

CITY OF SELDOVIA

PO Box B, 245 Dock Street

Seldovia, Alaska 99663

Phone 907-234-7643

Fax 907-234-7430

Regular City Council Meeting

Monday, November 25, 2019

6:00PM

Council Chambers

Multi-Purpose Room

260 Seldovia Street

Seldovia, AK 99663

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**AGENDA FOR A REGULAR MEETING
OF SELDOVIA CITY COUNCIL
COUNCIL CHAMBERS**

**Monday
November 25, 2019
6:00pm**

COLBERG CAMPBELL MORRISON ROJAS NATHAN SWEATT
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- A. Call to Order & Roll Call:
- B. Pledge of Allegiance:
- C. Excused Absences:
- D. Agenda Approval:
- E. Consent Agenda: *(All items under the Consent Agenda are approved with a single motion, no discussion, and one vote. A Council Member may request to remove an item(s) for discussion and a separate vote.)*
 - 1. Approval of Minutes: Minutes of the Regular Meeting, October 28, 2019
 - 2. Payment Approval Report:
 - 3. Ordinance Introduction:
 - 1. ORDINANCE 20-05 AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SELDOVIA, ALASKA, AMENDING TITLE 18.52 COMMERCIAL MARINE, CHAPTER 18.20 DEFINITIONS, AND TITLE 1 GENERAL PROVISIONS SECTION 1.08.040 TO INCLUDE 18.52.120 VIOLATION—PENALTIES
- F. Mayoral Proclamations:
- G. Public Presentation for Items not on Agenda: (public has 3 min each)
- H. Committee and Advisory Board Reports: (each member has 5 min)
- I. Public Hearings:
 - 1. ORDINANCE 20-04 AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SELDOVIA, ALASKA, REPEALING CHAPTER 2.24 CIVIL DEFENSE AND DISASTER CONTROL AND ADOPTING CHAPTER 2.26 NATIONAL INCIDENT MANAGEMENT SYSTEM
 - a. Presentation by Staff or Council
 - b. Council Discussion
 - c. Public Presentation or Hearing (public has 3 min each)
 - d. Action/Disposition
 - 2. RESOLUTION 20-15 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SELDOVIA, ALASKA SUPPORTING THE 2020 CENSUS
 - a. Presentation by Staff or Council
 - b. Council Discussion
 - c. Public Presentation or Hearing (public has 3 min each)
 - d. Action/Disposition
 - 3. RESOLUTION 20-16 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SELDOVIA, ALASKA SUPPORTING SAFEGUARDING ALASKA’S OIL SPILL PREVENTION AND RESPONSE STANDARDS
 - a. Presentation by Staff or Council
 - b. Council Discussion
 - c. Public Presentation or Hearing (public has 3 min each)
 - d. Action/Disposition
- J. Unfinished Business:
 - 1. COLE/WARBURTON VARIANCE PERMIT APPLICATION
 - a. Presentation by Staff or Council
 - b. Council Discussion
 - c. Public Presentation or Hearing (public has 3 min each)
 - d. Action/Disposition

- K. New Business:
- L. Administration Reports:
 - 1. Treasurer's Report: See Laydown
 - 2. City Manager's Report: See Laydown
 - 3. Chief of Police Report: See Laydown
 - 4. Harbormaster's Report: See Laydown
 - 5. Public Works Report: See Laydown
- M. Informational Items Not Requiring Action:
 - 1. The City Office will be closed November 28th and 29th in observance of the Thanksgiving Holiday.
- N. Executive Session:
- O. Council and Mayor Comments Concerning Items Not on the Agenda:
- P. Next Meeting: The next Regular Meeting will be held on Monday, December 09, 2019 at 6:00 pm
- Q. Adjournment:

* IF YOU REQUIRE SPECIAL ASSISTANCE TO ATTEND THE MEETING, PLEASE NOTIFY THE CITY OFFICE 24 HOURS
IN ADVANCE AND ARRANGEMENTS WILL BE MADE *

Seldovia City Council Regular Meeting November 25, 2019

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Pages 28-29	Resolution 20-16 Safeguarding Alaska's Oil Spill Prevention and Response Standards- DRAFT
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CITY OF SELDOVIA

ORDINANCE 20-05

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SELDOVIA, ALASKA,
AMENDING TITLE 18.52 COMMERCIAL MARINE, CHAPTER 18.20 DEFINITIONS, AND
TITLE 1 GENERAL PROVISIONS SECTION 1.08.040 TO INCLUDE 18.52.120 VIOLATION—
PENALTIES**

SECTION 1. CLASSIFICATION. This ordinance is permanent in nature and shall become a part of the Municipal Code of the City of Seldovia.

SECTION 2. AMENDING TITLE 18.52 CM—COMMERCIAL MARINE BY REMOVING LANGUAGE IN STRIKEOUT AND ADDING LANGUAGE IN HIGHLIGHT TO READ AS FOLLOWS:

Chapter 18.52
CM—Commercial Marine
CB- COMMERCIAL BUSINESS

Sections:

- 18.52.010 Purpose ~~Intent~~.
- 18.52.020 Permitted Uses.
- 18.52.025 Incidental Secondary Uses.**
- 18.52.030 Prohibited Uses.
- 18.52.035 Long-term Residential Rentals—Administrative Permit.**
- 18.52.040 Performance Standards.
- 18.52.050 Minimum Lot Area and Width.
- 18.52.060 Parking Area and Off-Street Loading Space.
- 18.52.070 Building Setback.
- 18.52.080 Visibility at Access Points and Intersections.
- 18.52.090 Building Height.
- 18.52.100 Conditional Uses.
- 18.52.110 Signage.
- 18.52.120 Violation—Penalties.**

18.52.010 Purpose Intent. This ~~district provides an area for the service and commercial activities which support water dependent activities related to commercial and sport fishing, tourism, recreation and transportation.~~ **The CB District is established to**

provide an area for convenient, attractive and concentrated commercial development. Regulations applying to this zone are designed to encourage a compact group of business of the type which are mutually beneficial and located close enough together to encourage walk-in trade.

18.52.020 Permitted Uses. In the CM CB District, permitted uses constitute the principal "primary use" for commercial purposes and are as follows:

- A. Retail and wholesale businesses
- B. Service
- ~~C. Incidental Secondary Uses~~
 - ~~1. Attached residential dwelling unit.~~
 - ~~2. Attached multi-residential dwelling unit.~~
 - ~~3. Business-specific office. (Ord. 06-10)~~
- C. Business Specific Offices
- D. Restaurants, taverns, and entertainment establishments.
- E. Hotels and motels
- F. Hospitals, medical and dental clinics

18.52.025 Incidental Secondary Uses. A. Incidental secondary uses are uses that occur after the primary permitted use is met. The following uses shall be permitted as incidental secondary uses and shall not exceed forty-nine percent of the building:

- 1. Attached residential dwelling unit.
- 2. Attached multi-residential dwelling unit.

B. Per chapter 5.35 business license no person may engage in a business in the city without first obtaining an annual business license. All requirements of chapter 5.35 must be met for the primary permitted use to be considered met for an incidental secondary use.

18.52.030 Prohibited Uses. In the CM CB District, prohibited uses are as follows:

- ~~A. Motor vehicle sales and service~~
- B. **A.** Extraction of natural resources for sale not incidental to development of the area for a permitted use.

18.52.035 Long-Term Residential Rentals—Administrative Permit. A. Long-term residential rentals are allowed as a permitted use in the CB District but shall not exceed over 10 percent of the total number of lots located within the district and must obtain an administrative permit before operating.

- 1. A waitlist will be established once 10% of the district of the total number of lots are considered a long-term residential rental.

2. Long-term residential rentals with a lapse of six months or more in tenants will no longer be considered a long-term rental and must obtain a new administrative permit in order to be considered for a long-term rental as their permitted primary use.

B. All long-term residential rentals without a primary permitted use provided in 18.52.020 must obtain an administrative permit from the City of Seldovia annually.

C. An administrative permit is not required for long-term residential rentals when the primary use is already met as provided in 18.52.020.

D. No administrative permits shall be issued above the 10% threshold of the lots in the CB district. Applying for an administrative permit does not guarantee a permit will be issued. Applications received after the permitted 10% allowable lots are approved will be placed on an established waitlist as first come first serve.

18.52.040 Performance Standards. Each permitted use shall meet the following performance standards:

A. All permits required for work done in the tidelands, and any other requirements of the CB District shall be obtained prior to granting a building permit being considered.

B. Street and utilities must be adequate to safely accommodate the proposed use presently and in the future.

18.52.050 Minimum Lot Area and Width. In the €€ CB District, the minimum lot size and width shall be as follows:

A. 5000 square feet. (Ord. 00-08), (Ord. 06-10)

B. Lot area shall be sufficient to meet the parking and setback standards of this chapter. (Ord. 06-10)

18.52.060 Parking Area and Off-Street Loading Space. In the €M CB District, parking areas and off-street loading space requirements shall be as follows:

A. Residential uses, same as required in the Residential District;

B. Retail sales, one space per 200 square feet of gross usable floor area;

C. Service business and offices, one space for each 300 square feet of gross usable floor area;

D. Restaurants, bars and other entertainment establishments, one parking space for each four seats based on maximum seating capacity;

E. Transient housing, one parking space for each three rooms;

F. In addition to the above requirements, one parking space for every four employees shall be provided;

G. If the applicant adequately demonstrates that the use will serve customers who are not dependent on motor vehicles to reach the business, the parking requirements may be reduced accordingly by the City Planning Commission;

H. One off-street loading space at least 30 feet long by 10 feet wide by 16 feet high inside dimensions shall be provided for each 10,000 square foot of usable floor area.

I. Decks or Docks in this section shall be constructed to allow for the docking of water craft within the lot boundaries and in compliance with the provisions set forth in Chapter 18.52. (Ord. 00-08; Ord. 06-10; Ord. 17-06)

18.52.070 Building Setback. In the CM CB District, building setback requirements shall be as follows:

A. Ten (10) feet from all rights-of-way if the right-of-way meets existing requirements;

B. If the adjacent right-of-way is less than required by existing standards, the setback shall be equal to ½ the required right-of-way width plus ten (10) feet measured from the right-of-way centerline. Required right-of-way shall be that required by City plans or ordinance. If no City plan or ordinance exists, the right-of-way requirements of the Borough subdivision requirements shall apply;

C. Six (6) feet from all property boundaries not bordering right-of-way, unless adequate fire-walls are provided and adequate access to the rear of the building is otherwise provided.

D. The setback for a deck or dock proposed along the shore of the Seldovia Small Boat Harbor (defined as any waterfront lot on Main St. between lots 19307917 and 19203059) shall be the mean high tide line. Any deck or dock proposed beyond the mean high tide shall be heard by the Planning and Zoning Commission under the conditional use permitting process (Ord. 00-08; Ord. 06-10; Ord. 17-06)

18.52.080 Visibility at Access Points and Intersections. A. No vehicle shall be parked within thirty feet (30') of any existing municipality street intersection;

B. To ensure that a vehicle's driver has good visibility at street intersections, on corner lots both public and privately owned, there shall not be a fence, wall, hedge, planting or structure, or other obstacle including vehicles that will impede visibility between a height

of 2-1/3 feet and 8 feet and greater than one foot wide above the centerline grades of the intersecting streets unless parked in already approved and designated parking area. (Ord. 00-08; Ord. 06-10; Ord 18-12)

18.52.090 Building Height. The maximum building height is twenty-eight (28) feet measured from the centerline of Main Street. (Ord. 06-10)

18.52.100 Conditional Uses. The following uses shall be permitted if it is determined that the requirements of Chapters 18.68 and 18.72 are met:

- A. Signage uses in excess of those specified in Section 18.52.110.
- B. Seafood processing (Ord. 17-13)
- C. Keeping of livestock may be permitted provided the provisions set forth in Chapters 18.52, 18.68, 18.72 are satisfied.
- D. Building of decks or docks within the Seldovia Small Boat Harbor (as defined by SMC 18.52.070 D) beyond the mean high tide may be permitted if the provisions set forth in Chapter 18.52, and 18.68 are met (Ord. 01-01; Ord. 17-05; Ord. 17-06)
- E. Marijuana cultivation facilities, manufacturing facilities, retail facilities, and testing facilities as defined by State law, SMC 18.78 and SMC Ord. 16-09. (Ord. 17-07)
- F. Motor vehicle sales and service within a confined specified space

18.52.110 Signage. Combined signage serving the Commercial Marine Business District shall not exceed 15% of wall surface area as viewed from any lot line. (Ord. 01-01)

18.52.120 Violation—Penalties. A. Any use of property in the Commercial Business District that is not provided in 18.52.020 or the use of any Incidental secondary use provided in 18.52.025 without a permitted use provided in 18.52.020 shall be considered a violation of this chapter. The penalty for an offense in this chapter is the fine listed in the fine schedule in SMC 1.08.040.

SECTION 3. AMENDING TITLE 18.20 DEFINITIONS BY ADDING LANGUAGE IN TO READ AS FOLLOWS:

18.20.270 Attached residential dwelling unit. A building located on a single lot containing multiple units having a common wall of which one is a dwelling unit designed for one family. (An apartment in a commercial building)

18.20.280 Attached multi-residential dwelling unit. A building located on a single lot containing multiple units having a common wall of which more than one is a dwelling unit and designed for multiple families. (Multiple apartments in a commercial building)

18.20.290 Long-Term Residential Rentals. A unit attached to a building or a single unattached building rented as a dwelling unit for more than thirty consecutive days.

SECTION 4. TITLE 1.08.040 IS AMENDED BY ADDING THE LANGUAGE TO READ AS FOLLOWS:

18.52.120 | Violation-- Penalties

| \$300 |

SECTION 5. EFFECTIVE DATE. This ordinance becomes effective upon its adoption by the City Council.

ADOPTED by a duly constituted quorum of the City Council of the City of Seldovia, Alaska this ____ day of _____, 2019.

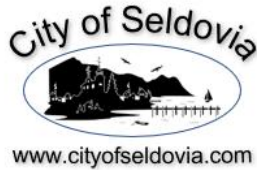
ATTEST:

Heidi Geagel, City Clerk

APPROVED:

Dean Lent, Mayor

- Vote:
- Colberg-
- Campbell-
- Morrison-
- Rojas-
- Nathin-
- Sweatt-



P.O. Drawer B Seldovia, Alaska 99663 Phone: (907) 234-7643, Fax: (907) 234-7430 email: cityclerk@cityofseldovia.com

Long-Term Residential Rental Business Permit

Commercial Business District

(18.20.290 Long-Term Residential Rentals. A unit attached to a building or a single unattached building rented as a dwelling unit for more than thirty consecutive days.)

Renewal: New Permit:

Physical/Street Address of Long-Term Rental: _____

Business Name: _____ Date: _____

Applicant Name: _____

Mailing Address: _____

City: _____ State: _____ Zip: _____

Email Addresses: _____ Telephone: _____

Rentals are: Month to Month Long-term lease (6 months or more)

The Commercial Business (CB) District is established to provide an area for convenient, attractive and concentrated commercial development. Regulations applying to this zone are designed to encourage a compact group of business of the type which are mutually beneficial and located close enough together to encourage walk-in trade.

Long-term residential rentals are allowed as a permitted use in the CB District but shall not exceed over 10 percent of the district and must obtain an administrative permit before operating.

1. A waitlist will be established once 10% of the district is considered a long-term residential rental.
2. Long-term residential rentals with a lapse of six months or more in tenants will no longer be considered a long-term rental and must obtain a new administrative permit in order to be considered for a long-term rental as their permitted primary use.

Long-term residential rentals with a permitted use provided in 18.52.020 are not required to obtain an administrative permit.

Long-term Residential Rental Businesses are required to have the following:

- City of Seldovia Business License No: _____
- State Business License (or proof that you have filed) No: _____
- Borough Sales Tax Registration Card or Registration No: _____

As Applicant, I _____, certify or declare under penalty of perjury under the laws of the State of Alaska that the foregoing is true and correct.

By signing this Application, you are agreeing to the indemnification/hold harmless agreement below:

Owner/Applicant, agrees to indemnify, save, protect, hold harmless, and defend the City of Seldovia, the City Council of the City of Seldovia, individually and collectively, and the City of Seldovia representatives, officers, officials, employees, agents, and volunteers from any and all claims, demands, damages, fines, obligations, suits, judgments, penalties, causes of action, losses, liabilities, or costs at any time received, incurred, or accrued as a result of, or arising out of Owner's actions, or inaction in the operation, occupancy, use, and/or maintenance of the Property.

Applicant Signature: _____ Date: _____



Regional Citizens' Advisory Council / "Citizens promoting environmentally safe operation of the Alyeska terminal and associated tankers."

In Anchorage: 3709 Spenard Road / Suite 100 / Anchorage, Alaska 99503 / (907) 277-7222 / FAX (907) 277-4523
In Valdez: P.O. Box 3089 / 130 South Meals / Suite 202 / Valdez, Alaska 99686 / (907) 834-5000 / FAX (907) 835-5926

MEMBERS

November 15, 2019

Alaska State
Chamber of Commerce

Regulatory Commission of Alaska
701 West 8th Avenue, Suite 300
Anchorage, AK 99501

Chugach Alaska
Corporation

City of Cordova

City of Homer

City of Kodiak

City of Seldovia

City of Seward

City of Valdez

City of Whittier

Community of
Chenequa

Community of
Tatitlek

Cordova District
Fishermen United

Kenai Peninsula
Borough

Kodiak Island
Borough

Kodiak Village Mayors
Association

Oil Spill Region
Environmental
Coalition

Port Graham
Corporation

Prince William Sound
Aquaculture
Corporation

Re: In the Matter of the Joint Application Filed by BP PIPELINES (ALASKA) INC. and HARVEST ALASKA, LLC for Approval of the Transfer of Certificate of Public Convenience and Necessity No. 311 and Operating Authority Thereunder from BP Pipelines (Alaska) Inc. to Harvest Alaska, LLC. Docket No. P-19-017

Dear Members of the Regulatory Commission of Alaska:

The Prince William Sound Regional Citizens' Advisory Council ("PWSRCAC") submits the following comments on the Notice of Pipeline Application issued by the Regulatory Commission of Alaska ("RCA" or "Commission") on October 4, 2019,¹ and pursuant to 3 AAC 48.654, hereby files its comments regarding the Joint Application for Approval of Transfer of Certificate of Public Convenience and Necessity ("CPCN") No. 311 and Operating Authority thereunder from BP Pipelines (Alaska) Inc. ("BPPA") to Harvest Alaska, LLC ("Harvest"), filed on September 27, 2019 ("Application"). Specifically, these comments apply to Docket No. P-19-017.

The basis of PWSRCAC's concerns is the lack of publicly available information to determine whether Hilcorp and/or Harvest is financially fit, willing, and able to safely and reliably operate the VMT and associated tankers. PWSRCAC's comments, suggested actions, and requests, which are detailed below, focus on four major areas of concern: (1) operational implications, including those related to Hilcorp's history of regulatory noncompliance; (2) adequacy of resources available for dismantlement, removal & restoration; (3) public access to information sufficient to assess whether the transfer of operating authority is in the best interest of the public; and (4) conditions required to ensure the transfer is in the public's best interest.

BACKGROUND

BPPA and its affiliates (collectively "BP") have negotiated a transaction with Hilcorp Alaska, LLC ("Hilcorp"), under which all of BP's Alaska-related assets and interests, including those in the Trans Alaska Pipeline System ("TAPS"), will be transferred to Hilcorp or its affiliates. As part of the transaction, the Standard Oil Company is selling its entire stock ownership interest in BP

¹ As supplemented by notice issued October 23, 2019, extending the deadline for submitting comments on the applications to November 15, 2019.

Exploration (Alaska) Inc. to Hilcorp. In conjunction with the proposed transaction, BPPA and Harvest Alaska, LLC ("Harvest"), a wholly-owned subsidiary of Hilcorp, have filed a joint application for approval of the transfer of the following assets and interests to Harvest: (1) BPPA's RCA issued CPCN No. 311 for the operation of BPPA's interest in TAPS, and (2) BPPA's entire interest in TAPS.

PWSRCAC is an independent nonprofit corporation whose mission is to promote environmentally safe operation of the Valdez Marine Terminal ("VMT") and associated tankers. PWSRCAC is guided by the Oil Pollution Act of 1990 ("OPA 90") and its contract with Alyeska Pipeline Service Company ("Alyeska"). PWSRCAC's 18-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 and the Alaska State Chamber of Commerce. PWSRCAC is certified by the United States Coast Guard as an alternative voluntary advisory group for Prince William Sound under 33 U.S.C. § 2732(o) of OPA 90,² along with other provisions of OPA 90, which provides for the PWSRCAC to review, study, monitor, and thereby offer advice and recommendations regarding the activities of terminal facilities including the VMT and crude oil tankers in the Prince William Sound region. Accordingly, the financial and organizational capacity of Hilcorp and/or Harvest to properly resource VMT and tanker operations and to prevent and respond to oil spills and other safety or environmental incidents is of critical importance to the citizens of PWSRCAC's region.

The Application, if granted, will result in the transfer of operational control over TAPS from one of the world's largest and most well-resourced oil companies to a mid-sized, privately held company with no record of successfully and safely operating comparable facilities. The RCA's decisions concerning whether to approve and what conditions are required for approval of the Application will affect the development of Alaska's resources for the foreseeable future.

Hilcorp and/or Harvest has requested a waiver of the requirement to provide audited financial statements under 3 AAC 48.625(a)(7)(B). PWSRCAC has concerns whether Hilcorp and/or Harvest are financially fit, willing, and able to safely and successfully operate the VMT and associated tankers, and recommends and advises Hilcorp and/or Harvest be required by the RCA to show it has the financial capacity to safely, successfully, and reliably operate the assets being acquired.

Further, as private companies, Hilcorp and/or Harvest have no ongoing obligation to publicly and periodically disclose audited financial statements. If the RCA determines they are fit, willing, and able to perform at the time of the Application, PWSRCAC further recommends and advises Hilcorp and/or Harvest be required to annually file with the RCA audited financial statements that would be available to the public. This periodic and public financial reporting obligation will ensure a similar level of transparency as has existed with BP and would further ensure Hilcorp and/or Harvest remain fit, willing, and able to perform during the entire period of their ownership of TAPS.

TAPS is one of the largest and most strategically important pipeline systems in the world and is the exclusive means of transporting Alaska North Slope ("ANS") crude to Valdez, Alaska for further transport to market. Any disruption to the operation of the

² 33 U.S.C. § 2701, *et seq.*

VMT or the ability to respond to an oil spill like the *Exxon Valdez* would devastate the citizens and communities PWSRCAC is authorized and mandated by law to help protect through its monitoring and advising of industry and regulators.

In light of the importance of TAPS to Alaska and its citizens, and the nature of Hilcorp and/or Harvest and its affiliates as operators, the PWSRCAC recommends and advises that the RCA should open a docket to fully examine the implications of the proposed transfer of operating authority as well as establish conditions that ensure the transfer is in the “best interest of the public.”³

COMMENTS

A. Operational Implications

The TAPS, including the VMT and tanker loading and escort operations, is operated by Alyeska, which is a jointly owned company created by the TAPS Carriers⁴ and is directly responsible for all TAPS maintenance, operations, legal, accounting, and personnel activities. PWSRCAC’s understanding is that Alyeska does not directly deal with shippers or collect tariff revenue, and receives all of its funding through cash calls from the TAPS Carriers.⁵ BPPA⁶ is the largest of the TAPS Carriers and, as such, may have greater influence (i.e., holds effective veto power) over Alyeska management decisions, which directly impact operations at the VMT and associated tanker operations. Accordingly, Hilcorp’s acquisition of BP’s interest in TAPS will give Hilcorp and/or Harvest *de facto* control over Alyeska management decisions and operations. BPPA has provided strong leadership in the implementation of safety, maintenance, environmental, and quality assurance programs throughout its tenure as a TAPS Carrier. With the implementation and maintenance of these programs, VMT and tanker operations have rarely been disrupted and have resulted in relatively few environmental or safety incidents.

Assurance that the integrity of operations, maintenance, and environmental safety of the VMT and associated tanker operations is critical. The PWSRCAC advises that Hilcorp and/or Harvest should be required by the RCA to show it has the operational and financial capacity to continue to support safe operation of the VMT and associated tankers. Comments by Hilcorp representatives assert that Hilcorp and/or Harvest intends to reduce operating costs, which would likely adversely impact funding for programs and personnel dedicated to safety, maintenance, and quality control for the VMT and associated tankers.

The PWSRCAC is concerned over Hilcorp’s documented track record of significantly reducing operating costs. This is a particular concern in light of its history of regulatory noncompliance⁷ and safety and environmental incidents, which include the

³ AS 42.06.305.

⁴ The TAPS Carriers are currently BPPA; ConocoPhillips Alaska Transportation Inc. (“CPTAI”); ExxonMobil Pipeline Company (“EMPCo”); and Unocal Pipeline Company (“Unocal”), which has filed an application with the Commission to transfer Unocal’s ownership in TAPS to BPPA, CPTAI, and EMPCo (Docket P-19-018).

⁵ See *Re BP Pipelines (Alaska) Inc.*, 146 FERC ¶ 63,019 at n.8 (2014).

⁶ BPPA’s current ownership interest in TAPS is 48.4410 percent of the Pipeline and 47.5881 percent of the VMT tankage. (Application at 1, n.1).

⁷ See Exhibit A, AOGCC Notice of Proposed Enforcement (November 12, 2015) at 5 (“The disregard for regulatory compliance is endemic to Hilcorp’s approach to its Alaska operations.”); (*continued p 4*)

death of an employee in 2018, the “near deaths of three rig personnel” in 2015,⁸ and a 2017 gas leak in Cook Inlet that remained unrepaired for over four months while it leaked roughly 100,000 cubic feet of natural gas per day.⁹ More recently, Hilcorp is reportedly responsible for a 302-gallon crude oil spill on August 3, 2019, and a 126-gallon crude oil spill on October 20, 2019.¹⁰ According to Alaska Department of Environmental Conservation records, over the course of its operations in Alaska, which began in 2012, Hilcorp is responsible for over 90 crude oil spills or discharges¹¹ (emphasis added).

If Hilcorp and/or Harvest were to operate the VMT and associated tankers in the same manner as its other oil and gas facilities, PWSRCAC would be concerned that operations at the VMT would be exposed to an unacceptable risk of safety and environmental issues in addition to interruptions to service. The PWSRCAC advises that Hilcorp and its affiliates’ records of regulatory noncompliance and disproportionately high number of safety and environmental incidents while operating gas and oil production and transportation systems much smaller than TAPS warrants heightened Commission scrutiny of the Application and the imposition of conditions that ensures Hilcorp/Harvest will safely and reliably operate the VMT and associated tankers. Alaska and its residents should not be subjected again to the trauma and economic and environmental injury of a major oil spill because of the RCA agreeing to unacceptably high risks from such noncompliance and a high number of safety and environmental incidents without remedial action by the RCA.

B. Dismantlement, Removal & Restoration Implications.

In addition to the operational and safety implications discussed above, the Application also involves the Dismantlement, Removal and Restoration (“DR&R”) obligations of Hilcorp and/or Harvest and BPPA. According to the Application, BPPA will retain all of its DR&R obligations and the expenses incurred in relation to those obligations.¹² PWSRCAC is concerned whether the RCA will have jurisdictional authority over BPPA to ensure that the funds to complete DR&R are available at the end of TAPS economic life at the time DR&R obligations become due. Ensuring that adequate resources are available for DR&R purposes is essential to protecting the interests of the Members of the PWSRCAC and the public at large. Accordingly, PWSRCAC recommends that the RCA require additional assurances from both BPPA and Hilcorp/Harvest regarding the duty to maintain sufficient funds in escrow or otherwise available to fully complete DR&R responsibilities and obligations.

See Exhibit B, AOGCC Decision and Order No. 80 (April 10, 2013) at 3 (“The aggressiveness with which Hilcorp is moving forward with operations appears to be contributing to regulatory compliance issues. Since Hilcorp commenced rig work in Alaska in April 2012, AOGCC Inspectors have observed rig crews unable to perform required BOPE component tests, rig crews not trained in use of well control equipment, and rigs with missing required equipment. Hilcorp’s compliance history from April through December 2012—including this enforcement action—shows 13 separate enforcement actions of varying severity since April 2012.”).

⁸ Exhibit A at 4.

⁹ <https://dec.alaska.gov/spar/ppr/spill-information/response/2017/04-hilcorp/>.

¹⁰ <https://dec.alaska.gov/Applications/SPAR/PublicMVC/PERP/SpillDetails?SpillID=64071>

¹¹ <https://dec.alaska.gov/Applications/SPAR/PublicMVC/PERP/SpillSearch> (Hilcorp spill data is available via this search mechanism).

¹² Such BPPA-retained DR&R obligations do not include those required or incurred as a result of modifications made to TAPS after the BPPA-Harvest transaction is completed.

C. The RCA Should Require Public Access to Information Sufficient to Assess Whether the Transfer of Operating Authority is in the Best Interest of the Public.

In order for the RCA to determine whether the transfer of operating authority to Hilcorp/Harvest is in the “best interest of the public,”¹³ commenters should have the full opportunity to review financial and operational information necessary to make meaningful comments. Specifically, the PWSRCAC advises and recommends to the RCA that Hilcorp and its affiliates be required to publicly provide detailed information regarding:

- (1) Hilcorp and/or Harvest’s financial capacity to properly resource operations and respond to oil spills or other environmental and safety incidents;
- (2) Hilcorp and/or Harvest’s proposed plan for delivering North Slope crude oil to the West Coast including whether it will use the tanker fleet previously under contract to BP;
- (3) Hilcorp and/or Harvest’s plans and policies to ensure that proper safety, maintenance, and quality assurance programs will continue during and after the transition of operational control;
- (4) Hilcorp and/or Harvest’s estimates for increased throughput and plans to accommodate such increases; and
- (5) Hilcorp and/or Harvest’s proposed staffing levels and analysis of proposed operating cost reductions.

Because Hilcorp and its affiliates’ financial information has not been made available to the public, at this time, there is no mechanism for PWSRCAC or any other interested member of the public to review Hilcorp and its affiliates’ information to ensure and verify financial and operational capabilities.

Absent Hilcorp and its affiliates’ actual financial and operational plans, it is impossible for the public to adequately assess whether transfer of operating authority from BPPA to Hilcorp and/or Harvest is in the best interest of Alaska or to identify and make informed judgments about appropriate terms, conditions, and limitations required to ensure that it is. Accordingly, PWSRCAC advises and recommends that the RCA require Hilcorp to produce the financial information discussed in these comments and that the public have access to that information to ensure that its best interests are adequately protected.

D. The RCA Should Require Terms and Conditions Sufficient to Ensure the Transfer of Operating Authority is in the Public’s Best Interest.

Under AS 42.06.305, a regulated pipeline’s operating authority may not be transferred without the prior approval of the Commission; and, additionally, the Commission’s decision on an application to transfer a controlling interest of a pipeline carrier holding a CPCN, such as requested in the Hilcorp and/or Harvest/BPPA Application, “shall be based on the best interest of the public.” The Commission has the authority under AS 42.06 to prescribe such requirements as are necessary for the safety, accommodation, and convenience of the public and a pipeline’s users¹⁴ and to place

¹³ AS 42.06.305.

¹⁴ AS 42.06.310.

terms and conditions on the transfer of operating authority sufficient to ensure that the best interest of the public is protected.¹⁵

In 1999, when BP and ARCO proposed to merge their Alaska assets, including ownership in TAPS, there was a Charter for Development of the Alaskan North Slope that was entered into between the State of Alaska, BP, and ARCO¹⁶. The State of Alaska had determined that its support of this merger was contingent upon certain conditions, including but not limited to, environmental and community commitments. Commitments were related to management and operations, including providing a safe environment; maintaining training and qualifications for personnel; and facility and vessel operations, maintenance, and management procedures, among other things. PWSRCAC advises that additional protections, using the State of Alaska's 1999 as an example, should be identified as conditions contingent upon the proposed transfer to maintain programs, personnel, and resources to safely and reliably operate the VMT and associated tankers.

PWSRCAC recommends that the RCA invoke its regulatory powers to:

- (1) set a specific reasonable time frame for the filing of petitions of interested persons to intervene into this proceeding;
- (2) permit interveners to participate in an evidentiary process to establish a complete record in this proceeding;
- (3) establish conditions for approval of the Application consistent with the recommendations set forth in these comments and specifically incorporating those conditions suggested in the State of Alaska's 1999 Charter for Development of the Alaskan North Slope relating to ongoing obligations to maintain programs, personnel, and resources to safely and reliably operate the VMT and associated tankers;¹⁷ and
- (4) require that Hilcorp and its affiliates and BPPA maintain and annually publicly report audited financial statements to demonstrate financial resources sufficient to respond to environmental and safety issues and potential catastrophes and to satisfy DR&R responsibilities.¹⁸

CONCLUSION

Hilcorp and/or Harvest's proposed acquisition of BPPA's interest in TAPS and the conditions associated with this acquisition have wide-ranging implications that are of crucial importance to the safe and reliable operation of the VMT and associated tankers that transit Prince William Sound. Accordingly, the PWSRCAC recommends that

¹⁵ AS 42.06.140 (Providing the RCA the authority to place "necessary and reasonable terms, conditions and limitations" on permits for oil pipeline facilities.).

¹⁶ See Exhibit C: 1999 Charter for Development of the Alaskan North Slope between the State of Alaska, BP and ARCO.

¹⁷ See, e.g., the Commission's analysis of TAPS Carriers demonstrating "by their past performance and current standing with the Commission that they, *with support of their corporate parents*, have the required expertise and financial fitness to provide common carrier pipeline service on TAPS." *Re Mobil Alaska Pipeline Co.*, Order P-00-007(1) at 5-6 (Mar. 19, 2001) (emphasis added).

¹⁸ Such protections should include mechanisms for the enforcement of BP's DR&R obligations, including those owed to the public for over collection of DR&R funds.

the RCA require production of the information identified in these comments and allow intervening parties to participate in a hearing to fully develop a record. The view of the PWSRCAC is that only upon analysis of a full record can the RCA fully meet its regulatory duty to determine whether the transfer of operating authority for Alaska's single most important infrastructure system is in the best interest of the public and what terms and conditions are required to ensure the safe and reliable operation of the VMT and associated tankers.

Alyeska Pipeline Service Company, in particular its Ship Escort/Response Vessel System, is recognized as a world-class oil spill prevention and response system. Any actions that would diminish safeguards put in place after the 1989 *Exxon Valdez* oil spill would be viewed unfavorably by PWSRCAC and the entities and communities that are members of this organization and would not be in the best interest of the public.

The PWSRCAC recognizes the serious challenges that the RCA has before it regarding the Application and stands ready to offer further comments as the RCA works to responsibly consider and act upon the Application, Docket no. P-19-017.

Thank you for your consideration of these comments.

Sincerely,



Robert Archibald, President of PWSRCAC and Executive Committee Member, Representative from the City of Homer



Amanda Bauer, Vice President of PWSRCAC and Executive Committee Member, Representative from the City of Valdez



Wayne Donaldson, Treasurer of PWSRCAC and Executive Committee Member, Representative from the City of Kodiak



Thane Miller, Executive Committee Member-at-Large, Representative from the Prince William Sound Aquaculture Corporation



Bob Shavelson, Secretary of PWSRCAC and Executive Committee Member, Representative from the Oil Spill Region Environmental Coalition



Rebecca Skinner, Executive Committee Member-at-Large, Representative from the Kodiak Island Borough



Peter Andersen, Executive Committee Member-at-Large, Representative from the Chugach Alaska Corporation



Robert Beedle, Representative from the City of Cordova



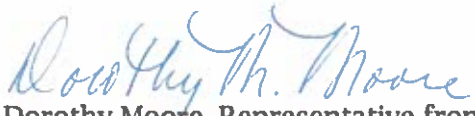
Patience Andersen Faulkner, Representative from Cordova District Fishermen United



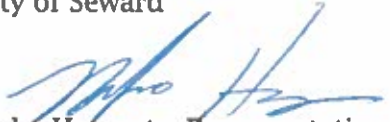
Michael Bender, Representative from the City of Whittier



Rob Chadwell, Representative from the City of Seward



Dorothy Moore, Representative from the City of Valdez



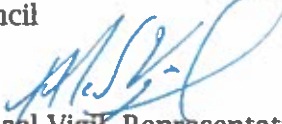
Mako Haggerty, Representative from the Kenai Peninsula Borough



Roy Totemoff, Representative from Tatitlek Corporation and Tatitlek IRA Council



Luke Hasenbank, Representative from the Alaska State Chamber of Commerce



Michael Vigil, Representation from Chenega Corporation and Chenega IRA Council



Conrad Peterson, Representative from the Kodiak Village Mayors Assn.



Kirk Zinck, Representative from the City of Seldovia

Enclosures:

Exhibit A: November 12, 2015 Alaska Oil and Gas Conservation Commission notification of proposed enforcement action

Exhibit B: April 10, 2013 Alaska Oil and Gas Conservation Commission Decision and Order

Exhibit C: December 2, 1999 Charter for Development of the Alaskan North Slope

Cc: The Honorable Mike Dunleavy, Governor of Alaska

Honorable Members of the Alaska State Senate, 31st Alaska State Legislature

Honorable Members of the Alaska House of Representatives, 31st Alaska State Legislature

Rich Novcaski, Vice President and Pipeline Manager
Harvest Alaska, LLC
3800 Centerpoint Drive, Suite 1400
Anchorage, Alaska 99503
rnovcaski@harvestmidstream.com

Michael S. McLaughlin
Guess & Rudd P.C.
1029 West Third Avenue, Suite 400
Anchorage, Alaska 99501
mmclaughlin@guessrudd.com

**CITY OF SELDOVIA
ORDINANCE 20-04**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SELDOVIA, ALASKA,
REPEALING CHAPTER 2.24 CIVIL DEFENSE AND DISASTER CONTROL AND ADOPTING
CHAPTER 2.26 NATIONAL INCIDENT MANAGEMENT SYSTEM**

SECTION 1. CLASSIFICATION: This ordinance is permanent in nature and shall become a part of the Municipal Code of the City of Seldovia.

SECTION 2: SEVERABILITY: If any provision of this ordinance or any application thereof to any person or circumstances is held invalid, the remainder of this ordinance and the application to another person or circumstances shall not be affected thereby.

SECTION 3. ENACTMENT: REPEALING CHAPTER 2.24 CIVIL DEFENSE ANF DISASTER CONTROL AND ADOPTING CHAPTER 2.26 NATIONAL INCIDENT MANAGEMENT SYSTEM BY REMOVING LANGUAGE IN ~~STRIKEOUT~~ AND ADDING LANGUAGE IN **HIGHLIGHT** TO READ AS FOLLOWS:

~~Chapter 2.24~~

~~Civil Defense and Disaster Control*~~

Sections:

~~2.24.010 Organization - Created - Staff.~~

~~2.24.020 Organization - Composition.~~

~~**2.24.010 Organization - Created - Staff.** There is created the civil defense organization for the City of Seldovia, Alaska, as an agency of said government to be composed of the Mayor and such other persons that he may appoint from time to time. The Mayor shall appoint a civil defense director and a staff to serve at the pleasure of the Mayor of the City. (Ord. 69-5 Sec. 2, 1969)~~

~~**2.24.020 Organization - Composition.** All city officers and employees of this city, together with those volunteer forces enrolled to aid them prior to or during a disaster shall constitute the civil defense organization, as provided by law. (Ord. 69-5 Sec. 2, 1969)~~

* For statutory provisions regarding local civil defense organizations, see AS Sec. 26.20.060 *et seq.*

Chapter 2.26

National Incident Management System

Sections:

2.26.010 National Incident Management System.

2.26.010. - National Incident Management System. The City of Seldovia hereby adopts the National Incident Management System (NIMS) as its system of preparing for and responding to disaster incidents. NIMS includes the use of the Incident Command System for responding to and management of disasters.

SECTION 4. EFFECTIVE DATE. This ordinance becomes effective upon its adoption by the City Council.

ADOPTED by a duly constituted quorum of the City Council of the City of Seldovia, Alaska this ____ day of _____, 2019.

ATTEST:

Heidi Geagel, City Clerk

APPROVED:

Dean Lent, Mayor

Vote:
Colberg-
Campbell-
Morrison-
Rojas-
Nathan-
Sweatt-

**CITY OF SELDOVIA
RESOLUTION 20-15**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SELDOVIA, ALASKA
SUPPORTING THE 2020 CENSUS**

WHEREAS the U.S. Census Bureau is required by the U.S. Constitution to conduct a count of the population and provides a historic opportunity to help shape the foundation of our society and play an active role in American democracy; and

WHEREAS federal and state funding is allocated to communities based on census data; and

WHEREAS census data is necessary for an accurate and fair redistricting of state legislative seats; and

WHEREAS, data from the 2020 Census are vital tools for economic development and increased employment; and

WHEREAS the City of Seldovia is committed to ensuring every resident is counted in the 2020 Census; and

WHEREAS the information collected by the census is confidential and protected by law; and

WHEREAS, a united voice from the City of Seldovia and others in our community will enable the 2020 Census message to reach more of our citizens; and

NOW THEREFORE, BE IT RESOLVED that the City Council of the City of Seldovia is committed to partnering with the U.S. Census Bureau and will:

1. Support the goals and ideals of the 2020 Census and will disseminate 2020 Census information.
2. Encourage all residents to participate in events and initiatives that will raise the overall awareness of the 2020 Census and increase participation.
3. Support census takers as they help complete an accurate count.
4. Strive to achieve a complete and accurate count of all persons within our borders.

PASSED AND APPROVED by a duly constituted quorum of the City Council of the City of Seldovia on this 25th day of November, 2019

ATTEST:

Heidi Geagel, City Clerk

APPROVED:

Dean Lent, Mayor

From: [Samaniego, Joe P. \(CED\)](#)
To: [Heidi Geagel](#)
Subject: Census 2020 Announcement for Local Governments
Date: Tuesday, November 12, 2019 1:51:12 PM
Attachments: [image001.png](#)
[Links.docx](#)
[Sample Resolution.docx](#)
[Where-to-Start -Community-Organization-Checklist.pdf](#)

Good afternoon Ms. Gaegel,

We've been asked by the Census 2020, and directed by the State, to forward the following attachments to our communities.


The 2020 Census is interested in working directly with communities in assisting with the Census count. I attached their checklist worksheet, a sample resolution the council may pass in support of the census, and a file with links that may assist with the Census. For any questions about the Census, please contact Barbara Miranda at Barbara.m.miranda@2020census.gov by email.

Thank you for your time,

Joe Samaniego



Joe P. Samaniego
Local Government Specialist II
Division of Community & Regional Affairs
550 West 7th Avenue, Suite 1640
Anchorage, Alaska 99501

 Please consider the environment before printing this e-mail. Less paper is better for us and our environment.



<p>SUMMER 2019 <i>Learn about the Census and Plan for 2020</i></p>	<p>OCTOBER - DECEMBER 2019 <i>Educate Alaskans about Importance of Census</i></p>	<p>FEBRUARY-MAY 2020 <i>Engage the Community</i></p>
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This is the time to start educating your organization and community about the census. Some actions you can take before the census are:

- Use these materials to learn more and educate your staff, board, and volunteers about the census. Train your staff to answer basic questions and explain why it is important to participate.
- Subscribe to Alaska Count's email list to get updates and find out about funding opportunities for census outreach. Subscribe at alaskacounts.org.
- Connect with your local Complete Count Committee.
- Organize! Check to see if any groups you work with are doing census education. If not, suggest that you make it a shared priority.



Every Alaskan Counts

As a trusted member of your community, the Census Bureau needs your help to get out the count and dispel fear surrounding the census. You can partner in a few ways:

- Hang the census poster from this toolkit in your spaces.
- Consider setting up a way for people to fill out the census online at your site.
- Distribute handbills and fact sheets about the census at meetings, events, and community gatherings to encourage community members to get counted.
- Encourage trusted staff and community members to make announcements about the census during events, meetings, or conversations.
- Make a public statement about your support for the census by issuing a press release, letter to the editor, and/or radio announcement.
- Add census outreach messages to your online and social media communications.
- Add the Census 101 Infographic to any direct mail you send to your networks.
- Meet the Partnership Specialist at your local U.S. Census office. Ask them about outreach materials or giveaways.



This is the time to encourage people in your community to get counted. Some action steps for your organization include:

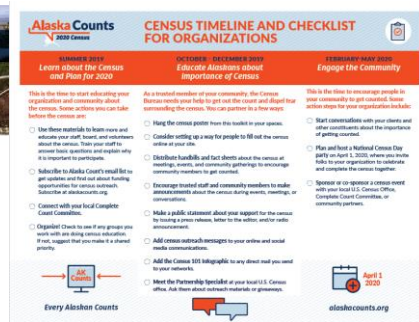
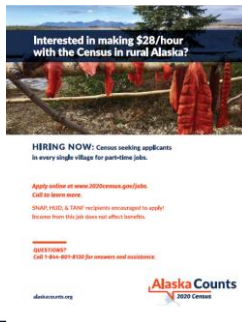
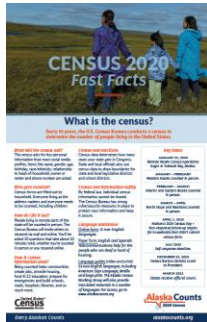
- Start conversations with your clients and other constituents about the importance of getting counted.
- Plan and host a National Census Day party on April 1, 2020, where you invite folks to your organization to celebrate and complete the census together.
- Sponsor or co-sponsor a census event with your local U.S. Census Office, Complete Count Committee, or community partners.



alaskacounts.org₂₆

Toolkit:

- [2020 Census FAST FACTS](#)
- [Census 101 What You Need to Know](#)
- [Alaska Census 2020 Recruitment Flyer](#)
- [Census Timeline and Checklist for Community Organizations](#)
- [Complete Count Committee Brochure](#)
- [Sample Resolution \(below\)](#)



- Links to Advanced Tools:**
- [State and Local Officials Toolkit](#)
 - [Alaska Counts Social Media Resources and Outreach Guide](#)

**CITY OF SELDOVIA
RESOLUTION 20-16**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SELDOVIA, ALASKA
SUPPORTING SAFEGUARDING ALASKA'S OIL SPILL PREVENTION AND
RESPONSE STANDARDS**

WHEREAS, after the 1989 Exxon Valdez oil spill, Congress found that complacency on the part of industry and regulators played a role in the spill, the public trust was broken, and one way to combat this complacency and rebuild trust was to involve the public, those with the most to lose in the event of a large spill, in decisions that affect the safe transportation of oil; and

WHEREAS, Congress enacted the Oil Pollution Act of 1990 that included, among other things, the creation of citizen advisory councils for Cook Inlet and Prince William Sound; and

WHEREAS, after the Exxon Valdez oil spill, Alaska citizens and the Alaska Legislature worked together to protect the state from major oil spills by enacting comprehensive laws and regulations dealing with prevention, response, contingency planning, financial responsibility, oversight, monitoring, and other subjects related to the safe handling and transportation of oil and other hazardous substances; and

WHEREAS, these laws and regulations were based on real world experiences and the painful lessons of the Exxon Valdez oil spill and were crafted in coordination with State government and oil industry partners, requiring extensive compromise in the determined Response Planning Standards¹; and

WHEREAS, oil spill prevention and response contingency planning regulations were adopted by the State of Alaska in 1992, and the regulations have been revised on nine occasions to clarify the requirements, streamline the review process, and make the process of drafting contingency plans less onerous and the review of those plans more predictable and expeditious; and

WHEREAS, as a result of post-Exxon Valdez oil spill laws and regulations, Alaska has world-class oil spill prevention and response requirements to protect its people and its environment, as well as commercial and sport fishing, aquaculture, recreation, tourism, subsistence, and cultural interests; and

WHEREAS, on October 15, 2019, the State of Alaska's Department of Environmental Conservation Commissioner issued a public scoping notice seeking input on existing regulations and statutes because he has "heard from many Alaskans that contingency plans are unnecessarily

¹ To find out more about the history and legislative intent of Alaska's strong Response Planning Standards, read the Council's August 2018 report [Alaska's Oil Spill Response Planning Standard - History and Legislative Intent](#).

burdensome while lacking corresponding environmental benefits,” and that his Department has identified regulations that can be eliminated or significantly reformed; and

WHEREAS, despite repeated requests, the Alaska Department of Environmental Conservation has yet to identify the companies, organizations, or Alaskans that have said the existing system is too burdensome, or identify the regulations or statutes they believe can be eliminated or significantly reformed; and

WHEREAS, it is unreasonable for the Department of Environmental Conservation to claim now, after 30 profitable years of industry compliance with the laws and regulations, that they are too burdensome, and this claim disregards the hard work of hundreds of Alaskans who worked tirelessly after the Exxon Valdez oil spill to create oil spill prevention and response standards, to ensure that the State of Alaska would never again suffer an environmental disaster like the Exxon Valdez oil spill; and

WHEREAS, reducing the burden on industry by rolling back or eliminating proven oil spill prevention and response requirements transfers the risk and burden of another oil spill to the communities, citizens, and environment; and

WHEREAS, Alaska's Congressional Delegation has steadfastly supported over the past thirty years prudent and sensible actions to help lessen the risks, trauma, and injury to Alaska from another major oil spill; and

WHEREAS, the City Council of the City of Seldovia supports the Prince William Sound Regional Citizens' Advisory Council and the Cook Inlet Regional Citizens' Advisory Council, and has local representation on each board who consistently report to the council.

NOW THEREFORE, BE IT RESOLVED that the City Council of the City of Seldovia strongly opposes legislative or regulatory changes that erode oil spill prevention and response standards, increase the risk of a catastrophic spill, or demonstrate a return of the complacency on the part of oil the industry and regulators that Congress determined to be a primary cause of the *Exxon Valdez* oil spill.

PASSED AND APPROVED by a duly constituted quorum of the City Council of the City of Seldovia on this 25th day of November, 2019

ATTEST:

APPROVED:

Heidi Geagel, City Clerk

Dean Lent, Mayor

Concerns Regarding Oil Transport and Production in Alaska

To: The Seldovia City Manager and Members of the Seldovia City Council

From: Kirk Zinck, Representative: Prince William Sound Regional Citizens' Advisory Council

Date: November 7, 2019

As the community representative on the Prince William Sound Regional Citizens' Advisory Council (PWSRCAC), I am providing this memo to you due to new developments in government and the oil industry that may be of immediate concern to Seldovia and other coastal communities.

Prince William Sound Regional Citizens' Advisory Council – A Brief Description

Following the 1989 Exxon Valdez oil spill, the Council was formed to provide citizens a means of participation in decision making among government and industry, as related to the Valdez Marine Terminal and associated tankers. Since its inception the PWSRCAC has monitored oil storage and transportation, based upon two laws as cited below.

Federal Oil Pollution Act of 1990: Established two councils to perform an advisory role, responsible for environmental monitoring of the terminal facilities and crude oil tankers, one council to operate in Prince William Sound, the other to operate in Cook Inlet. This was signed into law by President George H. W. Bush in response to the 1989 oil spill at Bligh Reef.

Alaska State Statute 46.04 (AS 46.04), Oil and Hazardous Substance Pollution Control: Addresses the prevention of oil spills, and insures that trained responders and equipment are adequate and in place, should prevention measures fail.

Sources of oil contamination vary. Most result from ballast discharge and spillage, but contamination is also an outcome of varied problems that arise in storage and shipment, in facility and equipment maintenance, and in loading oil onto ships at the Valdez terminal. Spill prevention and response preparedness are managed by each company through a contingency plan, commonly called a c-plan. AS 46.04 was designed to ensure readiness and preparedness for a large oil spill such as the Exxon Valdez.

The 1990 Oil Pollution Act is a comprehensive piece of legislation that includes many aspects of oil spill prevention and response, including the need to preserve the environment for Alaska's fishing industry (Alaska's # 3 revenue source), coastal communities, and other citizens. One outcome of this law was the formation of PWSRCAC. Funded by Alyeska, the PWSRCAC links the oil industry with entities that work to protect and preserve our environment for the enjoyment, economic benefit, and health of present and future Alaskans. Oil revenue benefits Alaskans as a primary source of funds for state operations and citizen services. The coastal environment is a legacy that we pass on to our youth and to future generations. Both purposes are of interest in the work of the PWSRCAC.

2019 marks 30 years without a major spill. Measurement of oil contamination in Prince William Sound is at lowest values since the Exxon Valdez spill. To date, it appears that what is done to monitor oil transportation, prevent contamination, and respond to spillage continues to be successful.

Current Developments in Government and Industry that May Impact Seldovia

Review of Oil Transport Regulations

The Alaska Department of Environmental Conservation (DEC) has issued a public scoping notice, seeking input on existing statutes and regulations. Plans are to review Alaska Statute 46.04 relevant to contingency planning; and the Alaska Administrative Code 18 AAC 75, Article 4 - Oil Discharge Prevention and Contingency Plans and Non-tank Vessel Plans. DEC commissioner Jason Brune has stated, "a lot of people" express dissatisfaction with current regulations. He describes oil transport regulations as "burdensome and onerous", as failing to protect the environment, and as in need of elimination or significant reform. Mr. Brune declined to define "a lot of people" when I asked

during the September PWSRCAC meeting. With further prompting, he then admitted that the complaints originate within the oil industry. At first glance the review looks like an attempt to weaken the regulation of oil transport. Weak regulations might result in more business for Alaska, yet we have seen the impact of a major spill on the welfare of coastal Alaskans. The 1989 spill put many commercial fishing operations out of business, decimated fish and shellfish stocks, and initiated environmental problems that persist to this day. Loss of oil revenue and related revenue to the state, that could be the outcome of another spill would be especially devastating in the current financial climate. As stated by Homer resident Robert Archibald (PWSRCAC President), “Protecting our communities and the environment is not burdensome, it is the cost of doing business in Alaska”. If Alaska is “open for business”, it makes sense to expect those who mine our resources (at great profit) to exercise care, “do it right”, and to not simply extract resources and leave problems for present and future generations of Alaskans, when they depart. There is opportunity for citizen input to DEC during the scoping process.

As a member of PWSRCAC, I have signed a resolution that strongly advises against any legislative or regulatory changes that erode oil spill prevention and response standards, increase the risk of a catastrophic spill, or demonstrate a return of the complacency on the part of oil the industry and regulators that Congress determined to be a primary cause of the Exxon Valdez oil spill. I invite the City to consider signing a similar resolution to be provided to DEC during this public scoping process. Should council members wish to comment on the process, public input can be submitted through January 15, 2020 at <http://alaskadec.commentinput.com/?id=fdLgJY2gM>.

Purchase of British Petroleum Assets by Harvest Alaska

The purchase of BP Assets by Harvest Alaska (a subsidiary of Hilcorp LLC) has ramifications that are still unknown. There are many unanswered questions regarding the capability of Hilcorp to respond to problems and to adequately protect the environment. Hilcorp seems to have a somewhat sketchy record. Of note is their response to a gas leak (2016) at a Hilcorp operation within a critical habitat area of Cook Inlet. Hilcorp took nearly four months to resolve this problem. Two additional leaks (in other pipelines) followed in 2017. Aging equipment requires frequent inspection and maintenance, and there are concerns as to whether Hilcorp is up to the task. The sale is before the Regulatory Commission of Alaska. Their public comment period ends on November 15th. The PWSRCAC will submit comments on Docket No. P-19 – 017, sale of BP Alaska’s entire interest in the Trans-Alaska Pipeline System (including the Valdez Marine Terminal) to Harvest Alaska. Here are some major concerns related to this sale.

- 1) Assurance that the integrity of operations, maintenance, and environmental safety of the Valdez Marine Terminal is maintained.
- 2) No degradation of the existing safety system and environmental protection.
- 3) Hilcorp/Harvest financial information has not been made available to the public. Do they have financial reserves to respond in case of a large disaster?
- 4) A better understanding of the of Dismantling, Removal and Restoration (DR&R) of the Trans Alaska Pipeline System and the Valdez Marine Terminal.
- 5) Inadequate Information regarding plans for shipping crude from the Valdez Marine Terminal. At present, the sale of Alaska Tanker Company to Harvest Alaska is in question. Alaska Tanker Company has the vessels and experience to help ensure safe shipment into and out of Valdez.

More information about this transfer of ownership is located on the internet. Should you wish to provide input about the sale to the regulatory board, comments can be submitted through November 15 at rca.alaska.gov. Click on “View Public Notices and Submit Comments” under “Public Information”. The action of interest is dated 10/23/19 - Docket No. P-19 – 017. The section provides information regarding the sale, a place to submit comments, and a view of comments submitted to date.

For Further Information

A copy of the PWSRCAC resolution and other pertinent information can be found at <http://www.pwsrcac.org/regulatoryreform>. The news release on this page is also very informative.

The web link to an article by Mike Munger, (Executive Director, Cook Inlet RCAC), may interest you. It addresses risks to coastal communities related to DEC's regulatory reform initiative. <https://www.adn.com/opinions/2019/10/31/state-initiative-puts-alaskas-coastal-communities-at-risk/>

Information about operation of Hilcorp LLC, their spills in Cook Inlet, and the potential impact on revenue to the State of Alaska can be accessed by entering a few key words related to your specific interest on the web.

Thanks to Betsi Oliver, PWSRCAC staff member, who assisted me in the preparation of this memo.

From: [REDACTED]
To: [Heidi Geagel](#)
Subject: Memo:
Date: Friday, November 8, 2019 3:19:56 PM
Attachments: [Memo re Oil Transport & Industry.docx](#)

Hello Heidi,

Because the next city council meeting is scheduled at the end of the month, I've composed the attached memo, related to matters that I believe the council should be made aware soon as possible.

This is related to my involvement with the Prince William Sound Regional Citizens Advisory Council.

Would you please e-mail this to council members and the city manager.

Thanks,

Kirk

From: [REDACTED]
To: [Heidi Geagel](#)
Subject: Re: Memo: Oil Transport & Industry
Date: Friday, November 8, 2019 7:44:22 PM

hello heidi, the CIRCAC has been following some of what kirk has referred to in his memo, particularly with reference to ADEC's announcement of a relaxation of the regulatory environment with regard to the oil industry. i should return from my trip 'outside' early next week and i am also be interested in discussing with you and council members a resolution from the city to oppose this relaxation for the many same reasons that kirk has pointed out.
thank you, walt sonen

> On Nov 8, 2019, at 5:56 PM, Heidi Geagel <cityclerk@cityofseldovia.com> wrote:
>
> <Memo re Oil Transport & Industry.docx>