I am responding to your e-mail of July 3rd, 2011 to provide information on the process for authorizing the use of bioremediation agents for spill response, and to clarify what appears to be some misconceptions regarding the current status of consideration for use of your product on the remaining oiled areas from the Deep Water Horizon Spill.

The processes for approving the use of bioremediation agents for use in spill response, and for pre-approving such uses are established in Subpart J of the National Contingency Plan (NCP) in 40 CFR Part 300.910(b) and (a), respectively. The Federal On-Scene Coordinator (FOSC) may approve the use of such agents during a spill response, with the concurrence of the Regional Response Team (RRT) representatives from EPA, the states with jurisdiction over the waters threatened by the release or discharge, and in consultation with the appropriate DOC and DOI natural resource trustees. In the case of the Deep Water Horizon spill, the USCG provided the FOSC, and has made no request for concurrence by the RRT representatives listed above on the use of your product.

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 it's representatives from EPA, the states with jurisdiction over the waters of the area to which a preauthorization plan applies, and the DOC and DOI natural resource trustees. The Region 6 RRT has received no such request for preauthorization of the use of your product.

There are no existing authorities for issuing permits for use of a specific spill cleanup product.

The goal of the RRT, in making decisions regarding the use of alternative spill response technologies is to minimize environmental damage. The Region 6 RRT has consistently maintained a policy of favoring mechanical removal of oil from the environment when feasible, and has acted to issue a preauthorization for dispersant use only once, in waters deeper than 10 meters, and/or farther than 3 nautical miles, whichever is farther from shore. The near shore environment is far more ecologically diverse, and variables such as seasonality, temperature, nutrient levels, substrate, environmental sensitivity, and the nature of the spilled oil all have to be taken into account in determining which spill cleanup methods minimize overall environmental impacts. For these reasons, it is highly unlikely that preauthorization would ever be issued for all navigable waters within Region 6 as you have requested. Instead, decisions on the use of your product, pending a request for concurrence from a FOSC would more likely be made on a case by case basis, and would consider the full range of available cleanup methods, with the goal of minimizing overall environmental damage.

Please feel free to contact me if you have questions or would like additional information.

Jim Staves (or Whomever)

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