

TRUSTEES FOR ALASKA

A Nonprofit Public Interest Law Firm Providing Counsel to Protect and Sustain Alaska's Environment

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March 27, 2009

By Facsimile to: (907) 465-3532

The Honorable Sarah Palin

Governor

State of Alaska

Capitol Building

Juneau, Alaska 99801

Re: Mount Redoubt Eruption and Drift River Oil Terminal

Dear Governor Palin:

As you are aware, 6 million gallons of crude oil are stored at the Drift River Terminal, at the foot of Mount Redoubt. Continuing volcanic eruptions, and the lahars flowing down from the volcano, put the integrity of the Drift River Terminal storage tanks at risk.

On behalf of Cook Inletkeeper, I am writing to urge you to exercise your statutory powers to minimize the likelihood that, on the 20th anniversary of the *Exxon Valdez* disaster, Cook Inlet may experience an oil spill of similar proportions.

We are fully aware there may be risks and unknowns associated with removing the oil now stored at the Drift River Terminal while the volcanic activity continues. But Cook Inlet boasts valuable salmon fisheries that support countless Alaskans, and these fisheries now sit at heightened risk from a catastrophic release. There are *no* risks associated with ensuring that emergency oil spill response equipment is moved into position so that it can be deployed immediately in the event of a catastrophic failure of the Drift River Terminal tank farm.

The Alaska Legislature has given the Governor the authority to act quickly in response to public crises: "If the governor finds that a disaster has occurred or that a disaster is imminent or threatened, the governor shall, by proclamation, declare a condition of disaster emergency." AS 26.23.020(c). "Disaster" is defined as the

occurrence or *imminent threat* of widespread or severe damage, injury, loss of life or property, or shortage of food, water, or fuel resulting from . . . *the release of oil* or a hazardous substance if the release requires prompt action to avert environmental danger or mitigate environmental damage . . .

AS 26.23.900(2)(B) (emphasis added). A disaster declaration enables you to exercise a broad array of emergency powers in order to mitigate the damage to Cook Inlet in the event of an oil spill from the Drift River Terminal. *See* AS 26.23.020(g)(1)-(11). This includes, but is not limited to, the power to use money from the oil and hazardous substance release response fund to prepare to respond to a potential oil discharge. *Id.* (g)(11). In addition, the Commissioner of the Department of Environmental Conservation (DEC) may be directed by you to exercise the emergency order powers granted to him by law to mitigate this potential disaster.

We therefore urge you to proclaim a condition of disaster emergency. In that regard, we request that you exercise your powers to order:

(1) the immediate deployment of emergency oil spill response equipment to the site to prevent, contain, and/or mitigate a worst case scenario oil spill from the Drift River Terminal; and

(2) that all prudent efforts be made to remove the oil at the Drift River Terminal in a safe and expeditious manner until volcanic threat levels subside.

We have been informed that the protective dikes are being inspected, to the extent they can be safely viewed, after volcanic events have taken place. But if a major eruption were to lead to a catastrophic failure, an inspection won't stop the oil from flowing into Cook Inlet. Recent statements from DEC and the U.S. Coast Guard reveal there is no actionable spill response plan in place should a catastrophic release occur. As the *Exxon Valdez* disaster has taught us, containment equipment that is adequate to the task must be readily available in order to avert a calamity.

We also request that you provide the public with complete information about what is being done to guard against a potential environmental catastrophe, including up-to-date reports, pictures, briefings, response plans, and related materials on the DEC web site.

Furthermore, it is now clear that state and federal contingency planning laws are inadequate to address a worst case scenario at the Drift River Terminal, and state rules must be amended. For example, current c-plan Response Planning Standards (RPS) require this operator to contain less than 4 million gallons of oil, when the facility is now holding over 6 million gallons.

Finally, the current threat to the Drift River Terminal tanks makes it abundantly clear that a plan must be developed to move this storage facility. It is apparent that the volcanic activity that jeopardizes the storage tanks also makes emptying them a hazardous undertaking. This is an intolerable situation that puts Cook Inlet at too great a risk.

During Mt. Redoubt's last eruption in 1989-1990, state and federal regulators worked with industry to shut down the Drift River Terminal, and to draw-down the

Governor Palin
March 27, 2009
Page 3

remaining crude inventories until conditions improved. As a result, we respectfully request that you give your immediate and personal attention to this urgent crisis that threatens the priceless fisheries resources of Cook Inlet and the Alaskans who depend on Cook Inlet for their livelihood.

Sincerely,

A handwritten signature in blue ink, appearing to read "Vicki Clark", with a long horizontal flourish extending to the right.

Vicki Clark
Legal Director

cc: Larry Hartig, DEC Commissioner
Capt. Hamilton, Coast Guard