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Jason Brune, Commissioner
Department of Environmental Conservation
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Tel: (907) 465-5066
Dec.commissioner@alaska.gov

RE: ADEC Public Scoping Notice on Contingency Plans (Article 4 of 18 AAC 75. and contingency planning guiding statutes in AS 46.04)

Dear Commissioner Brune,

The Native Village of Kotzebue appreciates the opportunity to provide comments for the Alaska Department of Environmental Conservation (ADEC) Public Scoping Notice on Contingency Plans (Article 4 of 18 AAC 75. and contingency planning guiding statutes in AS 46.04). We also appreciate the lengthy comment period. As Alaskans, you should be aware that many of the people affected by potential changes to these regulations and statutes are not plugged into these type of review processes and many seasonal activities interfere with finding the time to review proposed regulations and providing feedback under short time constraints. Given this, and the fact that the health of the marine environment is extremely important to all coastal Alaskans for their economic and cultural well-being, in addition to there being no obvious reason of the need to expeditiously change these statutes and regulations that have been in place for the last 30 years, we respectfully request that during each step of this process, additional time is provided for community review and feedback, similar to this current comment process. It would demonstrate that the ADEC

understands the importance of the issue and respects the Alaska community which they are committed to serving.

The citizens of the Tribe continue to rely on the healthy populations of fish and wildlife that use the Bering, Chukchi and Beaufort Seas for feeding, reproduction and overall survival. The Tribe believes that the high quality of the current environment provides for robust and healthy populations of marine wildlife and any development approved must be able to provide protection for these species along with continued availability of these subsistence species to meet the needs of coastal communities. The fish and wildlife found in Alaska waters are critical to the continued survival of our way of life and provide for the economic, spiritual, nutritional, and cultural needs of our people.

We understand that during this review process the economics of the oil industry is a priority consideration. While that is understandable from an industry perspective, the entire non-oil industry of coastal Alaska has a great economic interest in the protection of the marine environment. The last 30 years since these regulations and statutes have been in place demonstrate that there is no need to pit these economic interests against each other, both can co-exist, but it requires sound rules of the road for the oil industry and a commitment by government agencies to provide oversight on behalf of the Alaska people. It is important not to lose sight of the vast economic benefits realized to the entire Alaska population as a result of healthy marine ecosystems when contemplating a review of the cost benefit analysis to these regulations and statutes.

The Exxon Valdez Oil Spill highlighted the fact that an ounce of prevention is worth a pound of cure and in the case of oil spills there is no cure, only mitigation of damages and even that is very much inadequate. Also, keep in mind the damage and costs to industry from oil spills, both from a public relations issue and legislative/policy impacts. The Congress was very close to opening ANWR during the time of Exxon Valdez Oil Spill and this effort was set back by 30 years after that tragedy. The Deepwater Horizon exposed the grossly inadequate reliance on contractors and oversight by Minerals Management Service, which resulted in a total reorganization of the federal oversight structure and reassessment of oil extraction rules and regulations. In addition, industry had to pay billions of dollars in costs for cleanup efforts and damages and the costs of foregone new projects that resulted. While industry may have short term memory of these costs and causes, focused as

most businesses are on the next quarter earnings and annual profits, that does not mean that the government agencies should also.

We are not aware of any examples of oil industry foregoing development projects due to the terms of Contingency Plans, or other regulations. We were very much involved during the entire length of the industry exploration efforts in the Chukchi Sea, including participating in all of the NEPA related processes. During this time, we met personally with all the major industry players and the Federal regulators and while oversight and regulation was a larger part of the efforts, rightfully so, industry believed that the payout would be way more than the costs if a productive play could be found. The majority of the regulations and required mitigation plans put into place during that entire years long effort never even were used, since the exploration effort did not result in the discovery of a large enough reserve to continue to move forward. The regulatory side of that process, while it did require more time, was not a prohibitive factor in moving forward, the major costs were borne by the remote location of the exploration area and the extreme conditions found in the Chukchi Sea.

The oil industry continues to be the most profitable industry in the world today and except for the nuclear power industry, has the most potential to create long-term major environmental impacts as the result of a single incident. It is for this reason that they should be subject to rigorous oversight and be responsible to make serious commitments to taking clear risk prevention steps throughout the oil extraction and transport processes.

After reading Article 4 of 18 AAC 75. and the contingency planning guiding statutes in AS 46.04 it is not clear what part of these are burdensome and stifling to industry. We are very much interested in changes that the ADEC is considering proposing to these regulations and statutes, so we can respond to the specific proposals. It is curious that the timing of these proposed changes are occurring at the same time the Federal Government has already seen its oversight role weakened through a similar revision of a number of environmental safeguards as what the ADEC is proposing. This also causes a general sense that this process will be additive to the Federal efforts to shift responsibility away from industry and externalize more of the costs to the public in the form of heightened risk and environmental subsidies. Privatizing profits and socializing risks, is in our view one of the worst forms of socialism and that has been occurring for decades in the Country (e.g., Comprehensive Environmental Response, Compensation, and Liability Act of 1980 and using the

skies as an emission repository creating the current and ever-increasing climate change scenarios now manifesting). While we are not at all against development, we very much believe in responsible development, with State and Federal rigorous oversight to ensure that the responsible part of responsible development is carried out and not left to self-policing efforts, or processes that allow industry to write its own rules in an effort to save money, shifting the risk burden to the public and the environment.

We are also strong supporters of the Citizens' Advisory Council process and many of our citizens participate in similar processes involving other areas of governmental oversight at the city, state, industry, and federal levels. We believe that the widespread implementation of these types of Council's is what makes Alaska governance better than many of the other states, where citizens play a less active role in the governing process, in a more top down approach. The ADEC should take advantage of the Prince William Sound Regional Citizens' Advisory Council and Cook Inlet Regional Citizens' Advisory Council in formulating your suggested regulation and statutory changes. These fellow Alaskans bring a wealth of knowledge to the table and have demonstrated a serious commitment to protecting the marine environment on which all the rest of Alaska depends. We for one, very much appreciate the work that they have done and believe that they should be afforded extraordinary influence into this process.

We appreciate consideration of our comments and look forward to reviewing the proposed changes the ADEC is considering so we can respond more specifically and substantively.

Sincerely,



Alex Whiting
Environmental Director



Puyuk Joule
Executive Director



Gia Hanna
Tribal Council Chair