

TRUSTEES FOR ALASKA

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

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PRESS RELEASE

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Villages, Fishermen and Cook Inletkeeper Challenge EPA for Allowing Oil Companies' Toxic Discharges

Trustees for Alaska Asks Ninth Circuit Court of Appeals to Overturn Permit

Trustees for Alaska, representing coastal Native villages, commercial fishermen, and Cook Inletkeeper, charged in court today that the Environmental Protection Agency repeatedly manipulated and sometimes falsified pollution data to support its decision to allow the operators of 19 aging oil and gas facilities to dump increasing amounts of polluted wastewater into Cook Inlet.

In a brief filed in the Ninth Circuit Court of Appeals, Trustees for Alaska argued that EPA Administrator Stephen L. Johnson violated the Clean Water Act in June of 2007 when he reissued a permit allowing Union Oil Company of California (Unocal) and other operators to dump, among other toxic pollutants, 279 tons of oil and grease into Cook Inlet every year. Unocal's Trading Bay Production Facility discharges about 95% of the pollution coming from the Cook Inlet facilities.

"EPA is bending the rules to let the oil companies extract the last penny of profit from these aging facilities," said Trustees for Alaska attorney Justin Massey. "And Cook Inlet is paying the price."

"Chevron raked in record profits in 2008 and they shouldn't treat Cook Inlet fisheries as their private dumping grounds," said Bob Shavelson, Executive Director of Cook Inletkeeper.

The facilities began pumping oil – and discharging pollution – in the 1960s. Most of the pollution comes from millions of gallons of seawater that is injected into the subterranean oil reservoir to maintain pressure but becomes contaminated in the process. As oil and gas are pumped to the surface, they are separated from the seawater, which is left with a toxic mixture of

oil, grease, heavy metals, and other pollutants. At offshore wells elsewhere in Alaska and throughout the country, EPA requires operators to reinject this toxic soup back into the reservoir, achieving “zero discharge” of pollution. Only in Cook Inlet does EPA allow the contaminated brew to be dumped directly into coastal waters.

As the oil reservoirs beneath the Inlet have been pumped nearly dry, more and more seawater is required to keep up the pressure – and more pollution is being dumped into Cook Inlet. Today’s filing by Trustees for Alaska cites EPA documents showing that the waste stream has doubled since 1999, and is projected to grow to nearly 10 million gallons per day during the 5-year life of the challenged permit.

To accommodate the growing torrents of pollution, EPA has relied on vastly larger “mixing zones” – areas of Cook Inlet at the end of each discharge pipe where high concentrations of pollution are allowed. The theory is that by the time the contamination reaches the edge of a “mixing zone,” enough dilution has occurred to render the water outside the mixing zone clean enough to comply with water quality standards.

The new mixing zones are as much as 10 times larger than those approved by EPA in 1999 – extending more than 2 miles from an outfall in any direction.

“Instead of telling the operators to recycle their wastewater – like they do everywhere else in the U.S. – EPA has labeled more and more of Cook Inlet as a waste dump for the exclusive use of these oil companies,” said Massey.

Today’s court filing charges that allowing the increased pollution violates “anti-backsliding” provisions of the Clean Water Act, which is aimed at reducing and eventually eliminating water pollution.

The brief also charges that EPA cooked the books when it assembled the technical justification for the permit. For example, the brief says:

- Although required to use “all available information” to evaluate pollution levels from current discharges, EPA ignored “hundreds of effluent samples”, including three years of the most recent data.
- EPA in at least one instance “fabricated” a pollution concentration, inflating a copper concentration by a factor of 10. The inflated concentration was one justification for relaxing pollution limits and expanding the mixing zones.

- EPA used a “fictional scenario” to model the discharge plume from the Trading Bay Production Facility, the source of most of the pollution governed by the permit. The Trading Bay facility has two discharge outlets. EPA – confronted by its own computer model demonstrating that pollutants sank to the bottom and put bottom-dwelling organisms and the rest of the food chain at risk – “simply changed the outfall configuration [on the computer model] to a single-port outfall with a smaller port than the size of the two actual ports, thereby changing the trajectory of the discharge, increasing its velocity, and making the bottom contact and its attendant environmental risks disappear.”
- EPA repeatedly manipulated the data it entered into its computer model, entering six platforms’ above-water outfalls as underwater discharges; modeling toxic discharges as non-toxic; and even relying on an imaginary 48-hour tidal cycle for Cook Inlet – that is, telling the computer that tides in Cook Inlet go in and out once every two days, instead of twice a day.
- EPA “fabricated or omitted” values that were essential to calculating appropriate pollution limits. The brief alleges that EPA made “deliberate errors” in the computer modeling and setting the permit limits.

Trustees for Alaska filed the challenge on behalf of Cook Inletkeeper, Cook Inlet Fishermen’s Fund, United Cook Inlet Drift Association, the Native Village of Nanwalek, and the Native Village of Port Graham.