



THE STATE  
of **ALASKA**  
GOVERNOR MIKE DUNLEAVY

## Department of Environmental Conservation

DIVISION OF SPILL PREVENTION AND RESPONSE  
Prevention, Preparedness, and Response Program

P.O. Box 111800  
Juneau, AK 99811-1800  
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www.dec.alaska.gov

### OIL DISCHARGE PREVENTION AND CONTINGENCY PLAN APPROVAL

Facility #: 1021

June 28, 2023

Mr. Henry Palmer  
Delta Western, LLC  
120 Mount Roberts St.  
Juneau, AK 99801

Subject: Delta Western Haines **Oil Discharge Prevention and Contingency Plan, ADEC Plan #: 22-CP-1022; Plan Approval**.

Dear Mr. Palmer:

The Alaska Department of Environmental Conservation (department) has completed its review of the plan renewal application package for the Delta Western Haines Oil Discharge Prevention and Contingency Plan (plan) that was received on December 1, 2022. The department coordinated the State of Alaska's public review for compliance with 18 AAC 75, using the review procedures outlined in 18 AAC 75.455. Based on our review, the department has determined that your plan is consistent with the applicable requirements of the referenced regulations and is hereby approved.

This approval applies to the following plan:

Plan Title: **Delta Western Haines Oil Discharge Prevention and Contingency Plan**

Documents: **Southeast Alaska Petroleum Response Organization (SEAPRO) Technical Manual, Spill Tactics for Alaska Responders (STAR) Manual, Wildlife Protection Guidelines for Oil Spill Response in Alaska**

Plan Holder: **Delta Western, LLC**

Covered Facilities: **Delta Western Haines Bulk Facility**

**PLAN APPROVAL:** The approval for the referenced plan is hereby granted **effective June 28, 2023**. A Certificate of Approval stating that the department has approved the plan is enclosed.

**EXPIRATION:** This approval **expires June 27, 2028**. Following expiration, Alaska law prohibits operation of the facility until an approved plan is once again in effect.

**TERMS:** The approval is subject to the following terms:

1. **PROOF OF FINANCIAL RESPONSIBILITY:** The plan holder has provided the department with proof of financial responsibility per the requirements of AS 46.04.040 and 18 AAC 75.205 – 18 AAC 75.290.
2. **PUBLICATION OF PLAN:** The plan holder shall provide copies of the approved amended plan to the department in accordance with 18 AAC 75.408(c) not later than 30 days after this approval. The department will post the approved plan to the department website and notify the stakeholder listserv of the availability of the plan as described in 18 AAC 75.408(d)(3).
3. **AMENDMENT:** Except for routine updates under 18 AAC 75.415(b), an application for approval of an amendment must be submitted by the plan holder and approved by the department before a change to this plan may take effect. This is to ensure that changes to the plan do not diminish the plan holder's ability to respond to a discharge and to evaluate any additional environmental considerations that may need to be taken into account (18 AAC 75.415).
4. **RENEWAL:** To renew this plan, the plan holder must submit an application package to the department no later than 180 days prior to the expiration of this approval. This is to ensure that the submitted plan is approved before the current plan in effect expires (18 AAC 75.420).
5. **REVOCATION, SUSPENSION OR MODIFICATION:** This approval is effective only while the plan holder is in compliance with the plan as defined in AS 46.04.030(r) and with all of the terms and conditions described above. The department may, after notice and opportunity for a hearing, revoke, suspend, or require modification of the approved plan if the plan holder is not in compliance with the plan or for any other reason stated in AS 46.04.030(f). In addition, Alaska law provides that a vessel or facility that is not in compliance with a plan may not operate (AS 46.04.030). The department may terminate approval prior to the expiration date if deficiencies are identified that would adversely affect spill prevention, response or preparedness capabilities.
6. **DUTY TO RESPOND:** Notwithstanding any other provisions or requirements of this plan, a person causing or permitting the discharge of oil is required by law to immediately control, contain, and cleanup the discharge regardless of the adequacy or inadequacy of the plan (AS 46.04.020).
7. **NOTIFICATION OF NON-READINESS:** The plan holder must notify the department in writing, within 24 hours, after any significant response equipment as specified in the plan is removed from its designated storage location or becomes non-operational. This notification must provide a schedule for equipment substitution, repair, or return to service as described in 18 AAC 75.475(b).
8. **CIVIL AND CRIMINAL SANCTIONS:** Failure to comply with the plan may subject the plan holder to civil liability for damages and to civil and criminal penalties. Civil and criminal sanctions may also be imposed for any violation of AS 46.04, any regulation issued thereunder or any violation of a lawful order of the department.
9. **INSPECTIONS, DRILLS, RIGHTS TO ACCESS, AND VERIFICATION OF EQUIPMENT, SUPPLIES, AND PERSONNEL:** The department has the right to verify the ability of the plan holder to carry out the provisions of this plan and to access inventories of equipment, supplies, and personnel through such means as inspections and discharge exercises without prior notice to the plan holder. The department has the right to enter and inspect the facility in a safe manner at any reasonable time for these purposes and to otherwise ensure compliance with the plan and the terms and conditions [AS 46.04.030(e) and AS 46.04.060]. The

plan holder shall conduct exercises for the purpose of testing the adequacy of the plan and its implementation (18 AAC 75.480 and 485).

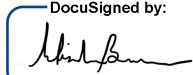
10. **FAILURE TO PERFORM:** In granting approval of the plan, the department has determined that the plan, as represented to the department by the applicant in the application package for approval, satisfies the minimum planning standards and other requirements established by applicable statutes and regulations, taking as true all information provided by the applicant. The department does not warrant to the applicant, the plan holder, or any other person or entity: (1) the accuracy or validity of the information or assurances relied upon; (2) that the plan is or will be implemented; or (3) that even full compliance and implementation with the plan will result in complete containment, control or clean-up of any given oil spill, including a spill specifically described in the planning standards. The plan holder is encouraged to take any additional precautions and obtain any additional response capability it deems appropriate to further guard against the risk of oil spills and to enhance its ability to comply with its duty under AS 46.04.020(a) to immediately contain and clean up an oil discharge.
11. **COMPLIANCE WITH APPLICABLE LAWS:** The plan holder must adhere to all applicable state statutes and regulations as they may be amended from time to time. This approval does not relieve the plan holder of the responsibility to secure other federal, state, or local approvals or permits or to comply with all other applicable laws.
12. **INFORMAL REVIEWS AND ADJUDICATORY HEARINGS:** A person authorized under a provision of 18 AAC 15 may request an informal review of a contested decision by the Division Director in accordance with 18 AAC 15.185 and an adjudicatory hearing in accordance with 18 AAC 15.195 – 18 AAC 15.340. See DEC’s “Appeal a DEC Decision” web page <https://dec.alaska.gov/commish/review-guidance/> for access to the required forms and guidance on the appeal process. Please provide a courtesy copy of the adjudicatory hearing request in an electronic format to the parties required to be served under 18 AAC 15.200.

Requests must be submitted no later than the deadline specified in 18 AAC 15.

13. **NOTICE OF CHANGED RELATIONSHIP WITH RESPONSE CONTRACTOR:**  
Because the plan relies on the use of response contractor(s) for its implementation, the plan holder must immediately notify the department in writing of any change in the contractual relationship with the plan holder’s response contractor(s), and of any event including but not limited to any breach by either party to the response contract that may excuse a response contractor from performing, that indicates a response contractor may fail or refuse to perform, or that may otherwise affect the response, prevention, or preparedness capabilities described in the approved plan.

If you have any questions regarding this process, please contact Chris Salazar at 907-465-5204 or [Chris.Salazar@alaska.gov](mailto:Chris.Salazar@alaska.gov).

Sincerely,

DocuSigned by:  
  
E926F7893D13439...  
Melinda Brunner  
Program Manager

Enclosures: Certificate of Approval, Number: 23CER-015  
Summary of Basis for Decision

cc with enclosure:

Rachael Krajewski, ADEC  
Anchorage, ADNR  
Juneau, ADNR  
Southeast, ADF&G  
Dave Owings, SEAPRO  
Aleka Fullerton, City & Borough of Haines  
Sector Juneau, USCG  
Bob Whittier, EPA Alaska  
Environmental, NorthStar Energy  
Rosie Nethercott, Integrity Environmental

