January 22, 2013

Mr. Steve Bainbridge, PE
Alaska Department of Environmental Conservation
Division of Spill Prevention and Response – Contaminated Sites Program
555 Cordova Street
Anchorage, AK 99501

Mr. Cameron M. Leonard
Senior Assistant Attorney General
State of Alaska, Department of Law
Office of the Attorney General
Key Bank Building
100 Cushman Street, Suite 400
Fairbanks, AK 99701

Subject: Flint Hills Resources Alaska's North Pole Refinery

Dear Mr. Bainbridge and Mr. Leonard:

Williams Alaska Petroleum, Inc. (Williams) appreciates your time on December 19, 2012 to discuss the draft Compliance Order by Consent (COBC) associated with the Flint Hills Resources Alaska's (Flint Hills) North Pole Refinery (NPR). At this meeting, Flint Hills indicated a desire to transition their responsibilities for off-site characterization and remediation to Williams, and subsequently submitted a proposed Transition Plan in a letter dated January 2, 2013. A letter was also received on January 16, 2013, from Mr. Leonard identifying data gaps in the off-site site characterization work that has been completed by Flint Hills. The intent of this letter is to respond to the January 2, 2013 proposed transition plan letter and the January 16, 2013 data gap letter.

When Williams transferred ownership of the NPR, Flint Hills accepted the responsibility for the clean-up, monitoring, corrective actions and compliance with regulations for the environmental conditions underneath and/or emanating from the NPR in conjunction with the contaminants disclosed in Schedule 10.2(a)(iv) of the NPR sale/purchase agreement. This commitment includes the responsibility for addressing sulfolane released during Williams' ownership that could become regulated after March 31, 2004. On April 1, 2004, Flint Hills became the owner and operator of the NPR. Since that date, ADEC and Flint Hills have worked together to address the environmental conditions associated with the NPR and have set a precedence of compliance with the contractual relationship between Flint Hills and Williams. This logical relationship is underscored by the facts that before the end of January 2010, neither ADEC nor Flint Hills ever notified Williams that sulfolane at the NPR had been regulated with specified groundwater and soil clean-up standards set in October 2004 and revised in January 2006 or that sulfolane was (1) found in the samples from groundwater monitoring wells installed on the north property boundary and sampled in September-October 2008, (2) exceeded at the north property boundary the 350 ppb groundwater clean-up standard in March 2009 and (3) confirmed to be offsite in October 2009.

As a part of the contract, Williams agreed to provide indemnification to Flint Hills for costs associated with certain environmental conditions. The contract provides that, as the owner and operator of the NPR, Flint Hills is responsible for leading the clean-up, monitoring, corrective actions, and compliance with regulations. As the owner and operator of the facility, ADEC should continue addressing Flint Hills as the primary responsible party. The indemnification Williams provided through the contract is the basis for its involvement and monitoring of ADEC's Technical Project Team (TPT) meetings.

During the December 19, 2012 meeting, Flint Hills, without any advance notice nor any credible basis, suddenly notified both ADEC and Williams that they were no longer willing to perform their statutory, regulatory and contractual responsibilities for addressing the portion of the sulfolane groundwater plume that has migrated off of the NPR property. This attempted abdication of Flint Hills' obligations is improper considering the undisputed facts that Flint Hills has owned and operated the NPR since April 1, 2004, which predated sulfolane being regulated by ADEC, and did nothing for a number of years after ADEC regulated sulfolane, first in October 2004 and indisputably even by Flint Hills on January 24, 2006. The basis for Flint Hills' alleged justification for discontinuing work is Flint Hills' recognized litigation-based groundwater model, which purportedly indicates that sulfolane molecules released to the environment during their ownership are virtually non-existent. Yet, Flint Hills has acknowledged that on-site sulfolane during its control of the property has migrated unabated for a number of years off-site and contributed to the off-site plume.

The accuracy of the model that is underlying Flint Hills' refusal to perform work has been criticized by both ADEC and Williams. The groundwater model developed by Flint Hills for regulatory compliance purposes is also being used in litigation, with revisions having been made to it after it was submitted to ADEC in the Appendix Q report to the March 2012 final draft site characterization report. Since the model is being developed for litigation purposes, the potential for bias in the model is significant. In order for ADEC to be able to rely on the conclusions of the model in order to make decisions for protection of human health and the environment, an unbiased groundwater model is essential. Williams recognizes this need and, thus, proposes to assume responsibility for transforming the model into one that is reliable, predictive and separate from the ongoing litigation in order for ADEC to confidently rely upon its results in making its required decisions.

Williams has offered and is willing to assume responsibility for the model effort. This offer was discussed during the meeting between ADEC and Williams on December 19, 2012, following the three-party meeting. This offer of support was also discussed during a meeting between ADEC and Williams on January 9, 2013. Williams maintains that an accurate groundwater flow and transport model is essential tool that can be used by ADEC and Flint Hills to guide decision-making for completion of the site characterization activities, corrective actions, and projection of future impacts to receptors from the plume. Williams also feels this need of ADEC and the public is not being met by Flint Hills.

Our goal in assuming the model effort is to develop an unbiased groundwater flow and transport model. As such, Williams proposes to support ADEC in convening an independent review panel comprised of experts in groundwater modeling, surface water/groundwater interactions, and regional hydrogeological conceptual site models. We anticipate these experts to be comprised of public domain personnel from agencies such as the USGS, ACOE, and EPA.

A key component of any further transfer of responsibilities, whether by agreement of all three parties or as ADEC may attempt to dictate, is subject to one fundamental criteria. No transfer of Flint Hills' obligations can occur until Flint Hills has achieved indisputable on-site hydraulic control of sulfolane such that no sulfolane whatsoever is allowed to continue to migrate off-site of the NPR. In fact, this hydraulic control state should have been achieved years ago. At the December 19, 2012 meeting, Flint Hills stated without any qualification whatsoever that under an on-site COBC it would be in violation if any sulfolane continued to migrate off-site. Yet, at the December 19, 2012 meeting, Flint Hills told ADEC that it will be 2015 before such a hydraulic state exists, even though Dr. Davis' most recent projections at his January 9, 2013 presentation appear to indicate that it will be in 2016 or 2017 before such control occurs. Therefore, until such absolute containment is achieved by Flint Hills, there is no basis for Flint Hills to abandon its responsibilities as the owner and operator of the NPR with respect to both on-site and off-site sulfolane characterization, monitoring, containment and potential remediation studies, reports and recommendations. Indeed, to allow otherwise effectively means that no binding COBC (or COBCs) could be entered into, or expected to be executed, before that time. Since Flint Hills has owned the NPR for over eight years, it is naïve to think, indeed factually impossible, that none of the sulfolane for which Flint

Hills assumed responsibility has not migrated off-site, especially in light of the overwhelming evidence that Flint Hills essentially did absolutely nothing to retard any downgradient migration of sulfolane off-site before at least the middle of 2010.

To reiterate, Williams is prepared to assume responsibility for the modeling effort at this time, as well as activities directly related to obtaining data related to and needed for accurate model projections. Through assuming the modeling effort, it is anticipated Item No. 2 (Complete Hydrogeologic Conceptual Site Model) from Mr. Leonard's January 16, 2013 letter will be satisfied. The remaining items are either being completed by Flint Hills (as discussed in the December 19, 2012 meeting, the January 8, 2013 TPT meeting, and their January 2, 2013 proposed transition plan), or require an accurate groundwater flow and transport model to evaluate. It is acknowledged that some field data might be collected to remedy data gaps in the groundwater model. These data needs will be evaluated and discussed with ADEC during the transition and evaluation of the model.

Williams looks forward to working with ADEC to develop a mutually agreeable model that can be used as a tool by ADEC and Flint Hills for completing the assessment and corrective actions at the NPR. We request a teleconference meeting with ADEC at your earliest convenience to discuss transition of the model and convening an independent review panel. Please contact me at 918.573.6319 or mark.gebbia@williams.com to coordinate this meeting.

Sincerely,

Mark A. Gebbia, PE
Lead Project Manager
Environmental Compliance Center of Excellence

cc: Laura Hill – Williams
Tamara Cardona – ADEC
Ann Farris – ADEC
Lauri Adams – Office of the Attorney General