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PROTECTING ALASKA'S COOK INLET WATERSHED AND THE LIFE IT SUSTAINS

HAND DELIVERED

June 18, 2010

Grace Merkes, President
Board of Directors
Cook Inlet Regional Citizens Advisory Council
910 Highland Avenue
Kenai, AK 99611

RE: REQUEST TO REJECT AND REVISE CIRCAC REPORT ENTITLED "EVALUATION OF THE 2009 DRIFT RIVER OIL TERMINAL COORDINATION & RESPONSE WITH A REVIEW OF THE COOK INLET'S RCAC'S ROLE IN OIL SPILL RESPONSE."

Dear Ms. Merkes & Members of the Board:

I. Introduction

As a long-time Boardmember of the Cook Inlet Regional Citizen Advisory Council (CIRCAC) and someone intimately familiar with the 2009 Chevron/Drift River Oil Terminal incident, I respectfully request the Board of Directors refuse to accept the above-referenced Report, and instead revise the report so it more accurately portrays the events that transpired and CIRCAC's response to them. To do anything less will simply diminish CIRCAC's and help propagate the persistent spill prevention and response problems that continue to plague Cook Inlet.

As the BP Gulf Disaster continues to unfold, and as plans to drill offshore in Cook Inlet and elsewhere in Alaska move forward, it is imperative that facts, transparency and science drive our spill prevention and response policies and activities. It is my sincere hope CIRCAC will receive these comments in the constructive manner in which they were drafted.

II. Identified Concerns

A. *Industry & Government Revise Draft Report; Boardmembers Cannot*

As a threshold issue, I was dismayed to learn that Chevron/Cook Inlet Pipeline and various government agencies were provided an opportunity to review and make revisions to the draft Report, while most CIRCAC Boardmembers were not. While the four members of the CIRCAC Executive Committee apparently had the opportunity to review the draft Report, the majority of Boardmembers – including myself – were denied this opportunity. To compound matters, my request yesterday to review comments submitted on the draft Report by Chevron/CIPL was rejected. If CIRCAC truly values transparency and openness, it will allow all Boardmembers and members of relevant committees the opportunity to comment on this Report before it is finalized, and to see comments submitted by industry and government.

B. Refusal to Answer Important Questions Previously Posed

Importantly, the Report fails to address significant questions raised previously, including specific questions posed in my September 3, 2009, letter to the CIRCAC President and the Board of Directors.¹ I was told on several occasions by CIRCAC leadership, including during the December 4, 2009, and March 26, 2010, CIRCAC Board meetings, that responses to my questions would be addressed in the Report. The fact the Report does not answer the vast majority of questions posed on Sept. 3, 2009, indicates either incompetence in report writing or a deliberate desire to avoid uncomfortable answers. In either case, this concern alone justifies significant revisions to the current Report.

C. Failure to Address Significant Issues

While the Report is telling in what it chooses to convey about the 2009 Chevron/Drift River Incident, it's perhaps more revealing in what it fails to discuss. For example:

1. Inability to Respond to a Spill: On March 22, Chevron evacuated the DROT in the wake of a massive eruption; starting from at least that time, Chevron was incapable of meeting state and federal requirements to respond to an oil spill. Weeks later, on April 17, Chevron finally submitted the required "notice of non-readiness" to ADEC, stating:

Per Alaska Statute 18 AAC 75.475 (b), CIPL hereby notifies ADEC that due to the evacuation of CIPL employees from the Drift River Terminal, CIPL response capability has been diminished. CIPL cannot, at this time, determine the duration of this event or propose a schedule for return to operational status...Per Alaska Statute 18 AAC 75.475 (c), CIPL hereby notifies ADEC that the response equipment identified as onsite at Drift River Terminal in CIPL's C-Plan is no longer readily accessible.²

Yet the Report not only fails to mention Chevron/CIPL's inability to meet its contingency plan requirements, it also fails to note Chevron's egregiously late notice of non-readiness.

2. Ballast Water Discrepancies: At the height of the incident, Chevron refused to remove oil from the tanks at the base of the exploding Mt. Redoubt volcano, arguing the oil was needed to stop the tanks from floating away in the event of flooding.³ Conservation and fishing groups argued the oil should be removed because it posed a serious threat to fisheries downstream; that water could ballast the tanks; and that Chevron simply wanted to keep oil in the tanks to make facility re-start easier. The Unified Command even went so far as to issue a Fact Sheet explaining why the oil could not be removed and replaced with water. Yet after an independent engineer reported how water could easily ballast the tanks – and after a major eruption made facility re-start unlikely – the Unified Command issued a "revised" fact sheet on ballast water and Chevron/CIPL did in fact draw down the oil in the tanks and ballast them with water. This incident highlighted a fundamental theme in the 2009 Chevron/Drift River Incident response – i.e., that facility re-start and continued operations were a higher priority to

¹ See Letter from Bob Shavelson, CIRCAC Boardmember, to Molly McCammon, President, CIRCAC (Sept. 3, 2009) (attached).

² Letter to Ms. Betty Schorr, ADEC Division of Spill Prevention and Response, from Barry Staskywitz, CIPL/Chevron (Apr. 17, 2009).

³ For an alternative timeline of events surrounding the 2009 Chevron/Drift River Oil Terminal Incident, see Cook Inletkeeper, Drift River Oil Terminal Timeline, Issues & Questions (Aug. 2009) (attached & available at: www.inletkeeper.org/watershedwatch/redoubt2009/InletkeeperDriftRiverUpdate082409.pdf)

Chevron/CIPL and the Unified Command than fisheries protection. Yet the Report wholly fails to mention this critical episode in the response.

3. Funding Negotiations During Incident: It is well established that CIRCAC – unlike its sister organization in Prince William Sound – is required to negotiate for its operating budget with the very entities it’s meant to oversee. Yet the Report is silent on the fact CIRCAC was actively negotiating for its funding with Chevron during the 2009 Chevron/Drift River Incident, at the very time CIRCAC was “embedded” with Chevron in the Incident Command Center. While there can be no way to demonstrate malfeasance on CIRCAC’s part as a result of this dynamic, the Report should at a minimum reference it to ensure full transparency is achieved.

4. Failure to Discuss Known Mitigation Strategies That Would Have Protected Worker Safety & Fisheries: The Report goes into detail to discuss the 1989/90 Mt. Redoubt eruption and the subsequent safety improvements made to the Drift River Terminal in response. Yet it fails to mention the most obvious ways Chevron could have protected its workers from the known and serious threats of a volcanic eruption, and how it could have avoided the economic dislocations of shutting down Drift River terminal: Chevron could have built a new pipeline across Cook Inlet, or it could have “tight lined” the facility. A new pipeline would have been the most obvious route to protect worker and environmental health and safety. But after the 1989/90 incident, had Drift River operators simply installed piping around the storage tanks (a process called “tight lining”) – so oil could continue to flow in the event the tanks could not be used – there would have been little need to keep workers in harm’s way⁴ and to threaten Cook Inlet fisheries with millions of gallons of oil. While these safety measure would have cost Chevron money, it would have largely prevented the risks posed in the 2009 Chevron/Drift River Incident. Importantly, Chevron chose to tight line Drift River AFTER the 2009 Incident. But the Report makes no mention of these vital, foregone safety measures.

5. Anonymous Citations, Unseen Memos & Conclusory Statements: The Report’s citations reference conversations with various industry and agency personnel, but it fails to name them.⁵ As a result, it is impossible to verify any statements and accountability virtually disappears.⁶ Similarly, there are repeated references to memos to CIRCAC from ADEC, the U.S. Coast Guard and Chevron/CIPL, despite the fact these memos were never circulated to the CIRCAC Board or committees and do not appear in the Report’s appendices.⁷ Significant references to these unseen memos – and the frequency with which they are cited to bolster important provisions in the Report – provide the entities at the heart of the 2009 Chevron/Drift River Incident response (i.e. industry and government) with undue influence over the final Report’s contents.⁸ Finally, there are numerous unsupported, conclusory statements that reflect opinion, not facts, and appear designed to paint the 2009 Chevron/Drift River Incident response in a positive light.⁹ Together, these failings in the Report make it impossible to know the sources and bases for vital information, and cast a cloud over the Report’s objectivity and legitimacy.

⁴ The Report notes “...the safety of personnel at DROT was the primary concern,” (Report, p. 22). Yet because Chevron chose not to circumvent the storage tanks at DROT – either with a new pipeline or through tight-lining – it knew it was putting workers into harm’s way each time it sent them back into the facility between eruptions.

⁵ See., e.g. Personal Communication with CIPL/Chevron, February 25, 2010 (Report, Footnote 36).

⁶ A revised Report should include names, positions and affiliations of any person cited as a reference.

⁷ See., e.g., CIPL Memo to CIRCAC, April 7, 2010; USCG Memo to CIRCAC, April 7, 2010, ADEC Memo to CIRCAC, April 6, 2010 (found in footnotes throughout the Report).

⁸ A revised Report should include the CIPL/Chevron, USCG and ADEC memos in its appendices.

⁹ Some unsupported, conclusory statements include: “Based on interviews conducted with [unnamed] industry and government representatives, the integration approach [where CIRCAC is embedded in the Unified Command] has added value and built respect and trust between parties.” (Report, p. 16); [shortly after the volcano awoke, CIRCAC]...gathered and disseminated as much publicly available information as possible....” (Report, p. 24). “[CIRCAC] worked cooperatively, to the limit of its legislated authority, to be as useful as possible and bring the

6. Deficient Spill Response Capacity: Chevron refused to publicly divulge the volume of oil stored at Drift River prior to Mt. Redoubt's March 22 eruption, claiming such data was "sensitive security information" under the Homeland Security Act. Yet when the volcano erupted March 22 and Chevron evacuated the facility, it somehow found its way around the Homeland Security Act to announce that over 6 million gallons of oil remained stranded above Cook Inlet fisheries. But Chevron's spill contingency plan¹⁰ only addressed a spill of roughly 390,000 gallons to open water at the facility, and the spill response contractor (CISPRI) admitted publicly it had barge capacity for only about 3 million gallons of oil. At no point did the Unified Command identify the specific spill response assets available to address a catastrophic release from DROT. Yet the Report makes no mention of this monumental lapse.

7. CIRCAC's Role in Emergency Response: The Report discusses CIRCAC's role "embedded" in the Unified Command structure; yet it fails to mention that CIRCAC generated and disseminated no original analysis of unfolding events, and instead simply played the conduit for industry press releases and other information flowing from the Unified Command. CIRCAC never asked one probing question of industry or questioned any agency action publicly. In fact, at the second public meeting "hosted and facilitated" by CIRCAC in Kenai, the Report fails to note that Chevron's public relations firm in Anchorage organized the event and took public comments from it.

III. Conclusion

Due to the abbreviated timetable to review the Report, this letter provides only some of the significant lapses witnessed during the 2009 Chevron/Drift River Incident, and it references only a few of the many shortcomings identified in the Report; the attached Sept. 3, 2009, letter and DROT Timeline provide additional important information.

The Report, does, however, get one thing right: "The Cook Inlet RCAC is responsible for making sure complacency does not set in with industry and government manifesting inactivity that becomes a detriment and threat to the system and environment."

If this Report is allowed to stand, we have no one to blame but ourselves when the next disaster or near-miss befalls Cook Inlet.

Very truly yours,



Bob Shavelson, Boardmember
Cook Inlet Regional Advisory Council

emergency to a successful conclusion." (Report, p.26); "It is clear the Executive Director and staff understood their responsibilities and met or exceeded them...." (Report, p. 29). A revised Report should provide evidence for these unsupported assertions; otherwise they are opinion and have no place in the Report.

¹⁰ Despite repeated requests during the many weeks of the incident, the Unified Command refused to post relevant sections of Chevron's spill contingency plan on the Internet, though the Report fails to mention this oversight.