



United States General Accounting Office
Washington, DC 20548

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July 5, 2000

To the President of the Senate.
and the Speaker of the House of Representatives

Subject: Final Certification of TAP Fund

This letter transmits the Comptroller General's final certification of the Trans-Alaska Pipeline Liability Fund's payment of claims and administrative expenses. Section 204(c) of the Trans-Alaska Pipeline Authorization Act (TAP Act), Pub. L. 93-153, 87 Stat. 576, 586 (1973), codified at 43 U.S.C. § 1653(c), created the Trans-Alaska Pipeline Liability Fund (Fund), a nonprofit corporation governed by a Board of Trustees. The TAP Act, as amended, established the Fund to pay certain claims for damages caused by discharges of Alaska Pipeline oil from ships transporting the oil from the pipeline's terminals to ports within the jurisdiction of the United States that occurred before August 18, 1990. The Fund is strictly liable for covered oil spill damages in excess of \$14 million up to \$100 million, or \$86 million, per incident. 43 U.S.C. § 1653(c)(3). The Board of Trustees of the Fund determined that the Fund was liable for damages caused by two oil spills that occurred before August 18, 1990, the Exxon Valdez spill in Prince William Sound, Alaska in March 1989 and the American Trader spill off of Huntington Beach, California in February, 1990.

Section 8102 of the Oil Pollution Act of 1990, Pub. L. 101-380, 104 Stat. 484, 565 (1990), provides that the Fund's statutory authority, 43 U.S.C. § 1653(c), "is repealed, effective as provided in paragraph (5)," and the Fund extinguished sixty days after the Comptroller General certifies to the Congress that under Section 8102(a)(5)(A):

"(i) all claims arising under section 204(c) of the Trans-Alaska Pipeline Authorization Act (43 U.S.C. § 1653(c)) have been resolved, (ii) all actions for the recovery of amounts subject to section 204(c) of the Trans-Alaska Pipeline Authorization Act have been resolved, and (iii) all administrative expenses reasonably necessary for and incidental to the implementation of section 204(c) of the Trans-Alaska Pipeline Authorization Act have been paid."

Section 8102(a)(2)(C) requires the trustees, after payment of all claims and certification by the Comptroller General of the payment of all claims, to distribute any remaining amounts by (1) rebating the pro rata share of the balance to Alaska for

its contributions as an owner of oil, and then (2) transferring and depositing the remainder of the balance into the Oil Spill Liability Trust Fund.

Pursuant to section 8102(a)(2)(A) of the Oil Pollution Act of 1990, the Board of Trustees of the Fund reserved amounts within the fund necessary to pay claims under section 204(c) of the TAP Act and administrative expenses necessary for and incidental to the implementation of section 204(c). The Comptroller General certified to the Congress on December 23, 1994, that the trustees had established the required reserve. On December 22, 1995, after the trustees reduced the amounts in reserve, the Comptroller General certified to the Congress that the new reserve satisfied the requirements of section 8102(a)(2)(A).

On October 28, 1999, the Comptroller General certified to the Congress that the trustees had paid all claims arising from the American Trader incident, and established a reserve as required by section 8102(a)(2)(A) that was more than adequate to pay the court-ordered fees and administrative expenses related to the Exxon Valdez oil spill. Pursuant to section 8102(a)(2)(B), after each certification, from amounts in excess of the reserve, the trustees returned to the State of Alaska its proportionate share of its contributions to the Fund as an owner of oil, and transferred the remaining amount of the excess to the Oil Spill Liability Trust Fund. Based upon our work for prior certifications and our review of documents and discussions with the Fund's Administrator, General Counsel, and independent external auditor, we have now concluded that the Fund has made all payments for claims under the Act, including the amounts held in reserve for court ordered fees in the Exxon Valdez claims. We have also concluded that all actions for recovery of amounts subject to 43 U.S.C. § 1453 (c) have been resolved. Thus, all claims and all actions for recovery of amounts have been resolved as required by section 8102(a)(2)(A)(i)-(ii).

The Board of Trustees of the Fund has notified this Office that it has paid all administrative expenses, except for those expenses that are incidental to the final distribution of the Fund's balance and, thus, are payable, necessarily, only after the date of the certification. The trustees estimate that the monthly expenses that will be incurred after our final certification will not exceed \$16,500, including legal fees, salaries, rent, and miscellaneous expenses. Based on our review of these estimated expenses, we conclude that they are reasonable in comparison to the previous expenses of the Fund, and incidental to the final distribution of the Fund's balance.

The trustees request that the Comptroller General issue the final certification pursuant to section 8102(a)(5)(A) of the Oil Pollution Act of 1990. I have reviewed the bases for the trustees' request. Pursuant to section 8102(a)(5)(A) of the Oil Pollution Act, I hereby certify that (1) all claims arising under the Act have been resolved, (2) all actions for recovery of amounts have been resolved, and (3) that all administrative expenses have been paid, except those that will be incurred necessarily only after this final certification. Once those expenses have been paid,

the Fund will be extinguished pursuant to section 8102(a)(5)(A) of the Oil Pollution Act of 1990, and any balances distributed to the state of Alaska and the Oil Spill Liability Trust Fund pursuant to section 8102(a)(2)(C).

**/s/Comptroller General
of the United States**