of Directors and staff agree with the sentiment expressed by Alyeska executives after their receipt of the draft report, that this report provides an opportunity to make Alyeska better by looking into these issues, addressing problems, and making sure employees are heard. It is the Council's hope that the agencies comprising the JPO also view the findings and recommendations in the report as an opportunity to make improvements to the system.

The Council stands ready to support Alyeska, and state and federal regulatory agencies, in our role as an advisor. We believe firmly that the greatest successes result from citizens, industry, and regulators at all levels working together to maintain and improve the safeguards designed to prepare for and prevent future oil spills.

Thank you for your consideration of the issues and recommendations contained in this letter and enclosures. PWSRCAC looks forward to continued coordination with all parties to ensure these matters are addressed.

Sincerely,



Donna Schantz
Executive Director



Robert Archibald
President

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

cc: CDR Patrick Drayer, USCG MSU Valdez
Commissioner Jason Brune, ADEC
Commissioner John Boyle, ADNR
Commissioner Ryan Anderson, AKDOT
Commissioner James Cockrell, ADPS
Commissioner Cathy Munoz, AKOSH
Commissioner Doug Vincent-Lang, ADF&G