

## Briefing for PWSRCAC Board of Directors – May 2022

**INFORMATION ITEM**

**Sponsor:** Danielle Verna & Betsi Oliver

**Project number and name or topic:** 9550 Dispersant Use Position Update

1. **Description of agenda item:** This is an information item to provide the Board an update on the ongoing project to review and consider updating the Council's position on the use of dispersants in the event of an oil spill in our region. This project was initiated in fall 2020, followed by several meetings of the project team and Scientific Advisory Committee to frame the project and review the latest research on dispersants. A facilitated workshop for Board members was held on March 10, 2022, to discuss the regulatory framework and science of dispersants. The outcomes of that workshop and the next steps of the project will be provided in this update, including opportunities for Board members to continue to engage and provide input on a draft position statement.

2. **Why is this item important to PWSRCAC:** Under the Oil Pollution Act of 1990 (OPA 90), PWSRCAC is authorized to participate in the development of plans and policy guidelines used in oil spill response. Chemical dispersant use has been a longstanding controversial topic. The use of dispersants may impact the health of marine resources and human health. The use of dispersants also may compete with mechanical response for time and resources. PWSRCAC has invested significant effort to sponsor dispersants research, review and keep records of dispersants research, and keep track of relevant regulations and policies governing dispersants use in our region.

The Council's current dispersants use position was confirmed in 2006 and does not support the use of dispersants in our region. Since then, much more scientific research on dispersants has been conducted and many lessons resulted from using dispersants during major spills such as the 2010 Deepwater Horizon. This project to review and potentially update the Council's 2006 dispersants use position and supporting documentation is timely due to how much more is known about dispersants today.

3. **Previous actions taken by the Board on this item:** Only actions that have occurred since 2001 are noted here. All historic actions pertaining to this agenda item are available for review upon request, including the previous Council positions from 1998 and 1993.

<u>Meeting</u>	<u>Date</u>	<u>Action</u>
Board	2/22/01	Approved the report on dispersant effectiveness tests by Adam Moles of Auke Bay Labs.
XCOM	6/22/01	Approved report "The Effectiveness of Corexit 9527 and 9500 in Dispersing Fresh, Weathered, and Emulsion of Alaska North Slope Crude Oil Under Subarctic Conditions."
XCOM	5/3/02	Approved the report titled, "A Review of Literature Related to Oil Spill Dispersants Especially Relevant to Alaska" by Dr. Merv Fingas.
XCOM	5/30/02	Approved the paper "Dispersants: Many Questions, Few Answers" for distribution at the 2002 AMOP.
XCOM	7/25/02	Approved "A White Paper on Oil Spill Dispersant Field Testing" by Dr. Merv Fingas.

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XCOM	10/9/03	Approved the report titled "Review of Monitoring Protocols for Dispersant Effectiveness" by Dr. Merv Fingas.
XCOM	10/28/03	Approved the October 6, 2003 SAC position on Dispersant use.
XCOM	12/15/05	Approved the report titled "Dispersants, Salinity and Prince William Sound."
XCOM	2/7/06	Approved the report titled "A Review of Emulsification Tendencies and Long-term Petroleum Trends of Alaska North Slope (ANS) Oils and the White Paper on Emulsification of ANS Crude Oil Spilled in Valdez."
Board	5/2/06	Approved PWSRCAC Dispersant Use Statement.
XCOM	6/13/06	Approved the reported "Observers' Report: MMS Cold Water Dispersants Test conducted at the OHMSETT testing facility, February 28-March 3, 2006."
XCOM	12/11/06	Approved the report "Field Notes and Critical Observations from the OHMSETT Heavy Oil Dispersant Trials, October 13-16, 2003."
Board	1/22/09	Approved the dispersants literature surveys "A Review of Literature Related to oil Spill Dispersants 1997-2008", "A Review of Literature Related to oil Spill Dispersants Especially Related to Alaska 2002-2003," and the Solidifiers Literature Review titled "A Review of Literature Related to oil Spill Solidifiers 1990-2009."
Board	9/16/10	Approved the issue paper on the use of dispersants in the BP Deepwater Horizon spill.
Board	9/15/11	Approve contracting with University of Southern Maine not to exceed \$70,000 for work on the toxicology of chemical dispersants in Alaska whales.
Board	9/15/11	Approve contracting with the Skidaway Institute of Oceanography at a cost of \$14,520 for work on the uptake and effects of dispersed oil droplets by zooplankton.
Board	5/3/12	Approved contracting with Spill Science for a comprehensive monitoring program for a cost of \$48,000.
Board	7/23/12	Approve contracting with NJIT for \$183,100 for dispersed oil biodegradation.
Board	5/2-3/13	Accept DFO final report on dispersed oil effects on salmon, cod, and herring.
Board	5/2-3/13	Accept final report on hydrocarbon uptake by spot shrimp from Dick Lee of the Skidaway Institute of Oceanography.
Board	1/23/14	Accept "Analysis of Oil Biodegradation Products" by Merv Fingas.
XCOM	4/16/15	Approve comments to EPA on Subpart J, Dispersants.
Board	5/17/16	Approved the report titled "Toxicology of Chemical Dispersants in Alaskan Whales"
Board	5/2016	Accept Dispersants SMART Monitoring Protocol document.
Board	3/7/17	Authorized a contract with Merv Fingas for the development of a comprehensive synthesis of dispersants research in an amount not to exceed \$65,000.
Board	5/3/18	Accepted the report titled "A Review of Literature Related to Oil Spill Dispersants, June 2017" by Merv Fingas of Spill Science, and the general version of the report titled "A Review of Literature Related to Oil Dispersants, September 2017" by Elise DeCola of Nuka Research & Planning Group, LLC.
XCOM	6/14/18	Approved report titled "A Review of Literature Related to Human Health and Oil Spill Dispersants."
Board	9/16/21	Accepted report titled "A Summary of Dispersants Research: 2017-2021" by Merv Fingas of Spill Science.

4. **Summary of policy, issues, support, or opposition:** In June 2020, a U.S. District Court Judge ruled that the Clean Water Act imposes on the EPA a mandatory duty to maintain an up-to-date oil spill response plan that reflects current science and technology. In August 2021, the court ruled that the EPA violated that duty since the relevant regulations have not been updated in more than 25 years. The EPA must now update and finalize its regulations, which includes the use of dispersants, by May 31, 2023. In July 2021, the EPA released a final rule on monitoring requirements for use of dispersants in Subpart J of the National Oil and Hazardous Substances Pollution Contingency Plan effective January 2022.

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PWSRCAC provided extensive comments during the Alaska Regional Response Team planning effort to establish new policy for use of dispersants in state waters, which was adopted in January 2016 and presented to the Board by Linda Swiss in May 2016.

There appears to be strong support in updating the Board's position based on new information and science, based on the fairly high ranking this project received by the Board in the Long Range Planning process (rank 5 out of 17).

5. **Committee Recommendation:** Not applicable; this is an information item only.
6. **Relationship to LRP and Budget:** Project 955 – Dispersants is in the approved FY2022 budget and annual workplan.

### 9550--Dispersants

As of March 23, 2022

#### FY-2022 Budget

Original	\$32,000.00
Modifications	\$15,070.00
Revised Budget	<u>\$47,070.00</u>

#### Actual and Commitments

Actual Year-to-Date	\$18,665.00
Commitments (Professional Services)	\$28,405.00
Actual + Commitments	<u>\$47,070.00</u>

Amount Remaining	<u>\$0</u>
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7. **Action Requested of the Board of Directors:** There is no action requested of the Board of Directors at this time. Additional work sessions to discuss the dispersants position update will be held prior to the September Board meeting for Board members, SAC members, and the project team. Board members are encouraged to attend. The dates and topics for these work sessions will be communicated at this meeting.
8. **Attachments:** None.