



THE OCEAN FOUNDATION
Coastal Coordination Program

February 10, 2014

Commander (DRM)
Attn: LT James Nunez
17th Coast Guard District
P.O. Box 25517
Juneau, AK 99802-5517

james.d.nunez@uscg.mil

Re: Comments of The Ocean Foundation on Proposed Revision of the 1989 Oil Dispersant Guidelines/Alaska Regional Response Team's (ARRT), Draft Revision to Annex F, Appendix I of the Unified Plan, entitled *Alaska Regional Response Team Oil Dispersant Authorization Plan* dated September 25, 2013.

Dear Lieutenant Nunez:

Thank you for this opportunity to provide comments on Alaska Regional Response Team's (ARRT) Draft Revision to Annex F, Appendix I of the Unified Plan, entitled *Alaska Regional Response Team Oil Dispersant Authorization Plan* dated September 25, 2013. We appreciate appropriate precautionary attention by all concerned parties to this critical set of issues, particularly in light of increased levels of threat posed by new risk-producing maritime activities in Alaskan waters, and in the context of “lessons learned” from the continuing adverse affects resulting from the BP Gulf of Mexico Deepwater Horizon oil spill.

Chemical Dispersant Pre-Authorization Plans being proposed by ARRT in Alaska should not be generic in defining the scope of the chemicals that can be considered, should not extend beyond the presently-prescribed geographic boundaries, and should carefully incorporate public input by all affected parties of interest. Pre-authorization status of chemical dispersants throughout all U.S. regions needs to be revisited, a moratorium on the approval of COREXIT and/or FINALSOL OSR 52 put into effect in Alaskan waters, and the burden of proof for any dispersant application conclusively demonstrated as an effective and safe remediation tool when no other options exist. Research and development of new types of less-harmful and fully biodegradable dispersants, their comprehensive testing and certification by EPA for use in mass quantities under pre-defined appropriate conditions, their manufacture in commercial quantities, and pre-deployment at locations of possible future need should be the primary approaches pursued at this time. Any future case-by-case agency decisions must fully respect “exclusion zones” developed in concert with tribes and

other stakeholders.

The current revision process being undertaken for the *Alaska Regional Response Team Oil Dispersant Authorization Plan* should underscore the need for tangible progress by all agencies and affected entities toward improved oil spill response capabilities that go beyond those traditional methods currently in the spill response “toolbox”, including truly biodegradable dispersants, more effective oil spill containment booms, more effective sorbent materials, increased capacity of emergency at-sea storage vessels for recovered oil or product, more robust and redundant blowout preventers on drilling rigs, functional capping stacks that are pre-deployed and in a state of constant readiness, larger-scale and more capable skimming vessels appropriately suited to Alaskan meteorological and sea-state conditions, and proximate pre-deployment of rigs and vessels capable of quickly drilling relief wells. Broken sea ice and the current generation of listed dispersants clearly do not constitute a good mix, and can unduly complicate spill response efforts. Likewise, any currently available skimmers are hampered by ice fragments on the water. It is clear that scientific lines of enquiry should be supported that can lead toward the reevaluation of the pre-authorization status of chemical dispersants throughout all U.S. Regions to ensure that unequivocal peer-reviewed research supports their safe and effective usage. In-situ burning of oil spills, while likely not always an available option in prevailing conditions throughout Alaskan waters, should also be subjected to further study to make sure that soot and carbon particulates from this response mechanism do not affect human health in communities within the range of airborne pollutants.

We further recommend the establishment of a task force consisting of the most qualified minds in science and in the technologies associated with hazardous spills, to find workable solutions to be incorporated into the National Contingency Plan to solve the problems chemical dispersants do not solve. This would include liaison with ongoing research efforts by the Arctic Council to devise Oil Spill Response Plans throughout the Circumpolar Arctic.

Agencies of jurisdiction and the tribes must hold industry to higher standards in spill countermeasure plans. Current capabilities remediate less than 25% of any hazardous spill, even in optimum conditions – which is an unacceptable plan. Federal agencies need to discontinue approval of such plans pending resolution of the outstanding problematic issues. The overarching EPA/RRT approach, as being demonstrated in Alaska, throughout states adjoining the Gulf of Mexico, and in other locations, fails to consider the affected public, and does not adequately recognize and honor the natural resource trust duties and obligations of the federal government.

Federal agencies are obligated to follow established policies on environmental justice, and established agency protocols on government-to-government consultation. The EPA and ARRT do not currently appear to be respecting sovereign rights of Alaskan Native peoples and communities and tribal governments to participate in a meaningful way in government actions that affect customary and traditional tribal cultural subsistence and commercial resources. This contributes to EPA’s straying from its own mission by denying tribes and communities their fundamental right to clean water and a clean environment.

Constructive resolution of unresolved matters in Alaska between RRT and the tribes is also recommended, to ensure that tribes whose peoples will be affected by dispersant use are

heard and their opinion factored into any resulting decision-making process. We concur with the recommendations made by Change Oil Spill Response (COSR) Global Alliance and suggest the creation of a neutral tribal Government Natural Resources Observer and Liaison Committee with voting members serving on the ARRT. This Committee should ensure that each step of any planning and engagement processes by the ARRT and other government agencies will meet the legal requirements that tribal sovereignty is entitled to receive.

The Alaska Inter-Tribal Council (AI-TC), in partnership with the National Tribal Emergency Management Council, would be qualified to act in this capacity. These organizations could be tasked with convening appropriate area tribal emergency management, preparedness and hazardous spill response teams in designated regions, as well as with establishing a core team of science and technology specialists to provide expert consultation for the tribal regions that would be funded through the National Response Team. Tribal liaisons with the Coast Guard and other federal agencies would work with the AI-TC Natural Resources Tribal Government Liaison Committee. The Committee would advise the ARRT on tribal government matters, help form tribal area response teams (counterparts of the ARRT), provide research and educational support, information exchange, and communications support in conjunction with tribal governments to ensure that spill response measures are adequate and fully in place. The U.S. NRT should invest the necessary time and appropriate resources into finding safe and effective solutions.

The lessons learned from the BP Gulf of Mexico spill have resulted in no significant change in chemical agent plans as part of the U.S. National Contingency Plan (NCP). Current regulatory reviews are clearly inadequate and are not producing timely results. Any similar spill threatens key fisheries and would inevitably bring economic devastation to Alaska. There are no spill plans in place that would prevent or mitigate the catastrophic consequences of a major oil spill in Alaskan waters - nor, for that matter, are we prepared for another major spill in the Gulf of Mexico. The suggested revisions to the *Alaska Regional Response Team Oil Dispersant Authorization Plan*, as proposed, rely in large part on distance from shore and/or water depth as one evaluation gauge for the pre-approval of dispersant applications. Depth or distance from shore as a pre-approval criteria would unfortunately be counterintuitive in light of the unacceptable level of collateral damage done in the Gulf of Mexico by large subsea plumes of dispersant/oil mixtures resulting from the experimental approach applied to the BP oil spill response exercise there. The area of jurisdiction affected by the *Alaska Regional Response Team Oil Dispersant Authorization Plan* includes many remote coastlines and islands characterized by sensitive lagoons, estuaries, intertidal zones, and double beaches which would lie in the path of current or wind transport of oil/dispersant mixtures.

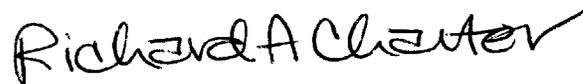
The BP Deepwater Horizon accident and subsequent events have provided a model for failure that should be avoided in any future similar situations. The spill response following the BP Deepwater Horizon incident was as much of a policy failure as it was a failure of preparedness. This tragic scenario included a systematic disregard for common sense safety measures, lack of attention to precautionary science, and an overwhelming disregard for the marine environment and for the regional economic sectors that are dependent on clean and healthy coastal ecosystems. Permission to discharge nearly two million gallons of a controversial solvent-based chemical dispersant into the Gulf of Mexico would not have been granted with such a cursory evaluation by any federal agency under normal conditions,

nor should it be pre-approved anywhere at this time.

In the context of the protracted nature of the BP Deepwater Horizon drilling disaster, the wholesale use of COREXIT was cited as the only hope for trying to protect marine and coastal habitats from the continual uncontrolled flow of oil released from the broken wellhead. A similar act of desperation should never again be allowed to happen anywhere, but particularly where the present inadequacies can be readily foreseen in Alaska's prevailing sea-states and meteorological conditions. Since our society is clearly unprepared to effectively respond to a major oil spill in the calm seas and generally cooperative weather conditions in the Gulf of Mexico, similar oil spill response efforts would prove entirely futile amidst the ice conditions, seasonal prevailing darkness, inadequate infrastructure, distant response locations, and severe storms of Alaskan waters subject to the *Alaska Regional Response Team Oil Dispersant Authorization Plan*.

Thank you for your concern for Alaska's communities and marine environment, and for this opportunity to comment on these matters.

Sincerely,

A handwritten signature in black ink that reads "Richard A Charter". The signature is written in a cursive, slightly slanted style.

Richard Charter
Senior Fellow
Coastal Coordination Program
The Ocean Foundation