

BEFORE THE STATE OF ALASKA

DEPARTMENT OF ENVIRONMENTAL CONSERVATION

In the matter of:)
STATE OF ALASKA, DEPARTMENT OF)
ENVIRONMENTAL CONSERVATION,)
DIVISION OF WATER,)
Complainant,)
vs.)
Furie Operating Alaska, LLC,)
Respondent.)

**COMPLIANCE ORDER BY
CONSENT**

Enforcement Tracking No. 23-R0164-50-0002

WHEREAS, the State of Alaska, Department of Environmental Conservation, Division of Water (“State,” “the department,” or “DEC”) and Furie Operating Alaska, LLC and their successors and assigns (“Furie” or “Respondent”) (also individually referred to herein as “Party” and collectively as “the Parties”), desire to resolve and settle a disputed matter in order to avoid the uncertainty and expense of a formal civil enforcement proceeding,

NOW, THEREFORE, the Parties agree as follows:

I. JURISDICTION AND VENUE

1. This Compliance Order by Consent (“Order”) is entered into under the authority granted to the department by Alaska Statutes (“AS”) 46.03.020, AS

46.03.760(e), AS 46.03.765, AS 46.03.850, and 18 AAC 95.160, and under the settlement authority of the Attorney General under AS 44.23.020.

2. Any judicial action brought by either party to enforce or adjudicate any provision of the Order shall be brought in the Superior Court for the State of Alaska, Third Judicial District at Anchorage.

II. FINDINGS AND CONCLUSIONS

A. Factual Background

3. Respondent is the owner and operator of the Kitchen Lights Unit (KLU) Gas Production Julius R. Platform (“Platform” or “Facility”). Respondent operates the Platform located 15 miles northwest of Nikiski Bay in the KLU of the Cook Inlet oil and gas lease area. Respondent receives mail at 433 W. 9th Avenue, Anchorage, Alaska 99501.

4. On January 24, 2013, Respondent submitted an application to DEC seeking coverage under the Alaska Pollutant Discharge Elimination System (“APDES”) to authorize discharge of wastewaters associated with the construction and operation of an offshore natural gas production facility into Cook Inlet. The facility initially included one production well and a marine pipeline which connected to an onshore central processing facility (CPF) located near Nikiski. During this time, the 2007 NPDES General Permit for Oil & Gas Extraction Facilities in Federal and State Waters in Cook Inlet, authorization AKG315000 was under litigation. Furie

was owned and operated by Cornucopia Oil & Gas Company, LLC (“Cornucopia”). DEC recommended an APDES Individual Permit (“IP” or “Permit”) for Cornucopia, and Cornucopia accepted DEC’s recommendation to move forward with an application for an individual permit which would support gas production in the Cook Inlet Region.

5. On April 18, 2014, DEC issued Respondent APDES IP AK0053686 authorizing discharge of wastewaters associated with offshore construction and operation activities from the Platform, a designated mobile offshore drilling unit (MODU), five pipeline and platform construction and installation facilities, and a pipeline lay barge.

6. The Permit became effective on May 18, 2014 and expired on May 17, 2019. The Permit authorized discharge of domestic wastewater from the Platform and MODU (outfalls 001A and 001B), deck drainage from the Platform (outfall 002A), deck drainage from the construction and installation facilities (outfalls 002B – 002F), clay-based drilling fluids and drill cuttings to the seafloor from horizontal directional drilling (outfall 003), and fire control system test water from the barge (outfall 004). At this time, the Permit did not include authorization for a produced water discharge. Attachment 1 illustrates the authorized discharges for the 2014 and 2021 Permits.

7. On February 25, 2016, Respondent submitted an application to DEC requesting modifications to the Permit to change the name of the Platform and allow for additional discharges associated with a replacement MODU.

8. On May 23, 2016, DEC issued a major modification of the Permit to Respondent that authorized the additional discharges of deck drainage (outfall 002G), non-contact cooling water (outfall 005), and uncontaminated ballast water (outfall 006) associated with an alternative MODU, the Randolph Yost. This modification changed the Platform's former name, KLU Gas Production Platform A, to its current name, KLU Gas Production Julius R. Platform.

9. On March 4, 2019, Respondent submitted an application to DEC for the reissuance of the APDES IP AK0053686. After conducting an onshore pilot test of produced water that travelled from the Platform to shore via pipeline to evaluate a potential produced water treatment system capable of complying with discharge effluent limits, Respondent subsequently submitted an amendment to the application to DEC in November 2019 to include an additional, new discharge of produced water.

10. On May 3, 2019, DEC issued a letter to Respondent informing Furie that the Permit was administratively extended until the effective date of the Permit reissuance.

11. On July 1, 2020 – which Furie highlights was during the height of the COVID-19 pandemic – HEX Cook Inlet LLC, Alaska Entity #10132220, purchased Furie and its parent company, Cornucopia, through a complex Chapter 11 bankruptcy process. Production operations under the new ownership commenced July 1, 2020.

12. In December 2020, Furie began discharging domestic wastewater that exceeded the numeric effluent limits of the Permit. Exceedances continued through February 2024. Furie exceeded the Permit’s numeric pollutant effluent limits for 5-day biochemical oxygen demand (BOD₅), total suspended solids (TSS), and pH.

13. On February 25, 2021, DEC reissued APDES IP AK0053686 to the Respondent, which became effective on April 1, 2021 and expires March 31, 2026. The Permit authorizes nine wastewater discharges associated with gas production and operation from the Platform (A) and designated MODU (B). At the time of permit reissuance, there were four production wells completed into the Beluga and Sterling formations. The Permit authorized discharges of deck drainage (outfalls 002A, 002B), domestic wastewater (outfalls 003A and 003B), graywater (outfall 004B), fire control system test water (outfall 008A), noncontact cooling water (outfall 009B), uncontaminated ballast water (outfall 010B), and produced water (outfall 015A). Attachment 1 illustrates the authorized discharges for the 2014 and 2021 Permits. The water quality-based effluent limits in the effective IP for total recoverable copper for produced water are more stringent than some discharges authorized by the

general permit, referenced in Paragraph 4, and subsequent reissuance. The effluent limits were developed based on data submitted by Respondent as referenced in Paragraph 9. All discharge effluent limits for each facility authorized under any general or individual permit are calculated specifically to the facility's discharge characteristics consistent with APDES regulations.

14. In June 2021, Furie began exceeding numeric pollutant effluent limits of the Permit related to produced water. Exceedances continued through January 2024. Furie exceeded the Permit numeric pollutant effluent limits for total recoverable copper, oil and grease, and Whole Effluent Toxicity (WET).

15. Furie emphasizes that it continued operating without shutdown throughout the COVID pandemic, meeting its obligations to provide natural gas to Alaskans despite the challenges unique to that period.

16. In October 2021, EPA was originally scheduled to conduct an inspection of the Platform. However, due to health and safety concerns regarding the COVID-19 Pandemic, EPA cancelled the inspection, which then re-delegated the responsibility of performing an inspection of the Platform in calendar year 2022 to DEC.

17. On December 9, 2021, DEC's Compliance and Enforcement ("C&E") Program sent an email to Respondent informing them that the Facility was on the

Environmental Protection Agency (“EPA”) Significant Noncompliance (“SNC”) list for violations of numeric effluent limits of the Permit and provided website links containing resources to assist Respondent with understanding their compliance status. The email also included a report of the effluent limit and reporting violations that had accrued at the facility and an explanation of the noncompliance notification (“NCN”) reporting requirements of the Permit. Following receipt of the email, Respondent’s performance of verbal 24-hour and written 5-day NCN submissions did improve, excluding three NCNs submitted late. However, Respondent’s performance of submitting other NCNs at the time of DMR submittal did not improve until after the Notice of Violation deliverables were submitted to DEC, as referenced in Paragraph 24.

18. By February 2022, in order to resolve the domestic wastewater exceedances at the RedFox wastewater treatment facility (“WWTF”), Furie consulted a wastewater engineer to implement corrective actions. Various corrective measures were implemented, such as: switching to the cold weather bacteria tablets recommended by the manufacturer, taking the WWTF offline, cleaning it, and filling it with potable water, rather than seawater that had previously been used. After these corrective actions were taken, Furie was compliant with domestic wastewater effluent limits of BOD₅ and TSS from March 2022 until June 2023.

19. On March 1, 2022, Respondent began meeting with DEC's Permitting Program on approximately a weekly basis through June 2022 to discuss ongoing compliance challenges at the Facility. During this time there was minimal communication with DEC's C&E Program regarding the ongoing violations, corrective actions taken to resolve the violations, and plans for the Platform operations.

20. On May 1, 2022, DEC performed a routine inspection of the Platform to determine compliance with the Permit. The inspection assessed compliance during the compliance period of June 16, 2016, through May 1, 2022. This was the first inspection of the Platform conducted by DEC.

21. On September 15, 2022, DEC issued the inspection report and Notice of Enforcement to Respondent.

22. On October 21, 2022, Respondent submitted a letter and a supplemental summary table to DEC in response to the inspection report. The letter and table identified items on the inspection report that Respondent found to be inaccurate and/or inapplicable to the current ownership as there were violations and events that occurred prior to new ownership of the Platform beginning on July 1, 2020. Respondent requested in this letter that DEC consider the findings provided in the summary table and correct the information where appropriate.

23. On February 16, 2023, after performing a review of Respondent's findings, DEC issued Respondent a revised inspection report and a Notice of Violation ("NOV") (Attachment 2), Enforcement Tracking Number 23-R0164-40-0001. The revised inspection report adjusted the compliance evaluation period to begin on July 1, 2020, the date of the most current ownership of the Platform, through May 1, 2022, the date of the inspection. The NOV documented alleged violations of the Permit including failure to comply with domestic and produced wastewater numeric effluent limits, failure to use an EPA-approved test method to measure pH of effluent, failure to conduct domestic wastewater monitoring in November 2020, failure to sample enterococci within maximum allowable holding time of 8 hours in February 2022, failure to submit verbal 24-hour and written 5-day noncompliance notifications (NCNs) to DEC, failure to submit NCNs to DEC for all other instances of noncompliance at the time of DMR submittal, failure to submit a timely 2022 BMP Plan certification statement to DEC, and failure to submit a timely noncontact cooling inventory to DEC. The NOV required deliverables to be submitted to DEC by March 9, 2023.

24. By March 8, 2023, Respondent submitted a timely response to DEC providing the NOV deliverables. In the NOV response submitted to DEC, Respondent asserted that no environmental harm had occurred as a result of the effluent limit violations given the very low volumes of produced water wastewater discharged the first year of operation and domestic wastewater that were discharged.

Respondent also asserted little environmental harm would arise from the effluent limit violations considering the dilution provided by the receiving water. In the NOV response, Respondent stated they suspected the produced water effluent limit violations were caused by diesel contamination of the Beluga and Sterling formations and higher than anticipated sediment loads from the Beluga formation. Respondent performed investigations including inspecting the Platform for potential sources of introduced copper, performed analysis of the Sterling formation total recoverable copper and total dissolved solids, and reduced sediment loading as a preventative measure by blending water from both the Beluga and Sterling formations.

25. On June 19, 2023, DEC's C&E Program met with Respondent via teleconference to discuss the Permit violations, NOV deliverables, and Furie's operational plans for the next calendar year, which included workover operations to construct additional wells. In addition, Respondent discussed their intention to transition all discharges authorized under AK0053686 to their APDES General Permit (GP) authorization AKG315220 for Oil and Gas Exploration, Development, and Production Facilities in State Waters in Cook Inlet. In June 2021, Furie began collecting monthly effluent analytical results of total recoverable copper, for a total of 30 months, that were submitted to DEC's Permitting Program on December 15, 2023 to receive coverage for produced water discharge under the GP, as referenced in Paragraph 30. During the June 19, 2023 meeting, DEC's C&E Program

determined that a follow-up information request would be necessary for Respondent to answer outstanding questions regarding the NOV deliverables.

26. On June 21, 2023, DEC sent an email to Respondent requesting information regarding the NOV deliverables. Respondent was required to submit the requested information to DEC by July 7, 2023.

27. On July 7, 2023, Respondent submitted the requested follow-up information to DEC.

28. On July 28, 2023, Furie submitted an engineering plan for review to DEC's Permitting Program for modifications to the RedFox WWTF.

29. On August 24, 2023, DEC issued an Approval to Construct ("ATC") to Respondent for construction of modifications to the WWTF. The ATC approved the proposed modifications consisting of a custom equalization tank, a pump, 25-micron filter with housing, 5 micron filter with housing, 1 micron filter with housing, 0.35 gallons per minute flow limiting valve, and appurtenant valves, piping, gauges, and controls. The purpose of the modifications was to filter effluent to remove TSS and particulate BOD5 downstream of the existing WWTF to assist with compliance with the Permit's numeric effluent limits.

30. On December 15, 2023, Respondent submitted a complete General Permit application to DEC's Permitting Program. Permitting Program staff

confirmed on January 25, 2024 that DEC had no immediate need for additional information at that time.

B. Violations

31. In addition to the violations listed in the NOV (Attachment 2), DEC subsequently identified and hereby alleges the following additional Permit violations.

32. Respondent failed to comply with domestic wastewater numeric effluent limits of Platform outfall 003A during January, March and June – August and December 2023, and February 2024. A total of 341 effluent limit violations occurred: 123 violations of 5-day biological oxygen demand (BOD₅) and 218 violations of total suspended solids (TSS). Permit part 2.2 of the 2021 Permit requires Respondent to limit and monitor domestic wastewater per Table 3.

33. Respondent failed to comply with produced wastewater numeric effluent limits of Platform outfall 015A during June, July, October 2022, and July and August – November 2023, and January 2024. A total of 277 effluent limit violations occurred: 276 violations of total recoverable copper and 1 violation of oil and grease. Permit part 2.5 of the 2021 Permit requires Respondent to limit and monitor produced water per Table 6.

34. Respondent failed to submit certification to DEC that the Quality Assurance Project Plan (QAPP) had been developed and implemented. Permit part

4.1.1 of the 2021 Permit requires that Furie develop a facility specific QAPP for all monitoring required by the Permit and submit written notice to DEC's C&E Program affirming that the QAPP was up to date and implemented within 90 days of the effective date of the Permit.

35. Respondent failed to submit certification that the Best Management Practices (BMP) Plan had been developed and implemented. Permit part 4.2.2 of the 2021 Permit requires that the permittee develop and implement a BMP Plan which achieves the objectives and the specific requirements listed in the Permit. Respondent was required to submit a written notice to DEC's C&E Program affirming that the Plan had been developed and implemented within 90 days of the effective date of the Permit.

36. Respondent failed to analyze pollutants according to approved test procedures. Appendix A, Standard Condition 1.11.4 of the Permit requires analysis of pollutants to be conducted using test procedures and following quality assurance and quality control practices approved in 40 CFR Part 136, adopted by reference at 18 AAC 83.010.

- a. Respondent failed to analyze enterococci sample within the maximum allowable holding time during May 2022.

- b. Respondent failed to meet temperature preservation requirements for oil and grease samples during July 2021, September 2021, December 2021, March 2022, and December 2022 and methanol during April 2022.
- c. Respondent failed to add required preservation solutions to oil and grease samples during September 2021, March 2022, April 2022, and May 2023.
- d. Respondent failed to ensure there was less than 6mm of headspace in volatile organic analysis vials for methanol samples during October 2021, for both methanol and total aqueous hydrocarbons samples during April 2022, October 2022, November 2022, and for only total aqueous hydrocarbons samples during January 2023.

37. Respondent failed to conduct monitoring of the domestic wastewater discharge (outfall 001A) during March 2021. Permit part 1.2 requires that the Permittee limit and monitor domestic wastewater discharges as specified in Table 2. Furie failed to monitor the outfall for BOD5, TSS, enterococci, and fecal coliform. The March DMR submitted to DEC reported “NODI 2 Operational Shutdown” for BOD5, TSS, enterococci, and fecal coliform and stated that the WWTF was shutdown March 10 through March 30, 2021. However, Respondent failed to sample these pollutants while the WWTF was in operation earlier that month.

38. Respondent failed to conduct monitoring of the domestic wastewater discharge (outfall 001A) during May 2022. Permit part 1.2 requires that the Permittee

limit and monitor domestic wastewater discharges as specified in Table 2. Furie failed to monitor the outfall for BOD₅ and TSS. The written notice of noncompliance submitted to DEC on July 23, 2023 stated that these parameters “did not make it to the lab for analysis.”

39. Respondent failed to analyze WET samples according to the EPA method. The Test Acceptability Criteria for chronic marine vertebrate testing of *Menidia beryllina* requires the number of test larvae per chamber to contain 10 larvae. 32 months of laboratory analysis reports from June 2021 through February 2024 demonstrated that only 8 larvae were placed in each chamber during WET testing of *Menidia beryllina*. Respondent submitted an NCN to DEC on February 2, 2024 that described their communication with the WET laboratory to use the correct number of larvae per chamber on future testing.

40. Respondent failed to submit a notice of noncompliance for the following violations:

- a. Failure to conduct domestic wastewater monitoring during March 2021.
- b. Failure to analyze pollutants according to approved test procedures.
- c. Failure to comply with total recoverable copper numeric effluent limit of

Platform outfall 015A during June 2022.

41. Respondent failed to submit timely DMRs to DEC. Permit part 2.6.6.3 requires the Permittee submit DMRs to DEC by the 28th day of the following calendar month. Respondent submitted September 2023 DMRs for outfalls 002, 003, 004, 008, 009, 010, 015 two days late on October 30, 2023.

C. Statutory and Regulatory Authority

42. The statutory and regulatory authorities applicable to Respondent and its operation of the Facility include:

43. Section 301 of the federal Clean Water Act, as amended, 33 U.S.C. § 1251 et seq. (“CWA”), prohibits the discharge of pollutants by any person from any point source into waters of the U.S. except, inter alia, as authorized by a National Pollutant Discharge Elimination System (“NPDES”) permit issued pursuant to CWA Section 402. 33 U.S.C. §§ 1311(a), 1342.

44. Section 502(12) of the Clean Water Act defines "discharge of a pollutant" to include "any addition of any pollutant to navigable waters from any point source." 33 U.S.C. § 1362(12).

45. Section 502(6) of the Clean Water Act defines a "pollutant" to include “industrial, municipal, and agricultural waste discharged into water.” 33 U.S.C. § 1362(6).

46. Section 502(14) of the Clean Water Act defines "point source" to include, among other things, "any pipe, ditch, channel, tunnel, conduit, well, discrete fissure [or] container ... from which pollutants are or may be discharged." 33 U.S.C. § 1362(14).

47. Section 502(7) of the Clean Water Act defines "navigable waters" as "the waters of the United States, including the territorial seas." 33 U.S.C. § 1362(7).

48. Pursuant to Alaska Statute (AS) 46.03.020, DEC has received authorization to administer the CWA and the NPDES program through the Alaska Pollutant Discharge Elimination System ("APDES").

49. AS 46.03.050 grants DEC jurisdiction to prevent and abate the pollution of the waters of the state.

50. AS 46.03.100(a) and (m) prohibit any person from discharging pollutants into the waters of the state without prior authorization from DEC.

51. 18 AAC 83.405(b) provides that all permittees must comply with the conditions of their permit, and that failure to do so is a violation of 18 AAC 83, AS 46.03, and the CWA.

52. AS 46.03.760 provides that a person who violates or causes or permits to be violated of a provision of AS 46.03, a regulation promulgated by DEC, a lawful order of the State, or a permit or term or condition of a permit issued under AS 46.03,

is liable to the State in a civil action for a sum to be assessed by the court of not less than \$500 nor more than \$100,000 for the initial violation, nor more than \$10,000 for each day after that on which the violation continues. These amounts apply separately to each violation of a statute, regulation, permit, or order. See AS 46.03.875.

D. Definitions

53. The definitions set forth in AS 46.03.900 and 18 AAC 83.990 apply to terms utilized in this Order, including:

a. "Permit" means APDES permit number AK0053686, which is a water discharge permit for purposes of AS 46.03 and 18 AAC 83, or any other applicable APDES operating permit authorizing all discharges from the Platform while this Order is in effect.

"Discharge" means the definition set out at 18 AAC 83.990(22) and 33 U.S.C. § 1362(16).

b. "Facility" is the Kitchen Lights Unit Julius R. Gas Production Platform, which is a "facility or activity" as that term is defined in 18 AAC 83.990(29).

c. "General Permit" or "GP" means AKG315220, the APDES General Permit for Oil and Gas Exploration, Distribution and Production Facilities in State Waters of Cook Inlet.

- d. Respondent (Furie) is a “person” as that term is defined in AS 46.03.900(18) and an “owner or operator” as defined in 18 AAC 83.990(45).
- e. “Waters of the United States” means the definition set out at 18 AAC 83.990(77) and includes Cook Inlet.
- f. “Under this Order” means submissions and undertakings required by this Order and does not include submissions or undertakings solely required by other authorities.

III. CORRECTIVE ACTIONS

54. Respondent shall complete the corrective actions set forth below no later than the dates specified in this Order or otherwise approved by DEC in writing.

55. Respondent agrees to obtain written DEC approval prior to making any revisions to the existing DEC approved design for which approval is required, and in accordance with, 18 AAC 72.230 (Oct. 2023 edition).

56. No later than June 30, 2024, Respondent agrees to complete installation on the RedFox WWTF of an additional filtration system capable of limiting domestic wastewater pollutants as required under the Permit. Respondent will provide notice to DEC’s C&E Program pursuant to the Quarterly Report Form when the installation has been completed.

57. Respondent agrees to submit information required by 18 AAC 72.240 (Oct. 2023 edition) to obtain Final Approval to Operate (“FATO”) of the filtration system of the WWTF. Respondent will provide notice to DEC’s C&E Program pursuant to the Quarterly Report Form when the submittal is made.

58. Respondent agrees to submit a completed Quarterly Progress Report Form (Form) (Attachment 3) for the preceding calendar quarter. Respondent shall submit the Form in the manner provided by the Notice Paragraph of this Order within 30 days after the end of each calendar quarter (i.e., by April 30, July 30, October 30, and January 30) commencing after the effective date of this Order until termination of this Order.

59. The Parties acknowledge that, despite Respondent’s good-faith efforts to comply with the requirements of the Permit and this Order, additional numeric effluent limit violations for total recoverable copper may occur. Respondent has identified obtaining less stringent copper effluent limits under the GP authorization as their proposed corrective action for those violations. The Parties agree that as long as Respondent complies with the proper operation and maintenance Permit requirements and timely responds to information requests from the Department’s Wastewater Discharge Authorization Program, Oil & Gas Section Staff (permit application reviewers), exceedances of total recoverable copper numeric effluent limits occurring after the Effective Date of this Order but before copper effluent

limits become effective under the GP will not be subject to stipulated assessments as described in Section V.

60. If, after one year from the Effective Date of this Order, Respondent has not received authorization to discharge produced water under the GP but has otherwise complied with the requirements set out in Paragraph 59, the Parties agree to meet and confer regarding the necessity of any additional corrective actions consistent with Paragraph 61.

61. If at any time after the Effective Date of this Order, DEC determines that the corrective actions required in this Section may be insufficient to achieve the purposes of this Order, DEC will make a written request with a reasonable deadline for Respondent to provide additional information or undertake additional corrective actions. If the Parties agree as to the additional corrective action, the request shall immediately take effect, be incorporated herein, and become enforceable under this Order.

IV. CIVIL ASSESSMENTS

62. Civil Assessments. Respondent shall pay DEC civil assessments pursuant to AS 46.03.760 in the amount of \$202,699.00 (“the Payment Amount”) within thirty (30) days of the execution of this Order. For purposes of this Order only, the Payment Amount represents reasonable compensation to the State of Alaska for the violation(s) alleged in Section II.

63. Interest on Late Payments. Any sums due under this order shall bear interest at the maximum rate permitted by AS 45.45.010 from the date due until paid in full. In the event of a partial payment, the payment shall be applied first to any interest owed and the remainder shall be applied to the Payment Amount or other amount due under this Order.

64. Manner of Payment. All payments of any kind required under this Order must: (i) be made payable to the State of Alaska; (ii) include the DEC Enforcement Tracking number of this Order; (iii) be delivered to the Alaska Department of Environmental Conservation, Attn: Water Accountant, Water Administrative Services, 555 Cordova St, Anchorage, Alaska 99501; and (iv) unless otherwise provided herein, include all applicable interest that is due.

65. Failure to make timely payment. If any payment required under this Order is not received by DEC on time, or if any negotiable instrument presented as payment is not honored, DEC is entitled to immediate payment of the Payment Amount, stipulated assessments, interest, administrative costs and expenses, attorney's fees and costs (including all costs incurred seeking to collect any amounts owing), and may file a civil action to collect these amounts. In any such collection action, the validity, amount, and appropriateness of such assessments, and other fees and expenses shall not be subject to review.

66. Additional relief. The civil assessment levied in Paragraph 62 (Civil Assessments) is the full and complete monetary sanction for all violations described in Section II.B (Violations). DEC may seek additional civil assessments, penalties, damages, or other monetary relief for violations of Paragraphs 87 (Breach) or 65 (Failure to make timely payment), but in no event shall DEC be required to refund any portion of any amount paid by Respondent under this Order or any other costs incurred by Respondent.

67. Costs Incurred by Respondent. Respondent shall bear all its own costs in carrying out the requirements of this Order.

V. STIPULATED ASSESSMENTS

68. Stipulated Assessment Amounts. In addition to any other sums due or payable under this Order, if Respondent fails to comply with the terms of this Order or the Permit, Respondent shall pay stipulated assessments to the State as outlined in this Section. Respondent further agrees that each violation of this Order or the Permit is significant as it relates to respondent's statutory and regulatory obligations under the permit and DEC's responsibility to protect public health, safety, and the environment.

69. Reporting and Notification Violations. Respondent shall pay a stipulated assessment of \$500 per day, per violation for:

- a. Failing to report to, or notify, DEC as required under this Order or the Permit;
- b. Providing a late or materially incomplete report or notice required under this Order or the Permit;
- c. Providing late or materially incomplete information in response to any DEC written information request made under or pursuant to this Order or the Permit;

70. Recordkeeping Violations. For a failure to record or retain any records required under this Order or the Permit to be recorded or retained,

- a. Respondent shall pay \$500 per record and shall accurately generate or recreate the missing entry or record if possible. Failure to produce a record during an inspection creates a rebuttable presumption that the record does not exist. Respondent may rebut this presumption by producing the record within 24 hours of the inspection.

71. Other Violations. For any other violation of this Order or the Permit that is not addressed above, including a failure to take corrective actions or sufficient corrective actions, Respondent shall pay \$500 per violation per day, with the additional requirement to mitigate or cure the violation where possible.

72. Accrual of Stipulated Assessments. Stipulated assessments begin to accrue on the day a violation occurs or on the day after performance is due. Stipulated assessments continue to accrue each day through the final day of the correction of the noncompliance or completion of the activity/submission. Separate stipulated assessments accrue for each violation of this Order. Stipulated Assessments accrue automatically regardless of whether DEC has notified Respondent of a violation. Respondent is not waived from the requirement to produce required documents if stipulated assessments are sought.

73. Payment of Stipulated Assessments. All stipulated assessments owed to the State under Section V of this Order are due and must be paid no later than fifteen (15) days after Respondent's receipt of a written demand from DEC for payment of the stipulated assessment, unless Respondent invokes the procedures under Paragraph 105 (Dispute Resolution). Stipulated Assessments shall be paid as provided in Paragraph 64 (Manner of Payment).

74. Effect of Dispute Resolution. Stipulated assessments and interest shall continue to accrue on a per violation, per day basis during any period of dispute resolution or judicial review, but do not become due unless and until:

- a. If the dispute is resolved by agreement or by a decision of DEC that is not appealed to a judicial court as provided in Paragraph 105 (Dispute Resolution), and DEC specifies in the agreement or

decision that stipulated assessments are still warranted, Respondent shall pay all accrued stipulated assessments and interest owed to the State within fifteen (15) days of the agreement or the receipt of DEC's decision; or

- b. If the dispute is appealed to a judicial court as provided in Paragraph 105 (Dispute Resolution), and DEC prevails with regard to the amount and imposition of the Stipulated Assessment, Respondent shall pay all accrued stipulated assessments determined on appeal to be owed to the State, plus interest from the original due date under this Order, within fifteen (15) days of receipt of the final decision on appeal.

75. Interest on Late Payment of Stipulated Assessments. As described in Paragraph 63, interest accrues on any stipulated assessment that remain unpaid after the due date.

76. Non-Exclusivity of Remedy. Stipulated Assessments are DEC's sole or exclusive monetary sanction with respect to a violation identified under Section V of this Order, occurring during the term of this Order, but monetary sanctions are not DEC's sole or exclusive remedy for any such violation. Nothing in this Order addresses, impacts or limits rights, remedies, sanctions, or relief available to DEC by

reason of Respondent's failure to comply with any requirement of any other applicable Permit, authorization, law or regulation.

77. Power to Exercise Enforcement Discretion. Without affecting enforcement discretion in any other situation, DEC may, for any reason and at any time, forgive, waive or otherwise relieve Respondent of an assessment that would otherwise become due under this Section V.

VI. EFFECT OF ORDER

78. No Warranty by DEC. DEC does not warrant or represent that Respondent's compliance with this Order will result in compliance with the provisions of any applicable permit, order, or federal, state, or local environmental law related to the Facility.

79. Future Permits. DEC does not warrant or represent that Respondent will receive an effective wastewater discharge permit with effluent limits different than those currently in effect. Nothing in this Order prevents the Respondent or any of its operators from opting out of future general permits, in whole or in part, as allowed by law or applicable regulation, for example, by cessation of a regulated operation; selection of an individual permit; or other legal methods for relief from amended or successor permits.

80. Covenant Not to Sue. Provided Respondent complies with all requirements of this Order, DEC shall not institute any civil enforcement action against Respondent arising from the violations described in Section II (Findings and Conclusions).

81. Reservation of Rights.

- a. DEC reserves all rights and remedies, both legal and equitable, not expressly waived in this Order;
- b. DEC reserves the right, subject to Paragraphs 59, 66, and 76, to initiate administrative or judicial proceedings, including but not limited to those seeking new or additional civil assessments, damages, injunctive relief, or other relief, for the violations described in Section II (Findings and Conclusions) above if:
 - i. Respondent does not fully and timely comply with the requirements of this Order, to the reasonable satisfaction of DEC; or
 - ii. in DEC's reasonable opinion, subsequently discovered events or conditions constitute an immediate or imminent threat to public health, public safety, or the environment,

regardless of whether DEC may have been able to discover the event or condition prior to entering into the Order.

82. **Third-Party Rights Not Affected.** This Order does not limit or affect the rights of DEC or Respondent against any third-parties, who are not party to this Order.

83. **Not a Permit or Modification.** This Order is not a permit or a modification of any existing permit under any federal, state, or local law or regulation.

VII. GENERAL CONDITIONS

84. **Duty to Comply.** Unless otherwise provided by this Order, the Respondent shall fully and timely comply with all requirements of this Order as well as all federal and state water quality laws, permits, and orders applicable to the Facility.

85. **Duty to Correct Inaccurate Information.** If Respondent becomes aware that it submitted inaccurate information to DEC, Respondent must submit the corrected information to DEC within fourteen (14) days of discovery.

86. **Purpose of Order.** The Parties enter into this Order to further the pollution prevention goals of the CWA, the APDES Program, and the respective implementing regulations. All obligations under this Order have the objective of

causing Respondent to achieve and maintain compliance with the CWA and the APDES Program, including any APDES permits issued with respect to operations at the Facility, and of protecting human health, public safety and welfare, and the environment.

87. Breach. Any failure to fully and timely comply with any of the requirements set forth in this Order may, at DEC's option, be deemed a material breach of this Order. A material breach of this Order may result in administrative or judicial action to enforce any requirement of this Order, in addition to any other applicable legal or regulatory requirements. DEC may treat any failure to comply as the basis for DEC's revocation, modification, or termination of this Order.

88. No Waiver. A failure by DEC to enforce any provision of this Order, for any reason, shall not be construed as a waiver of DEC's right to insist on strict performance of each provision of this Order, including the provision that was initially unenforced.

89. Need to Halt or Reduce Activity Not a Defense. It shall not be a defense for Respondent in any enforcement or other action by DEC that it would have been necessary to halt or reduce its operations in order to maintain compliance with this Order, or that it is financially unable to perform any obligation under this Order.

90. Indemnification. Respondent shall hold the State and its representatives, agents, and employees harmless and indemnify and defend the State against all claims, liabilities, losses, damages and costs awarded or incurred, including attorney fees, and against all actions and claims, whether wrongfully brought or not, including but not limited to third-party claims for injury to or death of persons and loss of or damage to property arising out of or in any manner connected with the incidents which gave rise to this Order or the implementation of the requirements of this order, except for any claims arising out of the sole negligence of the State.

91. Notice. All notices, demands, submissions, applications, reports, logs, data, and other communications which either Party is required to provide to the other under this Order (“Notices”) shall (i) be given in writing; (ii) reference Enforcement Tracking No. 23-R0164-50-0002; (iii) be made only by personal delivery, express courier service or certified mail with return receipt requested, or via email; and (iv) such delivery shall be to the addresses set forth below for the respective Party. Nothing in this Paragraph overrides, alters, negates or otherwise affects the time or manner of notifications which may be required by regulations, laws, Respondent’s permits, or authorizations other than this Order. All Notices shall be effective upon receipt by the Party (as confirmed by the delivery service utilized under this Paragraph) to whom the Notice is being given (“Effective Delivery”).

To DEC:

Alaska Department of Environmental Conservation, Division of Water
Attn: Holly Hansmeier
555 Cordova Street
Anchorage, AK 99501
Email: Holly.Hansmeier@alaska.gov and
DEC.Water.Enforcement@alaska.gov

With a copy to:

Alaska Department of Law – Environmental Section
Attn: Cameron Jimmo, Asst. Attorney General
1031 W. 4th Avenue, Suite 200
Anchorage, AK 99501-1994
Email: Cameron.Jimmo@alaska.gov

To Respondent:

Furie Operating Alaska, LLC
Attn: John Hendrix
433 W. 9th Avenue
Anchorage, AK 99501
Email: J.Hendrix@furiealaska.com

With a copy to:

Furie Operating Alaska, LLC
Attn: Mark Slaughter
433 W. 9th Avenue
Anchorage, AK 99501
Email: M.Slaughter@furiealaska.com

92. Modifications. Except as otherwise provided in this Order, any amendments or changes to this Order must be in writing and signed by all Parties, including both the DEC Director of Water and an authorized representative of the Alaska Department of Law (“DOL”) on behalf of the State.

93. State Not a Party to Contracts. The State of Alaska shall not be held as a party to any contract or other agreement that Respondent enters into regarding any activities conducted pursuant to this Order.

94. Rule of Law. This Order shall be governed by and construed in accordance with the laws of the State of Alaska.

95. Right of Entry and Access to Information. Respondent shall allow DEC representatives unrestricted entry and access to the Facility at reasonable times—for the purpose of determining compliance with this Order and any applicable statute, regulation, or permit—to copy any records, inspect any monitoring equipment, test methods, collect samples, take video or photographs, make recorded interviews, and conduct any other activities that DEC deems reasonably necessary to determine compliance. Respondent may have a representative accompany DEC’s representative during the inspection.

96. Document Retention. For the duration of this Order, Respondent shall maintain legible copies of all records and reports required under this Order. Respondent shall provide such documents to DEC within fourteen (14) days of DEC’s written request for such information.

97. Certification of Documents, Reports and Other Submissions. All documents, records, reports, and other submissions that must be provided to DEC

under this Order shall be signed and certified under penalty of law by a responsible official of Respondent in the manner as provided in 18 AAC 83.385, including the following certification:

98. I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

99. Severability. The provisions of this Order are completely severable. Should a court declare any part of this Order void or unenforceable, all other provisions of this Order shall remain in full force and effect. If a court does so declare, the Parties shall promptly meet and, in good faith, seek to negotiate replacement language that most nearly effectuates the original intent of the Parties.

100. Rules of Construction. This Order has been freely negotiated between the Parties, and its terms shall not be more strictly construed against either Party.

101. Headings. The headings in this Order are for ease of reference only and shall not affect the interpretation of any of the terms and conditions contained herein.

102. Parties Bound. This Order binds DEC and Respondent, their officers, employees, agents, successors, and assigns, and all persons and entities acting on behalf of Respondent. For the transfer or sale of an ownership interest or upon a new responsible party being identified, the Facility shall provide notice to the Department as required by 18 AAC 83.150.

103. Termination. The term of this Order is three (3) years from its Effective Date or the completion of all Corrective Actions within Section III, whichever is later. At that time, DEC can move to terminate the COBC. In addition, at any time thereafter, Respondent may request in writing that DEC terminate this Order. The Order will not terminate absent DEC's and DOL's written and signed consent. In seeking DEC's consent to terminate the Order, Respondent must demonstrate that:

- a. Respondent has paid all monies, damages, civil assessments, stipulated assessments, and interest which have become due under this Order;
- b. Respondent is in full compliance with this Order and any applicable wastewater discharge permits, authorizations, or

federal and state wastewater discharge laws related to the Facility;

- c. There are no unresolved matters subject to Dispute Resolution pursuant to Paragraph 105 (Dispute Resolution) of this Order; and
- d. No enforcement action under this Order is pending.

104. Applicability of Other Legal Obligations and Laws. Unless expressly provided otherwise herein, the requirements set forth in this Order are in addition to any requirements set forth in any permit, order, or authorization which DEC has issued or may issue to Respondent and any other applicable state, federal, or local law, regulation, permit, other authorization or order.

105. Dispute Resolution.

- a. Informal Dispute Resolution. Any dispute under this Order shall first be the subject of informal negotiations between the Parties at the staff level. The dispute shall be considered to have arisen on the day one Party delivers to the other Party a written Notice of Dispute, or on the day following delivery by overnight courier or three (3) days following delivery by U.S. Mail, return receipt requested. The Notice of Dispute shall clearly describe the matter

in dispute and include or reference the relevant documentation. The period of informal negotiations shall not exceed thirty (30) days from the date the dispute arises, unless that period is modified by written agreement of the Parties.

- b. Formal Dispute Resolution. If the Parties cannot resolve a dispute by informal negotiations within the time period provided in subparagraph a. above, then the position advanced by DEC shall be considered binding unless, within fifteen (15) days after the conclusion of the informal negotiation period, Respondent makes a written request for the DEC Commissioner, or the Commissioner's delegate (collectively "Commissioner"), to formally resolve the dispute. The Commissioner may meet with the Parties or request submission of briefing, particular documents, or other evidence as the Commissioner deems advisable to resolve the dispute, but the Parties agree that formal adjudication proceedings under 18 AAC 15 or any other statutes or regulations (including AS 44.62) are not contemplated or required. The Commissioner will issue a final determination in writing. That written decision will be final for purposes of judicial review pursuant to Alaska Rule of Appellate Procedure 602(a)(2). The Commissioner's determination will remain in

effect pending resolution of any judicial appeal unless a stay is granted by the court on appeal.

- c. In any dispute under this Paragraph, Respondent shall bear the burden of proof that its position complies with the requirements of this Order, including but not limited to Paragraph 86 (Purpose of Order).
- d. The pendency of any dispute pursuant to this Paragraph shall not affect the responsibility of Respondent to continue to fully and timely perform all of its obligations under this Order.

106. Time of the Essence. Time is of the essence as to each provision of this Order.

107. Computation of Time Periods. Unless otherwise provided herein, all references to dates in this Order shall be to calendar days. If a deadline falls or occurs on a Saturday, Sunday, or legal holiday recognized by the State of Alaska, the deadline shall be extended only until the next day which is not a Saturday, Sunday, or legal holiday.

108. Effective Date. The effective date of this Order (“Effective Date”) is the date of the last signature, below, on this Order by an authorized representative of Respondent, DEC, or DOL.

109. Understanding of Terms / Voluntary Agreement. Each Party affirms that it has had the opportunity to consult with an attorney, has read and understands the scope and effect of the provisions of this Order, and voluntarily enters into this Order.

110. Signatory Authority. Each individual signing this Order certifies and warrants that he or she is authorized to enter into this Order on the respective Party's behalf.

111. Counterparts. This Order may be executed in several counterparts, each of which shall be deemed an original, but all of which, taken together, shall constitute one and the same document. A facsimile or scanned copy of a signature page shall be deemed an original

112. Retention of Copy of Order at Facility. A copy of this Order (including any Attachments) must be kept at the Facility and made available to DEC upon request.

113. Duty to Inform. Following the Effective Date of this Order, Respondent must promptly provide a copy of this Order (including any Attachments) or make it reasonably available to all officers, employees, agents, consultants, contractors, and others whose duties or work might reasonably include activities in any way related to compliance with any provision of this Order.

114. Attachments.

Attachment 1: Outfall Identification Table

Attachment 2: Notice of Violation 2023 Enforcement Tracking Number 23-R0164-40-0001

Attachment 3: Quarterly Progress Report Form

115. Entire Agreement. This Order represents the entire agreement of the Parties. There are no other oral or written understandings or agreements relating to the subject matter of this Order.

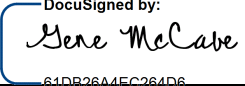
[SIGNATURE PAGES TO FOLLOW]

Signature Page for Compliance Order by Consent in:

*In the Matter of the State of Alaska, Department of Environmental
Conservation v. Furie Operating Alaska, LLC*

DATED: 5/8/2024

DEPARTMENT OF ENVIRONMENTAL
CONSERVATION

By: 
Gene McCabe,
Acting Director
Division of Water

Signature Page for Compliance Order by Consent in:

*In the Matter of the State of Alaska, Department of Environmental
Conservation v. Furie Operating Alaska, LLC*

DATED: 05-08-24

TREG TAYLOR
ATTORNEY GENERAL

By:



Cameron Jimmo
Assistant Attorney General

Signature Page for Compliance Order by Consent in:

In the Matter of the State of Alaska, Department of Environmental Conservation v. Furie Operating Alaska, LLC

ACKNOWLEDGMENT

I, Mark W Slaughter, hereby certify that I hold the position of Chief Commercial Officer and that I am a responsible official for Furie Operating Alaska, LLC (“Respondent”) and that I have the authority to enter into this Order on behalf of Respondent and to otherwise legally bind Respondent. I hereby acknowledge that I have freely and voluntarily entered into this agreement with the State of Alaska on behalf of Respondent.

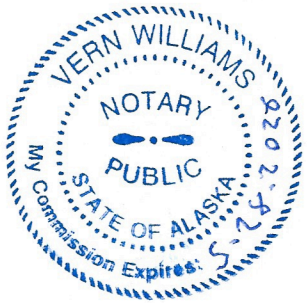
DATED: May 7, 2024

Furie Operating Alaska, LLC.

By: Mark W Slaughter

Printed Name: Mark W Slaughter

Title: Chief Commercial Officer



SUBSCRIBED AND SWORN to before me this 7 day of May, 2024.

Vern Williams

Notary Public, State of Alaska

My commission expires: 5-28-2026

ATTACHMENT 1

Attachment 1 - Outfall Identification

IP 2014

Discharge	Outfall No.	Discharge Location
Domestic	001A/001B	Platform(A)/MODU(B)
Deck Drainage	002A/002B - 002F	Platform(A)/Construction Facilities(B-F)
Clay-based Drilling Fluids	003	Horizontal Directional Drilling
Fire Control System Test Water	004	Barge
Graywater	N/A	N/A
Noncontact Cooling Water	N/A	N/A
Uncontaminated Ballast Water	N/A	N/A
Produced Water	N/A	N/A

IP 2014 (Mod. 2016)

Discharge	Outfall No.	Discharge Location
Domestic	001A/001B	Platform(A)/MODU(B)
Deck Drainage	002A/002B - 002F/002G	Platform(A)/Construction Facilities(B-F)/MODU(G)
Clay-based Drilling Fluids	003	Horizontal Directional Drilling
Fire Control System Test Water	004	Barge
Graywater	N/A	N/A
Noncontact Cooling Water	005	MODU
Uncontaminated Ballast Water	006	MODU
Produced Water	N/A	N/A

IP 2021

Discharge	Outfall No.	Discharge Location
Domestic	003A/003B	Platform(A)/MODU(B)
Deck Drainage	002A/002B	Platform(A)/MODU(B)
Clay-based Drilling Fluids	N/A	N/A
Fire Control System Test Water	008A	Platform(A)
Graywater	004B	MODU(B)
Noncontact Cooling Water	009B	MODU(B)
Uncontaminated Ballast Water	010B	MODU(B)
Produced Water	015A	Platform(A)

ATTACHMENT 2



2/16/2023

NOTICE OF VIOLATION

Failure to Comply with Permit Conditions per 18 AAC 83 – Alaska Pollutant Discharge Elimination System Individual Permit, Authorization Number AK0053686.

John Hendrix
Furie Operating Alaska, LLC
433 W. 9th Avenue
Anchorage, AK 99501

Enforcement Tracking Number. 23-R0164-40-0001
File No. 2339.48.054

Dear Mr. Hendrix,

The Department alleges that beginning on or about July 1, 2020 and continuing up until May 1, 2022, at Cook Inlet, Alaska, Furie Operating Alaska, LLC (Furie) did unlawfully fail to comply with the conditions of the Alaska Pollutant Discharge Elimination System (APDES) permit.

On May 1, 2022, the Department conducted an announced inspection of the Kitchen Lights Unit (KLU) Julius R. Platform to determine compliance with authorization AK0053686. On September 15, 2022, the Department delivered the Inspection Report and Notice of Enforcement summarizing the findings of that compliance inspection. On February 16, 2023, the Department issued a revised Inspection Report. The inspection and subsequent records review documented the following violations:

- 1) Failure to comply with domestic wastewater numeric effluent limits of Platform Outfalls 001 A (2014 permit) and 003 A (2021 permit). A total of 744 effluent limit violations occurred: 371 violations of five-day biochemical oxygen demand (BOD₅), 371 violations of total suspended solids (TSS), and 2 violations of pH. For specific violations and dates, see E-90 Report.
 - a. 2014 permit part 1.2 Effluent Limits and Monitoring states, “The permittee must limit and monitor domestic wastewater discharges from Outfall 001A (Platform) and Outfall 001B (MODU) as specified in Table 2.”
 - b. 2021 permit part 2.2 Effluent Limits and Monitoring states, “...the permittee must limit and monitor domestic wastewater discharges per Table 3....”
 - c. Regulatory Citation: 18 AAC 83.405 (b) Duty to comply,

18 AAC 83.405 (k) Monitoring and records

- d. Reference Documents: E90 Report
- 2) Failure to comply with produced wastewater numeric effluent limits at Platform Outfall 015 A (2021 permit). A total of 369 effluent limit violations occurred: 273 violations of copper and 96 violations of oil & grease. Additionally, the Chronic WET limit was exceeded on one occasion. For specific violations and dates, see E-90 Report.
 - a. 2021 permit part 2.5 Effluent Limits and Monitoring Requirements for Produced Water states, “In addition to the requirements in Section 1.3, the permittee must limit and monitor miscellaneous discharges as specified in Table 6 and subsequent referenced subsections.”
 - b. Regulatory Citation: 18 AAC 83.405(b) Duty to comply
18 AAC 83.405 (k) Monitoring and records
 - c. Reference Documents: E90 report
- 3) Failure to use EPA approved test method for pH domestic wastewater sampling. pH was being analyzed with pH strips, which are not an approved EPA test method.
 - a. Permit part Appendix A 1.11.4 Monitoring Procedures Effluent Limits and Monitoring states, “Analyses of pollutants must be conducted using test procedures approved under 40 CFR Part 136, adopted by reference at 18 AAC 83.010, for pollutants with approved test procedures, and using test procedures specified in the permit for pollutants without approved methods.”
 - b. Regulatory Citation: 18 AAC 83.405(k) Monitoring and records
18 AC 83.405(b) Duty to comply
- 4) Failure to conduct domestic wastewater monitoring in November 2020 at Platform Outfall 001 A for TSS, BOD₅, enterococci, and fecal coliform.
 - a. 2014 permit part 1.2 Effluent Limits and Monitoring states, “The permittee must limit and monitor domestic wastewater discharges from Outfall 001A (Platform) and Outfall 001B (MODU) as specified in Table 2.”
 - b. Regulatory Citation: 18 AAC 83.405(b) Duty to comply
18 AAC 83.405(k) Monitoring and records
 - c. Reference Documents: Violation Report
- 5) February 2022 enterococci lab results analyzed after 24 hours of hold time, exceeding the maximum allowable hold time of 8 hours.
 - d. Permit part Appendix A 1.11.4 Monitoring Procedures states, “Analyses of pollutants must be conducted using test procedures approved under 40 CFR Part 136, adopted by reference at 18 AAC 83.010, for pollutants with approved test procedures, and using test procedures specified in the permit for pollutants without approved methods.”
 - e. Regulatory Citation: 18 AAC 83.405(b) Duty to comply and
18 AAC 83.405(k) Monitoring and records
 - f. Reference Documents: February 2022 lab results (upon request)
- 6) Failure to contact DEC within 24-hours and failure to submit the noncompliance notification (NCN) 5-day written report on 15 occasions for effluent limit violations of

maximum daily limits. Additionally, 3 NCNs were submitted late to DEC. For specific missing and/or late reports, see NCN Violations attachment.

- g. 2014 and 2021 permit part, Appendix A, Part 3.4.3 states, “An event that must be reported within 24 hours includes: 3.4.3.3 A violation of a maximum daily discharge limitation for any of the pollutants listed in the permit as requiring 24-hour reporting.” 2021 permit part 1.3.11 states, “The permittee must report all violations of maximum daily limits (MDLs) per Appendix A, Standard Conditions, Section 3.4 – 24-Hour Reporting. Violations of all other effluent limits, such as average monthly limits (AMLs), are to be reported per Appendix A, Standard Conditions, Section 3.5 – Other Noncompliance Reporting.”
 - h. Regulatory Citation: 18 AAC 83.410(f) Twenty-four-hour reporting
18 AAC 83.405(b) Duty to comply
Reference Documents: NCN Violations
- 7) Failure to submit an NCN at the time of DMR submittal on 31 occasions for all other instances of noncompliance. For specific missing reports, see NCN Violations attachment.
 - a. 2014 and 2021 permit, Appendix A, Part 3.5 states, “A permittee shall report all instances of noncompliance not required to be reported under Appendix A, Parts 2.4 (Compliance Schedules), 3.3 (Additional Monitoring by Permittee), and 3.4 (Twenty-four Hour Reporting) at the time the permittee submits monitoring reports under Appendix A, Part 3.2 (Reporting of Monitoring Results). A report of noncompliance under this part must contain the information listed in Appendix A, Part 3.4.2 and be sent to the Compliance and Enforcement Program address in Appendix A, Part 1.1.2.” 2021 permit part 1.3.11 states, “The permittee must report all violations of maximum daily limits (MDLs) per Appendix A, Standard Conditions, Section 3.4 – 24-Hour Reporting. Violations of all other effluent limits, such as average monthly limits (AMLs), are to be reported per Appendix A, Standard Conditions, Section 3.5 – Other Noncompliance Reporting.”
 - b. Regulatory Citation: 18 AAC 83.410 (g) Other noncompliance
18 AAC 83.405(b) Duty to comply
 - c. Reference Documents: NCN Violations
- 8) Failure to submit the 2022 BMP Plan certification statement by the due date of January 31st. The certification statement was submitted late on April 22, 2022.
 - a. 2014 permit part 2.2.7.2 and 2021 permit part 4.2.6.2 states, “Certified statement the above reviews were completed and the BMP Plan fulfills the requirements set forth in this Permit. The statement must be submitted to DEC on or before January 31st of each year of operation under this Permit.”
 - b. Regulatory Citation: 18 AAC 83.405(b) Duty to comply
- 9) Failure to submit noncontact cooling water chemical inventory certification statement to the Department by January 31st of each year. 2021 chemical inventory was submitted April 2022.
 - a. 2021 permit part 2.43 states, “The permittee must maintain a precise chemical inventory of all constituents added, including the time, dose, and frequency of

each chemical additive used in miscellaneous discharges. The permittee must submit these inventory records to DEC annually with BMP certifications required in Section 4.2.6.2 even if no chemicals have been used.”

- b. Regulatory Citation: 18 AAC 83.405(b) Duty to comply

Such inaction is in violation of your permit.

To address the violation(s) described above, the Department requires that you do the following:

- a. If Furie possesses documentation that refutes any of the above violations, provide DEC the documentation. Specifically note how the provided documentation refutes the violation/satisfies the permit parts and regulations referenced.
- b. To address Violation #1, provide an explanation as to why domestic wastewater effluent limit exceedances of BOD₅, TSS, and pH have occurred. Describe any corrective actions Furie has taken in response to these exceedances and how future reoccurrences will be prevented. If Furie has considered corrective actions and chosen not to implement them, describe why those corrective actions were not taken.
- c. To address Violation #2, please provide the following information:
 - 1. **Oil and Grease Effluent Limit Exceedances:**

Provide an explanation as to why produced water effluent limit exceedances have occurred for oil and grease and describe any corrective actions Furie has taken in response to these exceedances. Describe how future reoccurrences of these violations will be prevented. If you have considered corrective actions and chosen not to implement them, describe why those corrective actions were not taken.
 - 2. **Copper Effluent Limit Exceedances:**

Between January – March 2022, Furie submitted various NCNs to the Department regarding copper effluent limit exceedances. The NCNs indicated the cause of the exceedances as a “filter breakthrough event.” Provide an explanation as to why the filter breakthrough events occur and describe what corrective actions Furie has taken to avoid them in the future. Additionally, an NCN submitted to the Department on April 29, 2022, discussed Furie’s efforts to investigate causes of elevated copper concentrations, which included onsite equipment checks and additional sampling events. Please describe the findings of these efforts, what additional efforts have been made to identify the cause of the copper effluent limit exceedances, and any potential treatments Furie has considered to avoid the effluent limit exceedances in the future.

 - The Department noted that Furie’s October 21, 2022 correspondence related to the September 15, 2022 inspection report (report page 8, copper effluent limit violations, Furie letter page 6) suggested use of an alternative water quality standard numeric criteria dissolved/total recoverable conversion factor as a pathway to revise the permit’s existing copper effluent limit when the permit is reissued. The Department noted that this conversion factor is established as part of the copper numeric water quality criteria that applies statewide. Modifications of existing numeric criteria occur only in a process such as development of a site-

specific criteria. Only in that situation could a revised water quality standard numeric criterion be used in a reissued permit limit calculation. To discuss the criteria modification process, including the anticipated timeline and data requirements, Furie would reach out to [DEC Water Quality Standards](#) staff Brock Tabor.

3. December 2021 WET Exceedance:

On January 15, 2022, Furie submitted a NCN to the Department regarding the December 2021 WET limit exceedance. The NCN indicated the cause of the exceedance could have been due to high oil and grease concentrations reported that month. Please describe how Furie determined how oil and grease concentrations may have caused the WET limit exceedance and describe how Furie plans to avoid this issue in the future.

4. April 2022 WET Testing:

Provide any correspondence with the laboratory and any other relevant documentation that demonstrates how and what was determined to be the issue that ultimately resulted in inconclusive WET results. If a re-test for WET was conducted, please provide the dates the re-test occurred, the laboratory results, and any correspondence or relevant documentation of what was determined to be the result. Additionally, update the April 2022 DMR WET result with the proper NODI Code and submit via NetDMR. Please also submit a copy of the updated DMR to the Department (holly.hansmeier@alaska.gov).

5. May 2022 WET Testing:

Provide any correspondence with the WET laboratory and any other relevant documentation that demonstrates how and what was determined to be the issue that ultimately resulted in inconclusive WET results. If a re-test for WET was conducted, please provide the dates the re-test occurred, the laboratory results, and any correspondence or relevant documentation of what was determined to be the result.

6. Provide an explanation of any measures (operational changes, switching laboratories, etc.) Furie has taken to address WET testing issues that have resulted in recent inconclusive results. If you have considered corrective actions and chosen not to implement them, describe why those corrective actions were not taken.

- d. To address Violation #3, provide an explanation why pH test strips were used to measure pH. The correspondence provided to DEC on October 21, 2022 related to the September 15, 2022 inspection report, stated that a “pH meter is now in regular use.” Please include the date of when Furie began using pH test strips and the date of when Furie began using a pH meter. Additionally, provide the make and model of the pH meter and the standard method used.
- e. To address Violation #4, update the November 2020 DMR with proper NODI Code and submit the updated DMR to NetDMR. Please also submit a copy of the updated DMR to the Department. The NODI Code reported to DEC was NODI 8 “See Other”. NODI E

“Analysis Not Conducted/No Sample” should have been reported as no monitoring was conducted for the month of November 2020.

- f. To address Violation #5, provide an explanation of the minimum time required to transport samples from the Platform to ARS Aleut Analytical and/or Alaska Water Laboratories for analysis. Include in this explanation the logistical details involved (flight availability/routes, other available labs, etc.). Describe the practicability and achievability, including cost, of meeting the 8 hour hold time for bacteria.
- g. To address Violation #6 and #7, provide an explanation of why NCNs were not submitted to the Department for exceedances of the maximum daily effluent limits as required under standard condition 3.4 and for all other instances of noncompliance as required in standard condition 3.5. Additionally, describe the corrective actions Furie has taken to improve the noncompliance reporting process to avoid these violations in the future.
- h. To address Violation #8 and #9, provide an explanation of why the BMP Plan certification statement and the noncontact cooling water chemical inventory certification statement were submitted late and describe the corrective actions Furie has taken to ensure permit required records are submitted on time.
 - 1. The Department noted that Furie’s October 21, 2022 correspondence related to the September 15, 2022 inspection report (report page 11, violation 20, Furie letter page 12) suggested that the permit language regarding chemical inventory is conflicting, specifically with permit parts 2.4.1 and 2.4.3. To clarify, part 2.4.1 establishes the trigger for conducting chronic WET analysis in miscellaneous discharges. Meaning, if chemicals are used and the discharge is greater than 10,000 gallons over any 24-hour period, then Furie must conduct WET monitoring. Part 2.4.3 stipulates that Furie would still need to submit an inventory even if to only indicate that no chemicals have been used.
- i. Please provide documentation demonstrating that both the BMP Plan IP reissuance and the QAPP IP reissuance certifications were submitted to the Compliance Program by the due date (i.e. the address listed under standard condition 1.1.2). If documentation cannot be provided, please describe how Furie will ensure that documentation required to be submitted to the Department is reported to the correct program.

Please respond to this request by no later than **3/9/2023**. Note that your response to these items will become part of the public record as it relates to your permit compliance and is not considered confidential. **Deliverables can be submitted via email or EDMS:**

Deliverables must be submitted with the attached certification statement.

Attention:

Holly Hansmeier
Holly.hansmeier@alaska.gov

Penalties for violation of State statutes and regulations can be quite serious. In a civil action, a person who violates or causes or permits to be violated a provision of AS 46.03 and/or 18 ACC

83, may be liable to the State for substantial monetary damages under AS 46.03.760. Depending on the nature of the violation, you may also be liable for the State's response costs under AS 46.03.822, for spill penalties under AS 46.03.758-759, for administrative penalties under AS 46.03.761, or for other kinds of damages or penalties under other statutes.

In a criminal violation, a person who acts with criminal negligence may be guilty of a Class A misdemeanor under AS 46.03.790. Upon conviction, a defendant who is not an organization may be sentenced to pay a fine not exceeding \$10,000.00 and/or sentenced to a definite term of imprisonment of not more than one year. Upon conviction, a defendant that is an organization may be sentenced to pay a fine not exceeding the greater of \$500,000.00 or an amount which is three times the pecuniary damage or loss caused by the defendant to another or property of another. AS 12.55.035; each day of violation may be considered a separate violation. Alaska laws allow the State to pursue both civil and criminal actions concurrently.

Nothing in this notice shall be construed as a waiver of the State's authority or as an agreement on the part of the State to forego judicial or administrative enforcement of the above-described violation(s) or to seek recovery of damages, cost and penalties as prescribed by law. In addition, nothing herein shall be construed as a waiver of enforcement for past, present, or future violations not specifically set forth herein.

If you have additional questions, I may be contacted at (907) 269-7657, or via e-mail: holly.hansmeier@alaska.gov. Thank you for your cooperation and assistance in protecting public health and the environment.

Sincerely,



Holly Hansmeier, Enforcement Officer
Credential No. R-0566

Check One:
 Email

on the 16th day of February, 2023

Enclosure: AK0053686 IR Rev 2022
NCN Violations
E-90 Report
Violations Report
Statement of Certification

cc:

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ATTACHMENT 3

Attachment 3

Quarterly Progress Report Form

Pursuant to Paragraph 58 of Compliance Order by Consent (the Order) Enforcement Tracking No. 23-R0164-50-0002, Furie is required to complete and submit this form to DEC within 30 days after the end of each calendar quarter (i.e., by April 30, July 30, October 30, and January 30) commencing after the effective date of the Order until termination of the Order. Attachments may be included to any response as necessary.

I. General Permit Application

- A. Provide an update summarizing the most current permitting status, approximate timelines, and/or any other information relevant to the General Permit transition process:

II. Domestic Wastewater

- A. Has Furie completed installation of the filtration upgrade to the WWTF as required by Paragraph 56 of the Order? Check YES or NO.

YES

If *YES*, please provide the date of installation:

NO

- B. Has Furie received Final Approval to Operate (FATO) of the filtration upgrade of the WWTF? Check YES or NO.

YES

If *YES*, provide the date of FATO and attach the FATO to this report¹.

¹ If the FATO has been attached and submitted to a previous Quarterly Progress Report Form, Furie is not required to attach the FATO to subsequent Report submittals.

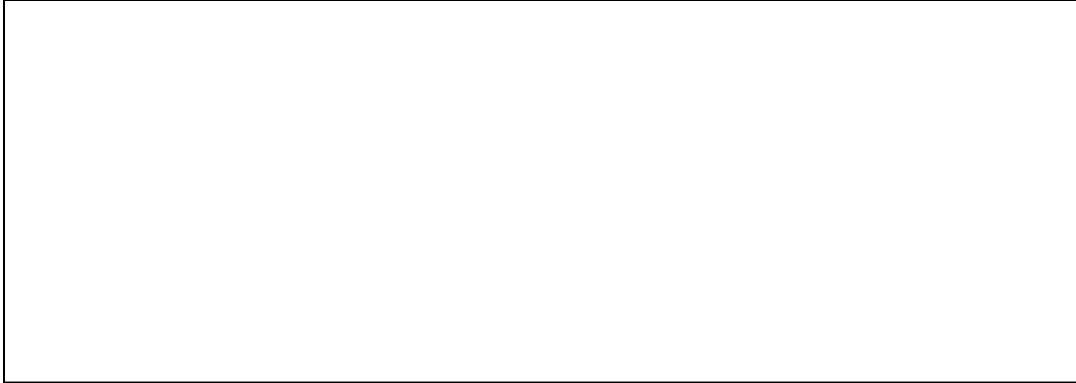
NO

- C. If the filtration system has not been installed, provide an update on the status of the installation (i.e., approximate timeline for parts, plan submissions, etc.). If the filtration system has been installed, provide an update describing any problems encountered or anticipated problems regarding the WWTF's ability to meet the domestic wastewater numeric effluent limits of the Permit. If problems have been encountered or numeric effluent limit exceedances have occurred, please also summarize corrective actions taken or planned to be taken:

III. Produced Water

- A. Describe any changes to the produced water effluent characteristics (volume, pollutants, etc.), the approximate date the changes began, the reasoning for such changes (if known), and any actions taken involving the produced water treatment system due to the changes:

- B. Describe any problems encountered or anticipated problems regarding the produced water treatment system's ability to meet the produced water numeric effluent limits of the Permit. If problems have been encountered or numeric effluent limit exceedances have occurred, please also summarize corrective actions taken or planned to be taken:



IV. Certification

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

Printed name: _____

Signature: _____

Date: _____