



CHANGE OIL SPILL RESPONSE GLOBAL ALLIANCE
ALASKA DELEGATION

To: Alaska Regional Response Team Co-Chairs Mr. Chris Field, Mr. Mark Everett, interagency members, FOSCs EPA/Coast Guard, SOSCs , Science & Technology Committee members:

As duly authorized representation for federally recognized tribes in communities throughout Alaska,ⁱ we hereby formally and respectfully request (and demand) that the Alaska Regional Response Team enact immediate **preauthorization of Bioremediation Agent--Enzyme Additive Type**, (identified and listed as such on the EPA NCP Product Schedule) as an effective alternative to chemical dispersants for use in the event of an oil or other hydrocarbon based spill in Alaskan waters.

Having now become aware there is a proven and effective alternative to chemical dispersants, we are making this complete submission to the ARRT and all stakeholders to bring forth solutions for the dispersants dilemma—solutions that take into account the challenges and intricate requirements for Alaska spill response.

The U.S. Federal agencies exercising authority over Alaska environmental protection have a trust obligation to protect and preserve the health, welfare environments and natural resources in our region. Tribal governments throughout Alaska hold these agencies accountable for fulfilling this trust and are obligated to take action on behalf of their peoples to enforce this trust responsibility. This unique historical and political relationship is well articulated in federal statutes and presidential executive orders. Particularly relative to the environment, are the Clean Water and Air Acts which, per our analysis and studies, are very definitely violated when chemical dispersants are aerial sprayed and otherwise applied in oil spill cleanup in Alaskan waters. Of great concern are the most recent cases documented about severely ill cleanup workers on the BP oil spill in the Gulf of Mexico. These mounting documented cases, added to the list of our friends and

family members who, as workers on the Exxon Valdez spill, suffered ill effects and/or eventually died from exposure to Corexit and other Exxon clean up chemicals mixed with the oil, provide even more compelling reasons for giving your urgent attention to this submission.

While CFR 40 and OPA 90 govern the sector of emergency management dealing with toxic waste and oil spills, the management of Alaskan natural resources, which are vitally important to our food security for present and future generations, go beyond these regulations. The courts of this country characterize vital natural resources as being in a trust managed by government for future generations. A trust is an ancient legal concept in which one manages property for the benefit of another. Not only are federally recognized tribes empowered as natural resource trustees by law, they are on equal ground with federal agencies and the various states of the U.S. who also hold this same duty and obligation as trustees of the natural resources.

Should these tribal trustee's expressed concerns be ignored by the ARRT resulting in sensitive ecosystem destruction, irreparable harm, or cause extinction of wildlife species and natural resources, there is recourse in the national and international courts and in the public venue--the court of public opinion. But why waste time and resources engaging in that exercise? We urge you to consider a better way forward by suspending pre-authorization plans for chemical dispersant application to oil spills and enact already proven non-toxic methods.

It is clear that the pre-authorization, advocacy of, or continued use of chemical dispersants in Alaskan waters—given the significant number of scientific studies showing negative human health, wildlife, natural resources and other environmental impacts—would constitute a willful and conscious act of environmental harm and, in some instances, damages and harm to life residing within or near said waters. At minimum, using dispersants amounts to adding pollutants to our waters, in clear violation of the Clean Water Act, which carries heavy fines. Anyone serving on the ARRT could be held culpable because, after all, it doesn't come down to 'government' making the decision, it comes down to individuals who assess the data and make the decisions.

Herewith, we are presenting scientific evidence and data supporting a better way forward. We urge you to do an honest study of the attached information and citations which include a comprehensive compilation and summation of critical information relevant to ARRT's preauthorization plans for dispersants: the

Lawrence Anthony Earth Organization's (LAEO) recently published position paper entitled [*A Call for a Twenty-First-Century Solution in Oil Spill Response.*](#)

Further, we have provided documentation and science supporting and addressing all possible concerns that might be raised during your review of this formal request for the use of [*Bioremediation Agent--Enzyme Additive Type*](#), applicable for use in all Zones listed in ARRT's Unified Plan. An extremely important aspect of this information concerns a recent study conducted by the Department of Interior wherein a comparative analysis of Bioremediation Agent (EA Type), Corexit 9527 and 9500 and mechanical cleanup was conducted on dielectric oil. The tests clearly demonstrated that 'EA Type' was effective at remediating the oil and far exceeded the results of the Corexits which showed poor results as the water temperature decreased. Note that *detoxification* is not an EPA or DOI measure of dispersant effectiveness; surprisingly, it is officially gauged by whether or not it has the 'ability to sink 45% of the oil within 30 minutes' of application. Given that the Corexits did not pass the DOI effectiveness test in 40 degree or below waters, would bring to question the use of such agents in Alaska, even setting aside the fundamentally important issue of toxicity. Further, even EPA tests on weathered Alaskan Slope Crude using EA Type Bioremediation showed good results, which would indicate that the ARRT should bring this safer and more effective alternative into the Unified Plan.

In summary, this request is three fold:

- 1. Withdraw any form of preauthorization of chemical dispersants in Alaskan Response Plans. Immediately adopt our proposal for *Standardized Criteria Assessment and Sustainable Oil Spill Cleanup Methodology Selection*. (Addendum 1) Utilize this Standardized Criteria to properly assess the preauthorization plan for dispersants.**
- 2. Thoroughly review the documentation included herein with specific attention to the summary ([*Overview-A New Look at Oil Spill Response, An Analysis of the BP Macondo Spill Cleanup*](#)) and the complete 44-page position paper addressing alternatives to dispersants (*A Twenty-First Century Solution to Oil Spill Response*).**
- 3. Enact preauthorization of Bioremediation Agent--Enzyme Additive Type/OSE II as a fully qualified first response method that already meets all EPA efficacy requirements, extensive toxicity testing and assessment criteria laid out in Addendum 1.**

BIOREMEDIATION RESPONSE PLAN FOR ARRT UNIFIED PLAN

Further, the *Change Oil Spill Response Global Alliance* has already updated the NRT's Bioremediation Response Plan of 1997 for RRT VI. The update of this material includes specific plans for the use of Bioremediation Enzyme Additive Type Agent while also addressing where MC and NA Additive Types are applicable.

As part of this submission, we have included the complete Bioremediation Response Plan for inclusion in ARRT's Unified Plan.

This is an opportunity to come to the table together and to have open and honest discussions that will lead to constructive action, including correcting the errors in scientific data and protocols published in contingency plans about Bioremediation Agents, and in particular correcting the mischaracterizing data about Bioremediation sub-category EA Type Agents. We understand your ongoing update of Dispersant Use Plans is well in progress and are therefore submitting this improved guidance by which to reassess that plan while concurrently presenting an alternative and workable methodology to replace dispersants.

No review of this Bioremediation guidance (which has in effect served to misguide FOOSC's and all stakeholders) would be complete without a review of the 18 toxicity tests and library of materials documenting the more than 23,000 successful applications of *Bioremediation Agent, Enzyme Additive Type* and, in particular, in marine environments. Please see attached information summarizing the efficacy of OSE II-the only agent of this type currently listed on the NCP Product Schedule at this time. (Attachment and [Technical Library](http://osei.us/) at: <http://osei.us/>)

In light of the growing scientific consensus and doubt around the inadequate results of Corexit/dispersant response methods used for the Deepwater Horizon disaster we and other private sector stakeholders stand ready to participate in and support this important review process. There is no doubt, and we think you'll agree, that contingency plans require updating and urgent revisions incorporating lessons learned on the BP spill response. Valid scientific studies (requiring no new testing, studies or expense) exist that can facilitate immediate decisions to immensely improve and modernize contingency plans for all regions. We would like to set an example in Alaska.

Additionally, as a matter of courtesy, I also wanted to make you aware that going forward we will be publicizing our correspondence and work on this project with the ARRT. There are literally hundreds of thousands of stakeholders, including oil company shareholders, who in the case of the EPA's enforcement of outdated 'science' and BP's 'we-have-no-other-choice' use of Corexit 9527/9500, experienced billions of dollars in avoidable damage and resultant share value financial losses. We will also share the progress of this initiative with federal interagency officials and Tribal Councils throughout the United States.

We and all those represented herein ask for an immediate response to this request in light of your intention to move forward with the issuance of dispersant use plans and preauthorization.

STATEMENTS FROM SCIENTISTS AND PROFESSIONALS

"Our waters, fish, peoples, wildlife, and productivity of subsistence resources are threatened by imminent oil spills in harsh Arctic conditions; the government pre-authorizing toxic chemical dispersants adds to the toxicity in the water column after an accidental release of hazardous oil, and the intentional use of chemical dispersant substances is a malicious action threatening to harm subsistence use of the environment for future generations." **Carl Wassilie, Yupiaq Biologist with Alaska's Big Village Network.**

*"Committing to clean up oil spills after they happen is insufficient. Precaution and nation to nation Tribal Government Consultation and free, prior, informed consent **must** be enacted before hasty implementation of a policy of pre-authorizing toxic chemical dispersant substances in oil spill contingency planning. Why have less toxic bioremediation methods with a 20-year track record of effectiveness been ignored by the Alaska inter-agency Regional Response Team? Prevention of the potential of oil pollution in the Arctic marine environment is crucial for Tribal Governments in Alaska and throughout the Arctic. The Nuuk Declaration established a task force to develop, and I'm quoting: "an international instrument on Arctic marine oil pollution preparedness and response..." The Senior Arctic Officials and Permanent Participants of the Arctic Council have discussed this at length. We are aware of the prospect of a blow out or major tanker accident. "* **Chief Michael Stickman of Nulato—International Chair of the Arctic Athabaskan Council**

"Federal pre-authorization of toxic chemical dispersants coupled with the State of Alaska's legally questionable water right permitting process could only be seen as a bold attack on the rights of citizens and Tribes to protect inherent sovereign pre-existing and human water rights throughout Alaska." - Hal Shepherd Executive Director Center for Water Advocacy

"Altitude, vegetation, good climate and rich soils have combined to contribute to the development of subsistence livelihood as the most vibrant sector of the economy and the sector from which most of the Alaskan population derives their sustenance, nourishment and means of support for their families and communities. " There is no need or purpose for pre-authorizing the

use of toxic chemicals where we harvest our foods!" - **Emily Murray Norton Bay Inter-Tribal Watershed Council**

"Pre-Authorizing Chemical Dispersants in oil spill contingency planning anywhere within Alaska is unconstitutional and legally questionable. Our Tribal indigenous rights in Alaska to fish are protected like in no other State Constitution. The first consideration for the waters of the lakes, the rivers and oceans are to be reserved to protect and promote healthy fisheries, forever. Fisheries and wildlife are considered to be of esthetic, ecological. Educational, historical, recreational, scientific value to the Nation and its peoples, and our peoples have rights of first in time and first in line to the resources we use and hold with spiritual, cultural and historical value." **Alaska Inter-Tribal Council: Delice Calcote, Executive Director**

Respectfully Submitted,

Alaska-Change Oil Spill Response Alliance Delegation:

Nikos Pastos - Delegation Spokesperson - Center for Water Advocacy
907-764-2561 or 406-459-1829

Delice Calcote - Alaska Inter-Tribal Council - Executive Director
907-563-9334

Carl Wassilie - Alaska's Big Village Network (Biologist)
907- 382-3403

Jess Lanman - I.C.E. (President, hunter, fisherman)
907-903-6223

Hal Shepherd - Center for Water Advocacy - Executive Director
907-764-2561

Emily Murray - Norton Bay Inter-Tribal Watershed Council (Board Member)
907-299-8821

Michael Stickman - Arctic Athabaskan Council – International Chairman
907-563-9334

Nelson J. Godoy - Faces of Hope Community Services - CEO/Chairman
907-764-1871

Barbara Wiseman - Lawrence Anthony Earth Organization (LAEO) – International
President 818-769-3410

Diane Wagenbrenner – Lawrence Anthony Earth Organization (LAEO) - Advisory
Board 818-769-3410

ⁱ The Alaska Inter-Tribal Counsel advocates for more than 200 federally recognized tribes throughout Alaska. The list of tribes that have enacting resolutions to ban dispersants thus far:

1. Atmaultluak Traditional Council
2. Village of Bill Moore's Slough
3. Curyung Tribal Council
4. Native Village of Kaktovik

-
5. Nunakauyak Traditional Council
 6. Native Village of Unalakleet
 7. Norton Bay Watershed Council: Elim
 8. Norton Bay Watershed Council: Koyuk
 9. Norton Bay Watershed council: Shaktoolik
 - 10: Norton Bay Watershed Council: Unalakleet