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April 24, 2023

Hon. Mike Dunleavy
Governor
State of Alaska
State Capitol Third Floor

SUBJECT: Assessment of Risks and Safety Culture at Alyeska's Valdez Marine Terminal and Request for the Legislative Budget and Audit Committee to Conduct an Assessment of State Agencies with Oversight Responsibilities

Dear Governor Dunleavy:

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.

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 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 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.

In line with the recommendation for Congress, the Council respectfully requests that the **State of Alaska initiate an assessment, or audit, of the present regulatory oversight of Alyeska's VMT operations by state agencies with responsibilities over the VMT.** These include State of Alaska agencies with direct oversight and/or membership in the Joint Pipeline Office: Department of Environmental Conservation; Department of Fish and Game; Department of Labor - Electrical; Department of Labor - Safety, and specifically the Alaska Occupational Safety and Health; Department of Public Safety; Department of Transportation and Public Facilities; and the State Pipeline Coordinator's Section under the Department of Natural Resources.

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) and the Spill Prevention and Response (SPAR) Division of the Alaska Department of Environmental Conservation.

The State of Alaska Occupational Safety and Health (AKOSH) conducted a Process Safety Management investigation of the VMT in 2019. According to the findings of Ms. Garde's report, AKOSH has now become reactive to only imminent safety concerns or accidents. Per its Field Operations Manual, issues involved with contested citations will be excluded from inspections and follow-up inspections will not be scheduled unless a potential imminent danger is involved. Since 2019, Alyeska employees have continued to raise safety issues to AKOSH. However, according to the agency's process, it cannot investigate these issues while similar items connected to the 2019 violations are being contested by Alyeska. The attached report notes the seriousness of this situation. **If employee concerns about violations and risks are not credibly investigated internally by Alyeska, and AKOSH cannot investigate any additional concerns (subject to the contested case) because Alyeska has contested the earlier findings - no one is ensuring these risks are being addressed.**

One avenue for the State of Alaska to determine the adequacy of the present regulatory oversight capabilities is to request an assessment through the Legislative Budget and Audit Committee. Such an assessment could identify gaps in regulatory oversight created by recent changes in agency resources and responsibilities, and encompass a detailed review of the Alyeska Quality and Audit departments, their independence, resources, effectiveness, and reliability.

Per the report recommendations, PWSRCAC is also requesting 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 consequences of reduced oversight have, generally, never been favorable for the Alaska public and its environment. The importance of the operational integrity of the VMT cannot be overstated because an incident or accident there 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, and the environment.

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.

Next steps

PWSRCAC transmitted this report to the Alaska Congressional Delegation on April 14, 2023, with a commitment that the report would not be distributed further until April 24, 2023. At this time, Council staff is sending copies to the Joint Pipeline Office (JPO) members, made up of representatives from the 11 federal and State of Alaska agencies that comprise that oversight group, and the Occupational Safety and Health Administration. The report is also being transmitted to Senate President Gary Stevens, and Speaker Cathy Tilton of the 33rd Alaska State Legislature, and Representative Ben Carpenter and Senator Bert Steadman, the Chair and Vice Chair of the Legislative Budget and Audit Committee, as well as being made available to the public.

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 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 you also view the findings and recommendations in the report as an opportunity for 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 working together to maintain and improve safeguards designed to prevent and prepare for 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