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Date June 30, 2012

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Re: OSEI email response to EPA/RRT6 email of 5 2 2012

Dear Sirs,

Thank you for taking the time for our recent phone conference and to write your letter of 5/2/2012 outlining a means of how we will move forward to obtain pre-approval for OSE II – a Bioremediation Agent in the sub-Product Type (EA) Enzyme Additive for use in US navigable waters. This discussion *excludes* Microbiological Culture MC and/or NA combined types containing non-indigenous organisms in the bioremediation category which your Science Committee rightly has concerns about.

And, to be clear: separately, we will follow your designated path to obtain immediate authorization for OSE II use in cleaning up the ongoing threat of Macondo Block 252 Oil and Corexit still residing in the Gulf.

Henceforth, I would like to address these two formal requests—1) permanent pre approval, and 2) immediate authorization for application to rescue the Gulf and return it to pre-spill conditions—*separately* in

correspondence to eliminate any possible confusion such as may have occurred in your thinking that the 'Shell Oil' spill was a shifted course of action for OSEI Corporation. I assure you it was not, given the fact that we know the 10 mile slick that Shell said was not their doing was, in fact, Macondo 252 Block Oil.

Let me preface this response to your letter with one qualifier: OSEI Corporation has complied with not only all procedures outlined in your 5/2/2012 letter many times over during the course of our 23 year history with the U.S. EPA, but all requirements stated in C.F.R. 40. I am intimately familiar with C.F.R 40 regulations.

For the record and benefit of all copied on this letter, I am addressing your 5/2/2012 communication (attached) on a point-by-point basis. Some of the information herein may have been repeated elsewhere and possibly is redundant for you directly, but is necessary as a frame of reference to gain full understanding for those not familiar with our 23 year history of correspondence who will read this.

Unfortunately, your latest guidance in said 5/2/2012 letter and conference call shows a complete inability of the EPA/RRT6 to follow the regulations laid out in Subpart J C.F.R. 40 Part 300.910 that you have quoted several times now. For instance, you indicated that pre-approval cannot be obtained for an individual product, but must be a product category, e.g. dispersants, bioremediation agents etc. I need to again point out that it is offensive for anyone in the EPA to keep quoting regulations I know as well or better than they do! Case in point - C.F.R 40 states pre-authorization/pre-approval can absolutely be obtained for SPECIFIC PRODUCTS. (See: ***300.910*** *99* ***§*** *copied below)*

While the means to get a product on the NCP is specified in the regulations you have quoted, there is no spelled-out process to get a product pre-approved as has been done for dispersants (aka Corexit 9527 and 9500). Since regulations designate the need to stock pile dispersant product for FOSC decisive action, how many NCP listed dispersant products of the 18 listed have 150,000 gallons on hand (or any staged for that matter) based on numbers published in contingency plans? Guidance for ACPs, OSC and Coast Guard (see Development of a Dispersant Doctrine in the Gulf of Mexico) while stipulating plans for use of dispersants tell the story of what takes place on the ground in the real world of oil spill cleanup--specific

supplier partnerships that by track record appear to only be the Corexit dispersant products—which appears to implicate de-facto-debarment.

Your regulation does stipulate that the RRT and the Area Committee are to perform pre-planning with

> *"RRTs and Area Committees shall address, as part of their planning activities, the desirability of using appropriate dispersants, surface washing agents, surface collecting agents, bioremediation agents, or miscellaneous oil spill control agents listed on the NCP Product Schedule, and the desirability of using appropriate burning agents. RCPs and ACPs shall, as appropriate, include applicable preauthorization plans and address the specific contexts in which such products should and should not be used. In meeting the provisions of this paragraph, preauthorization plans may address factors such as the potential sources and types of oil that might be spilled, the existence and location of environmentally sensitive resources that might be impacted by spilled oil, available product and storage locations, available equipment and adequately trained operators, and the available means to monitor product application and effectiveness. The RRT representatives from EPA and the states with jurisdiction over the waters of the area to which a pre-authorization plan applies and the DOC and DOI natural resource trustees shall review and either approve, disapprove, or approve with modification the pre-authorization plans developed by Area Committees, as appropriate. Approved preauthorization plans shall be included in the appropriate RCPs and ACPs. If the RRT representatives from EPA and the states with jurisdiction over the waters of the area to which a preauthorization plan applies and the DOC and DOI natural resource trustees approve in advance the use of certain products under specified circumstances as described in the preauthorization plan, the OSC may authorize the use of the products without obtaining the specific concurrences described in paragraphs (b) and (c) of this section.* ***§ 300.910*** *99* ***§ 300.915***
>
> *(b) For spill situations that are not addressed by the preauthorization plans developed pursuant to paragraph (a) of this section, the OSC, with the concurrence of the EPA representative to the RRT and, as appropriate, the concurrence of the RRT representatives from the states with jurisdiction over the navigable waters threatened by the release or discharge, and in consultation with the DOC and DOI natural resource trustees, when practicable, may authorize the use of*

dispersants, surface washing agents, surface collecting agents, bioremediation agents, or miscellaneous oil spill control agents on the oil discharge, provided that the products are listed on the NCP Product Schedule. "

In our experience, and by your own documentation, RRT VI initiated and coordinated the preapproval process for dispersants, soliciting cooperation with all Area Committees/members, member agencies, all stakeholders, and all concerned. However, you have failed to do this in conjunction with the Area Committees/members; member agencies and all stakeholders, et al, for Bioremediation Product Type EA (especially OSE II despite innumerable requests by authorities). By this, you have violated U.S. laws (the very regulations you continually cite) by only performing this for dispersants and then, only authorizing a single source for a dispersant product (Exxon/Nalco's Corexit) to be staged and used for the last 23 years, effectively creating a monopoly for Exxon's Corexit product. This is your undeniable track record.

If one compares the millions spent and huge number of resources and time invested to maintain the infrastructure required to support NCP, RCP and ACPs that center around the use of dispersants such as Corexit—now clearly understood, based on conclusive science studies, to be harmful to all life it comes in contact with—compare that to the ease and simplicity, reduced cost and most of all beneficial non toxic effects of OSE II or other similar [Bio EA] agents and it appears the EPA and all concerned have been blinded by and complicit with Exxon′s quarter of a century effort involving the distribution of false science and disinformation to protect their interests. Only the willingness to do an honest review of the actual science and end results will enable the many sincere, hard-working people in the EPA, Coast Guard, et.al, to get beyond the fixed ideas holding ineffective response plans in place. Liken this to what it took to convince people the earth was not flat only a few hundred years ago—open your minds to the possibility that it could be round! We′re merely insisting that you put in equal effort to that which was applied to gain cooperation for pre-approval for dispersants, to advancing spill cleanup using superior technology and enacting pre-approval for OSE II.

With this in mind I am also insisting that you include the Bioremediation protocol the EPA developed in 1992 (but left out) in 40 CFR. This protocol

was developed in and around the same time you developed the dispersant protocol which is published in 40 CFR. This is the same protocol that I delivered to Congressman Franks' office 30 minutes after an EPA official in Washington told Congressman Franks "the reason the EPA was not allowing the use of OSE II is because they did not have a protocol". I believe it is against the law for an employee of a federal agency to lie to a U.S. Congressman. (If you need help updating this protocol around Bioremediation Product Type EA, you may request this of the OSEI Corporation, as was done in tandem with Exxon for dispersant preapproval protocol.)

In our recent phone call, you seemed quick to point out that you knew of the spill that was reportedly from Shell Oil but, because they stated it was not theirs, you and the Coast Guard did not address this spill, but allowed unmitigated hydrocarbons to destroy natural resources and to compromise the environment. Reason given: 'There was no responsible party to make a formal request to obtain permission to clean it up' hence OSE II could not be authorized to clean it up [we all understand this logic right?]. It is absurd that you yourselves and the Coast Guard know of a safe and effective means to address these spill types. OSE II which has been repeatedly tested by Area Committee Members, DOI, EPA scientists, et al, and demonstrated its efficacy in being more then qualified for inclusion in NCP, RCPs and ACPs. At best the question becomes, 'why was there no action taken on this spill?' Certainly wouldn't cleaning up such a spill (which would be paid for through the oil pollution fund the EPA established off the tax payer's backs through the use of fuel), qualify as under the jurisdiction of the EPA to urge proactive measures should the FOSC not act?

The "no action" on this recent 'Shell' spill points out a clear failure to carry out your obligations; just one instance of many that we have filing cabinets of documentation on!

Here's a question: you mention in your letter (contrary to our conversation) there was no action taken and that Shell was not the responsible party, yet now in said letter you are saying they "did respond to the sheen". Why would a large oil company 'respond to a sheen' that was not their doing? We understand their response was limited to skimming which would have handled only approximately 8% of the spill at best.

Your second paragraph is incorrect, I did not agree to a singular discussion concerning the Shell spill. Our conference call conversation covered the Shell spill, but mainly had the purpose of discussing my formal request (originally sent in July 2011) for the immediate authorization for usage of Bioremediation Agent (EA) -- OSE II for BP and/or the Gulf affected states for the ongoing BP spill and for the permanent pre approval of our Product Type to gain equal access to spills such has been given to Exxon/Nalco's products Corexit 9527 and 9500.

The next statement you make in regards to the regulations is as unnecessary as most of your quoted regulations statements; however, since you brought it up, I will discuss it. You state:

> *"The federal regulations state the Federal On-Scene Coordinator (FOSC) may approve the use of such agent, with concurrence of the Regional Response Team (RRT) representatives from EPA, the states with jurisdiction over the waters threatened by the discharge, and in consultation with the appropriate Department of Commerce (DOC) and Department of the Interior (DOI) natural resources trustees."*

The FOSC's own agency reviewed OSE II in Groton and stated: "take action with OSE II" and this was the second such letter pertaining to the Groton Coast Guard review of OSE II stating to the FOSC to take action with OSE II; the first being for the Valdez spill. So the FOSC's and their agency have requested the use of OSE II twice on the two largest spills in U.S. history.

In early May 2010, the FOSC asked Sam Coleman about the request for the use of OSE II and Sam Coleman stated "OSE II is not on the NCP list", so the FOSC did not pursue the request for the use of OSE II. If the EPA misleads the FOSC, then this is not an acceptable way to state there was never a request from the FOSC. You have to take into account there would have been a request if the FOSC had not been mislead! OSEI Corporation emails forced Sam Coleman to correct his misleading information and he eventually recanted his misstatements, but still did not address the request from the FOSC.

There is really no place for uneducated responses from EPA personnel in regards to the NCP list and all aspects of a spill, acting in any capacity in a spill emergency. Coleman should have known what was on the EPA NCP

list and when and how he could access it for spills. At the time the Deepwater Horizon disaster occurred, there were only 11 bioremediation products on the NCP product schedule, (one of them completely non-toxic - OSE II). Per the FOSC's letter to Governor Jindal regarding 'not using any bioremediation products' on this spill that introduced microbes into the area, that left only one non-toxic product on the list that fit the requirements they said they were looking for: again, OSE II. Coleman's apparent lack of familiarity with the very list that is supposed to act as his guideline for which products are available for use in oil spill disasters has in effect caused billions of dollars in natural resource damages, loss of income and compromised human health. Had the FOSC transmitted the request for the use of OSE II through the EPA's Sam Coleman, as you suggest, then OSE II could have been allowed and saved untold natural resource damage, the seafood industry, the tourism industry, the economy of the Gulf states most impacted, the environment, and prevented the massive epidemic of toxic chemical poisoning that is occurring on the Gulf public currently. Possibly under trying circumstances and emergency pressure, one's memory could slip - but all subsequent attempts by OSEI Corporation to get this corrected have been met with no response from Coleman or anyone else.

To further illustrate the point that C.F.R 40 procedures have been followed by OSEI, the Governor of a state, three state senators, as well as one Gulf city council, all representing stake holders in the BP spill, made the same requests for OSE II through the FOSC. There were over 11 demonstrations of OSE II on the BP spill to state and federal government representatives, including EPA officials, which showed effectiveness in not only remediating the oil, but also in remediating the *toxic* 'oil-hiding-agent' Corexit. This included one major test by the responsible party, as well as three separate requests by the responsible party per a letter we received from BP's North American General Counsel Jack Lynch. Additionally LA DEQ made several requests for the use of OSE II, and, after the last request, when Sam Coleman once again verbally stated "no", Sanford Phillips from LA DEQ demanded that Coleman put his refusal and reasons in writing—a request that Sam Coleman ignored. In fact the U.S. EPA, Lisa Jackson, Dana Tullis, Nancy Jones, Craig Matheson, Craig Carroll, Sam Coleman and other EPA officials all were party to either stating 'no' or ignoring every single request for the use of OSE II from the states who were trying to protect their states' natural resources. Senator Crowe of Louisiana requested to use OSE II and non-toxic bioremediation products from Mary Landry, the FOSC at the time, while sitting in her office. The fact that you are now stating the

FOSC failed to forward this stakeholders' direct request suggests that the FOSC Mary Landry was derelict in her duties. Is this correct?

Senator Crowe also made a direct formal request in writing to the Unified Command, which he was led to believe was presented to Sam Coleman/ EPA/RRT VI. Are you now stating he was lied to about his formal request?

Senator Crowe also sent a certified request to the President of the United States Barack Obama, the person the FOSC ultimately gets their orders from, and the person directly responsible to the public, through his oath of office, to protect the natural resources and the health, safety and welfare of the U.S. Senator Crowe requested that Corexit stop being used and that OSE II and any other effective, non-toxic bioremediation products be immediately implemented instead. There was no response from the EPA to his formal request, although, again, the EPA has the delegated responsibility from the President of protecting the natural resources and health, safety and welfare of U.S. citizens. It is hard to believe this was not acted upon or, at the minimum, responded to and, likewise, difficult to understand why.

The EPA, in essence, has contributed to and with the responsible party to natural resource damages caused by the use of Corexit and subsequent expense of this damage since the spill. BP was not permitted to utilize the world's most effective non-toxic, safe-for-responders means to convert 100% of an oil spill to CO2 and water (or any non-toxic product), leaving them financially liable for untold, disastrous public health consequences and natural resource damages. And the EPA forced the states to take the proven poison pill that destroys natural resources and spreads the adverse impact of a spill to the water column, seabed, the shoreline, and beyond (now proven by scientists finding Corexit in 80% of the pelican eggs on the island in Minnesota), which has all happened from this spill and has compromised millions of coastal residents' health and lives.

MISCHARACTORIZATION OF OSE II

Regarding your next statement, "*There was no such request; therefore, EPA does not have the authority or capability to approve or direct such use*.": we have considerable documentation indicating proper channels for requesting the use of OSE II have in fact been used repeatedly over the years including during the DWH disaster, however long standing mischaracterization of

OSE II by NOAA trustee Charlie Henry and specific EPA officials (Sam Coleman et al) who are notably incapable of reviewing our submissions and data with impartiality and, whom have never done an honest study of our documentation and scientific testing and are therefore misinformed (to the extent they have "the world is flat" thinking) has resulted in FOSC's being fed false data perverting the decision making process.

For instance, I have a document from Mr. Goetzee of the Coast Guard discussing the request from BP to the FOSC who presented said request to the EPA/RRT for the use of OSE II in field tests. Therein Dr. Tsao correctly sent BP's request to the FOSC [exactly per your recent 5/2/2012 instructions to OSEI *'FOSC makes the request for use through the RRT']*, however, FOSC/RRT relayed back to Tsao: "BP could not make a direct request from FOSC to RRT 6" laying out another routing for such a request all together. Inclusive in this reject of the submission was EPA/RRT VI's mischaracterizing statements about OSE II back to BP. BP was in fact following channels outlined in CFR 40 yet RRT rejected their request deferring for "vetting" and in effect changing procedures which delayed action during emergency conditions.

You should not blatantly lie; this Tsao request *was* correctly sent and received, but denied by the EPA/RRT VI, as all the other requests have been. At the same time Gulf State stakeholders were forwarding numerous requests to the FOSC's and the EPA and there was still no action to change the response to OSE II or permit its use in even controlled demonstrations, although, as I stated, the Gulf States wanted it. The EPA has overridden states' rights, which is illegal, through the manipulation of an EPA/RRT who thinks it has jurisdiction over states because of a regulation. Per the U.S. Constitution, it, nor its representatives, do not!

Documents we have also show that the EPA and NOAA have in effect arbitrarily put all bioremediation into a secondary and 'months later' phase response category of "alternative technology" which in itself would prevent voting on or discussing the safer, proven more effective first clean up response option of OSE II (Bioremediation Agent EA) during the emergency phase of the DWH disaster. This has colored the decision making process of all stakeholders and arbitrarily shut out any other options but dispersants and by track record the continued use and staging of Corexit—obviously debarring any other product from inclusion in ACPs, RCPs and/or the NCP.

As repeatedly quoted 40 CFR part 300.00 states: "*"RRTs and Area Committees shall address, as part of their planning activities, the desirability of using appropriate dispersants, surface washing agents, surface collecting agents, bioremediation agents, or miscellaneous oil spill control agents listed on the NCP Product Schedule, and the desirability of using appropriate burning agents. RCPs and ACPs shall, as appropriate, include applicable preauthorization plans and address the specific contexts in which such products should and should not be use."* This regulation was clearly not followed in light of our documentation showing Sam Coleman, and Charlie Henry making mischaracterizing statements in regards to OSE II's mode of action ['being like a dispersant']. As I have stated before OSE II was forced by the EPA to perform a dispersant test (available in our Science Library on OSEI website) which clearly shows OSE II has ZERO (0) effectiveness as a dispersant, and as you know Dr.Taso proved this in a test with Sam Coleman and Charlie Henry and others. What this does show is that those members of EPA/RRT VI entrusted with conducting a due diligence review of the product, were seemingly so inept at their jobs, they had no idea what bioremediation products were and what they do, at least on the surface that is what they seemed to be doing --playing stupid. However, on the contrary, EPA/RRT VI had practical use and knowledge of 100's of applications of OSE II near shore and in a sensitive bay and therefore had direct knowledge of there being no problems with the use of OSE II. Yet it appears the mischaracterization of OSE II was injected into every attempt made to get it used casting aspersion which in effect blocked action and colored all communications. These actions are being brought to public attention and are clearly noted—the fact that during a spill of national significance when you should be using every response tool possible the EPA set up a ridiculous tier review, and protracted test schedule to see if a bioremediation product (with an already established track/test record) could be used. In fact, the EPA with BP scheduled a 6 month review, and then at the end of the 6 months of tireless work and effort by BP's Team and other stakeholders, the EPA would not permit any bioremediation and specifically used slanderous innuendo to deter the use of OSE II during this process.

By your actions and your own documentation, the NCP, RCPs and ACPs; training manuals and job guides, have the grave omissions of Bioremediation Agent (EA) protocols and guidance while heavily slanted towards and favoring toxic dispersants/Corexits for first response. And, when local stakeholders, Area Committees and agency member reviews have urged the consideration and use of OSE II and/or other bioremediation

agents, nothing ever comes of it.

I assure you that I will now be taking your guidance and decidedly will work with your Science and Technology Committee (in all due respect must exclude Charlie Henry) to ensure this course does not again dead end and that contingency plans have the correct information, science and methodology for non-toxic first response options such as OSE II. By their current omission, despite being required in CFR 40, the same scenario as the DWH after-effects will play out--dead, dying or mutated life forms at every point on the food chain as a byproduct of ineffective response.

The other problem with hiding behind the FOSC process action you prescribe we should have followed [and did] is: if the FOSC is *not* forwarding the requests, then they are not doing their intended job; and if *they* are not doing this, since the EPA knew first hand from Senator Crowe's, Governor Jindal's, and Sanford Phillips' direct requests (Governor Jindal even requested through the NRT), then it is incumbent on the EPA to move forward without the Coast Guard. The Coast Guard was not given the delegated charge of protecting the natural resources and the health, safety and welfare of the U.S.; the EPA has that delegated charge. And, if any federal group or agency prevents this, then it is the EPA's job to do what is delegated to you by the President despite any after thought of any regulation, or obviously flawed process that prevents the EPA from carrying out this delegated charge. You are responsible NO MATTER WHAT; not the Coast Guard. So, if they do not forward the stakeholders' or responsible party's requests, then you have to take over and fulfill your delegated charge - a responsibility which you cannot shirk by putting off on someone else.

Recognizing this inherent responsibility, EPA/RRT VI, by historical record, initiated and coordinated the pre approval of dispersants in 1995. Hence, there is a precedent you can follow. Why is EPA/RRT VI now refusing to help with the pre approval process for an effective alternative to toxic ineffective chemical dispersants, especially in light of two years of scientific tracking and findings now showing less than desirable results using Corexit?

In summary, the regulations were followed by OSEI Corporation and the RRT VI officials named above and the U.S. EPA, STOPPED THE PROCESS WITHOUT JUSTIFIABLE REASON!

Herewith, I am reissuing my formal request for the immediate

concurrence and or authorization for the use of OSE II for BP and or the affected Gulf states for the ongoing BP spill which has, predictably, continued to flow Corexit-laden oil, tar balls and oil mats to the Gulf States' shorelines. Given we have complied with all regulations, I expect an immediate response to this formal request, again restated here and originally submitted July 2011 to the EPA/RRT VI.

As an important note, the US EPA should be held equally culpable with BP for all the natural resource damages, compromised health, and loss of business income from the destructive, antiquated, horrifically toxic response you would not allow to be changed. No dispersants add any benefit to a spill response, but merely hides the problem, and the public now understands this. Yet the Area Committees are still discussing Corexit as though it continues to be the appropriate response, staging of the product, and solidifying this response method in their plans. Given that all products with 2 butoxy ethanol and dispersants have proven to create disastrous effects, how could you as an agency continue to even remotely consider allowing this in U.S. navigable waters, when both Corexits have proven from field use to contain mutagenic, teratogenic, genotoxic, and carcinogenic compounds that, as clearly stated in the Clean Water Act, cannot be used in U.S. navigable waters? Your recent EPA Science Newsletter, published in April 2012, just reasserted the EPA's position in favor of and justifying the use of dispersants as safe and effective. Dispersants and especially Corexit 9527A and Corexit 9500A are both a violation of the public's wants and policy and defy common sense since their use has proven to 1) be of no real benefit other than sinking the oil beneath the surface, 2) make the situation exponentially worse, and 3) are utterly ineffective in returning the area to pre spill conditions. I recommend you quit, mis-stating the same old regulation and look at what the Clean Water Act states about your decisions.

The EPA, in recent publications, has stated they want farmers to address potential small spills from their fuel tanks; at the same time, you, the EPA, is purposefully allowing, and continuing to promote the use of Corexit in the nation's navigable waters - a product that is far more harmful than any fuel. You have not equally applied your rules and regulations; therefore, *none* of your laws or regulations are enforceable.

Based on true science, as well as Corexit's long track record

demonstrating its catastrophic “tradeoffs”, for no real benefit, pre approval should be rescinded on Corexit and toxic chemical dispersants like it.

PERMANENT PRE APPROVAL REQUEST

The next point in your letter is even more telling. The EPA is hiding behind a process that is not in the regulations of 40 C.F.R. part 300. Your letter states:

> *"The RRT may also approve preauthorization plans for the use of bioremediation agents, if they are proposed by an Area Committee, with the concurrence of its representatives from EPA, the states with jurisdiction over the waters of the area where the preauthorization plan would apply, and the DOC and DOI natural resource trustees. The Region 6 RRT has received no such request by an Area Committee for preauthorization of the use of your product."*

It does not state in the regulations, as I pointed out, that a vendor should present their product to the Area Committee to be pre approved. It does state that the RRT and the Area Committee are to do pre planning with all categories, and the EPA has failed to fulfill this regulation. What is really troubling with this paragraph is that there is a 23-year track record between the EPA and OSEI Corporation/OSE II, and the EPA has shown no movement to improve oil spill response despite the facts indicating ready access to the millions of dollars worth of third party testing data available on OSE II to your Science Committee and all concerned. The truth is, you have known of a safer, more effective, and considerably less expensive alternative throughout this time period. You have now asked the OSEI Corporation, a vendor, to send our information to the Area Committee and have them review OSE II to present OSE II back to you the EPA/RRT VI, who has more scientific knowledge of and field experience with OSE II than the participants in the Science & Technology Committee: Charlie Henry of DOC/NOAA, Mr. Spencer of DOI and Michael Baccigalopi of the Texas General Land Office. You stated on the phone that Charlie Henry of NOAA is a credible scientist which I dispute where OSE II is concerned. But, like asking for a change of venue in a trial because there is not a chance for a fair trial in that location, I too am asking that Charlie Henry be excluded from the assessment and review process for Bioremediation EA OSE II pre approval, due to his known and expressed biased views.

Charlie Henry made a statement that he would not approve non-toxic OSE II

because it had a surfactant; yet he allowed both Corexit's, which both contain several toxic surfactants. It is apparent he has unequal concerns. I have since pointed out that his concerns were not warranted since, at the time, we had presented 14 toxicity tests that have been performed on OSE II showing that, no matter what OSE II contains, it will not harm the environment or the species in it. Since this time, we have discovered 4 new toxicity tests performed by Environment Canada that we had no knowledge of until recently. One of these tests was performed on a water flea species, and three tests on photo bacterium. The LC 50 was over 5,000 for each, which even shows OSE II is not toxic to single-celled organisms; so there would be no problem of using OSE II in marshes, estuaries, or mangroves. OSE II's use in marshes, estuaries, mangroves, shorelines, and deepwater areas in other countries has proven conclusively that it is absolutely safe. So, if you are utilizing Charlie Henry to thwart the presentation of OSE II to the RRT, I will absolutely take legal action against
him for any additional unfounded innuendo, or mischaracterizations of OSE II. For that matter, I will not tolerate this from anyone in the U.S. federal government, or otherwise.

In September of 2010, Sam Coleman tried to discredit the use of OSE II through innuendo, as well, and was easily shown at the time to be disingenuous after making his statement that he is 'worried OSE II will sink oil into the sediments'. He knew that was not possible since the EPA had forced us to perform a dispersant test on OSE II in 1996 that proved OSE II causes oil to float. Then Dr. Tsao's subsequent test on OSE II for BP's BioChem Strike Team with Sam Coleman, once again, proved OSE II does not sink oil into the sediment. So Charlie Henry should have no problems with a product that causes oil to float, is non toxic to even single-celled bacteria, reduces the oil's adhesion properties so the oil will not stick to plants or wildlife, is PH neutral, is safe for responders to handle and converts the oil to CO2 and water as proven by the US EPA in 1992 as well as by others and on actual clean ups on over 18,000 spills since 1989. Additionally, OSE II was successfully used on the Osage Indian reservation to clean up a spill in 30 days for the EPA/RRT VI that they had been unsuccessfully trying to clean up with other products for two years. How could anyone, including Charlie Henry, say 'no' to this proven-to-be safe, effective and experienced product: OSE II? Especially when you compare it to the horrifically toxic Corexits that Charlie Henry has already approved, as you stated in our call. Unless there are other agendas and influences involved here, he cannot!! For anyone to cast any aspersions on OSE II, they

had better make sure their past actions such as allowing or pre approving a toxic, carcinogenic product, such as both Corexits, will not get in their way of proving they have credibility.

The next victim the EPA threw under the bus, as you stated in an email which was mistakenly sent to me, is "DOI, Stephen Spencer." Note he has no ability to say 'no' to OSE II since his own agency tested OSE II on dielectric oil and compared OSE II to mechanical clean up as well as both of the horribly-toxic corexits - 9527 and 9500. OSE II proved to be far-and-away more effective, and, as is known, far safer than both Corexits for the responders and other life forms when you compare toxicity tests of OSE II to both Corexit's. How could he possibly say 'no' to something that is and has proven over and over to be much better than what Charlie Henry and the Area Committee already approved and sent to the RRT VI?

The next person you referred to in the Science and Technology Committee is the representative from the Texas General Land Office. Michael Baccigalopi has a Bachelor of Science in Marine Science and should be able to quite easily see that OSE II has achieved its proven end point in testing over and over by the EPA, U.S. military and other countries. He will be able to read and understand the 18 toxicity tests on OSE II that show it is not only non-toxic, it is thousands of times less toxic than both Corexits, and he can see videos, and pictures on our web site that show OSEI associates washing our hands with OSE II with no adverse effects.

Conversely, Corexit has no defined "end point." Woods Hole Oceanographic Institute proved Corexit actually causes oil to not be degraded by the natural organisms. This is painfully predictable and obvious because when you have a product that is as toxic as both Corexits; it kills off the natural microbes which inhibits the degradation of the oil. It would be better to do nothing than put one of the Corexits on the oil. The label states they are lethal, and their official Material Safety Data Sheets specifically state "Do not contaminate surface waters" with them. Based on scientific merit, how could anyone with any common sense, or Michael Baccigalopi with his background, not demand that OSE II be used instead of either of the Corexits?

Further, your next paragraph states,

> "*EPA Region 6 recommends you discuss the possibility of pre-authorization with the chair of the RRT Science & Technology*

Committee, Michael Baccigalopi of the Texas General Land Office (michael.baccigalopi@glo.state.tx.us), as well as the RRT representative from DOC, Charlie Henry (charlie.henry@noaa.gov), and DOI, Stephen Spencer (stephen_spencer@ios.doi.gov), to determine what concerns exist for pre-authorization of bioremediation agents, and how those concerns can be addressed."

I apologize if I am getting a bit raw here, but this paragraph reeks of the circular, never-ending process that has been characteristic of recurring scenarios taking place for more than two decades of the EPA thwarting honest efforts on our part to work with the EPA/RRTs on the development of NCPs using OSE II for the benefit of all stakeholders. For instance the protocol development for RRT VI which you contacted me to schedule a meeting for a few months ago, while being a hopeful sign, would have resulted in going over ground already covered. And, as listed herein, protocols for Bioremediation have already been developed by other RRT's. It appears this development measure and request for an in-person meeting to discuss such has been abandoned as, when I expressed my willingness to have that meeting but stated that it would not in any way supplant or set aside my immediate demand for pre approval for OSE II, I have heard nothing about such a meeting since? We would be happy to work with you to update the formal written process.

You stated that there may be *concerns* (unspecified) to take up with the Science Committee, while, in the same conversation, (our phone conference preceding said letter) you clearly stated that you knew of no reason to not use OSE II. Once again, this suggests a circular exercise for the OSEI Corporation with no end point.

With this letter I am making clear there are two end points required: 1) pre approval or written, clear cut and transparent reasons for a denial, and 2) immediate authorization as detailed above.

We are not presenting our material for potential; we are presenting it to move forward, as you promised earlier through a letter to me with Lisa Jackson's name on it. Your people at the Science Committee can look at the efficacy, toxicity, and the experience, and see, quite easily, that OSE II is the more effective response, and they can then present it back to you for your pre approval. Not to do so will be an arbitrary act that goes against your charter. I can line up high school biology students and show them the

comparison between both Corexit's, and OSE II on all aspects of spill response and they could make the easily-determined decision that OSE II is better and safer. This process is not as difficult as has deliberately been made.

In our conversation, which I am in the process of writing a response to, to confirm in writing what we discussed, you stated that you approved the category of dispersants, not just Corexit; however, we know, because of your track record which clearly bears this out, you performed this with the intention of only using one company's product to the exclusion of all other products. We have now helped to solve your problem of not pre approving non-indigenous organisms for U.S. navigable waters. You can approve the bioremediation Category (BA) product type EA, which does not contain microbial or bacterial cultures. This is a sub category which you already developed some time ago for the NCP list. Simply approving this category of bioremediation solves the problem while allowing effective, non-toxic cleanup to occur.

The OSEI Corporation has presented OSE II to the Area Committee with the Coast Guard in New Orleans, and we have attended several meetings. I was, in fact, requested by the Coast Guard to write a protocol for the immediate use of OSE II on the Deepwater Horizon oil spill, which I complied with and submitted to the Area Committee for implementation. The Area Committee has yet to act.

The OSEI Corporation has fulfilled every request, and known process to get OSE II authorized and pre approved 100's of times, and made formal requests 100's of times over the last 23 years, and now you have stated you want to move forward, so DO IT!

It still amazes me that you are having the OSEI Corporation, as a vendor, do what is demonstrably your job; however your statement in the email that was, I supposed, inadvertently forwarded to OSEI, that by having the Science Committee have to deal with us you were "throwing them under the bus", seems to suggest this is one more disingenuous attempt by the U.S. EPA and the people named specifically in this email, including Lisa Jackson, to thwart the pre approval and authorization of OSE II. Again, your track record firmly establishes this.

We will see if you really want to move oil spill response forward, or if you

are just continuing to play games to prolong the use of one company's horrifically toxic product – Corexit - that has no place in any waters. For 10 months, you have stalled on acting on my formal request.

Let me be absolutely clear:

I expect a formal concurrence and or authorization for OSE II to be used by the affected Gulf States or BP for the oil still coming ashore in the Gulf States from the Macondo block.

I expect equal access and pre approval quickly, for the sub-product category type EA under the category Bioremediation, OSE II just as you gave dispersants/corexits.

Steven Pedigo
Chairman/ CEO OSEI Corporation

PS: In the event that you did not see this report showing Corexit plus oil on a vacation swimmer just recently in Florida using a UV Light, I have linked it here:http://www.tampabay.com/news/environment/water/article1225134.ece
http://surfrider.org/images/uploads/publications/Corexit_Connections.pdf
Also I am requestring that you forward a copy of this correspondence to Lisa Jackson, as well as to all the members of RRT 6, including Steve Mason, Jim Staves, Darlene Sanchez, Mr. McQiddy, and anyone that was on our recent phone conversation in April 2012.

Attachments:

The Truth About NCP Listed Bioremediation Agent [Type EA] OSE II

18 Toxicity tests showing OSE II is non-toxic

Summary of BP Testing of OSE II

OSE II Science & Third Party Endorsements

Summary-Formal Requests for use of OSE II

Cease & Desist Letter to Sam Coleman

Email correspondence Capt. Stroh FOSC

Links for information for the scientific back up to pre-approve OSE II with all 13 RRT's around the country: http://osei.us/reports

http://www.losco.state.la.us/pdf_docs/RRT6_Dispersant_Preapproval_2001.pdf
http://gisweb.glo.texas.gov/atlas/atlas/acp/houston/ctcac_grp_index_map.pdf
http://gisweb.glo.texas.gov/atlas/atlas/acp/onegulfplan.pdf
http://gisweb.glo.texas.gov/atlas/atlas/misc_doc/rrt6_bio_position.pdf
http://www.washingtonpost.com/wpsrv/
politics/documents/WorkingPaperUnifiedCommandForRelease.pdf
http://surfrider.org/images/uploads/publications/Corexit_Connections.pdf
http://www.epa.gov/sciencematters/april2012/spill.htm
http://www.epa.gov/oig/reports/2011/20110825-11-P-0534.pdf

End Notes and References:
I. COPY OF RRT 6 LETTER/EMAIL OF 2 May 2012:

Subject: Re: AX-12-000-6698 Pedigo Reply
From: Staves.James@epamail.epa.gov
Date: Wed, 2 May 2012 10:26:29 -0400
To: Mcquiddy.David@epamail.epa.gov; oseicorp@msn.com

CC: RA_Controls@epamail.epa.gov;
Sanchez.Darlene@epamail.epa.gov;
Broyles.Ragan@epamail.epa.gov; Mason.Steve@epamail.epa.gov

Under the bus we need to warn them first

David McQuiddy
-----Original Message -----
From: David McQuiddy
Sent: 05/02/2012 09:15 AM CDT
To: oseicorp@msn.com

Cc: RA Controls; Darlene Sanchez; Ragan Broyles;
James Staves; Steve Mason
Subject: AX-12-000-6698 Pedigo Reply (Sent on behalf of

Ragan Broyles)

Dear Mr. Pedigo,

This is in response to your email dated April 12, 2012, sent to United States
Environmental Protection Agency (EPA) Administrator Lisa Jackson and others, regarding your product OSE II. Since this issue is within the jurisdiction of EPA Region 6, I have been asked to reply on behalf of Administrator Jackson.

Thank you for taking the time to talk to me recently regarding your email. As we agreed on the call, I am responding to your questions regarding use of your product on the recent oil sheen in the Gulf of Mexico. Shell Oil did not acknowledge being the responsible party for the sheen, but did respond to the sheen.

As EPA Region 6 has stated in previous correspondence to you, the process for approving the use of bioremediation agents is established in Subpart J of the National Contingency Plan, 40 C.F.R. Part 300.910. The federal regulations state the Federal On-Scene Coordinator (FOSC) may approve the use of such agent, with concurrence of the Regional Response Team (RRT) representatives from EPA, the states with jurisdiction over the waters threatened by the discharge, and in consultation with the appropriate Department of Commerce (DOC) and Department of the Interior (DOI) natural resources trustees.

This particular spill was in the United States Coast Guard (USCG) area of responsibility, therefore, the USCG provided the FOSC for this spill. If the FOSC (USCG) had decided that bioremediation agents could be used for this response, the FOSC would have requested the use through the RRT for concurrence. There was no such request; therefore, EPA does not have the authority or capability to approve or direct such use.

The RRT may also approve preauthorization plans for the use of bioremediation agents, if they are proposed by an Area Committee, with the concurrence of its representatives from EPA, the states with jurisdiction over the waters of the area where the preauthorization plan would apply, and the DOC and DOI natural resource trustees. The Region 6 RRT has received no such request by an Area Committee for preauthorization of the use of your product.

EPA Region 6 recommends you discuss the possibility of pre-authorization with the chair of the RRT Science & Technology Committee, Michael Baccigalopi of the Texas General Land Office (michael.baccigalopi@glo.state.tx.us), as well as the RRT representative

from DOC, Charlie Henry (charlie.henry@noaa.gov), and DOI, Stephen Spencer (stephen_spencer@ios.doi.gov), to determine what concerns exist for pre-authorization of bioremediation agents, and how those concerns can be addressed.
If you have any questions or would like additional information, please feel free to contact me or Mr. Jim Staves of my staff at 214-789-3417, or you can email Mr. Staves at staves.james@epa.gov.

Sincerely yours,
Ragan Broyles
Associate Director, Prevention and Response Branch
Superfund Division

II. Coast Guard guidance entitled Development of a Dispersant Doctrine in the Gulf of Mexico

http://www.iosc.org/papers_posters/00484.pdf

iii Another precedent where pre approval has been given for Surface Washing Agents with specific products
mentioned.
(http://gisweb.glo.texas.gov/atlas/atlas/misc_doc/rrt6deconvssl.pdf)

iv Equal Effort is defined as that effort described in Coast Guard guidance entitled: Development of a
Dispersant Doctrine in the Gulf of Mexico--
http://www.iosc.org/papers_posters/00484.pdf

v The taxpayers in the Gulf region and otherwise deserve to know that a portion of their hard earned dollars
paid to fill their gas tanks finance toxic dispersants such as Corexit which is harming their health.

vi “Threw under the bus” is a term used in an email mistakenly sent to Steven Pedigo when intended
as an internal comment from it appears Steve Mason to other EPA/RRT VI officials:
Subject: Re: AX-12-000-6698 Pedigo Reply
From: Staves.James@epamail.epa.gov

Date: Wed, 2 May 2012 10:26:29 -0400
To: Mcquiddy.David@epamail.epa.gov; oseicorp@msn.com

CC: RA_Controls@epamail.epa.gov; Sanchez.Darlene@epamail.epa.gov; Broyles.Ragan@epamail.epa.gov; Mason.Steve@epamail.epa.gov
Under the bus we need to warn them first

David McQuiddy
[Re: above--we do not know exactly what this means, but can only assume it was meant to be sent to David
McQuiddy and other EPA officials but ended up being sent to CEO OSEI on top of Regan Broyles' email
letter to him dated 5/2/2012] by mistake. This is not indicative of an agency that is trying to and has the delegated charge of utilizing the most effective same means to protect the natural resources of their own country.