

Alaska Regional Response Team

Meeting Summary

Anchorage Federal Building Annex
Anchorage, AK
February 21, 2013



Members Present:

Mark Everett, USCG
Gary Folley, ADEC
Doug Helton, USDOC
Pamela Bergmann, USDOJ
Cindy Sacks, USDOT
Scott Ketcham, USDOL
Brian Swanson, USGSA
Gary Sonnenberg, USDA
MAJ Todd Stull, USDOD

Quorum: Yes

Members Attending by Phone:

Chris Field, USEPA

Introductions

Mr. Everett welcomed Alaska Regional Response Team (ARRT) members and other attendees to the meeting. This meeting marks the second time that an ARRT meeting was held in conjunction with a subarea committee meeting. The Aleutian Islands Subarea Committee met the previous day (February, 20, 2013) also in Anchorage, AK. An On-Scene Coordinator meeting, with both Federal and State OSCs, was also held previously in the week. Mr. Everett invited ARRT members to an Arctic Spill of National Significance (SONS) planning meeting to be held the following day. By way of general announcements, he noted that the 2012 ARRT Report to the National Response Team (NRT) had been sent to ARRT members, and submitted to the NRT. He noted that the recent response to the Drill Ship Kulluk would be thoroughly addressed in a subsequent ARRT meeting. Mr. Everett introduced the ARRT alternate co-chairs, Mr. Calvin Terada (EPA) and Mr. Gary Folley (ADEC), representing co-chairs Chris Field and Larry Dietrick, respectively. The alternate co-chairs shared opening remarks. Mr. Terada stated that Mr. Field was unable to attend in person due to a scheduling conflict, but that he would be participating via teleconference.

Following opening remarks, the ARRT members and other attendees introduced themselves.

New RULET Policy Memo

Mr. Doug Helton (NOAA) provided an overview of the new policy memo for the Remediation of Underwater Legacy Environmental Threats (RULET) risk assessments, and reported on existing shipwrecks in Alaska with the potential to pollute waters. On August 23, 2012, the U.S. Coast Guard issued a memorandum detailing new policy and procedures regarding RULET. A copy of the memo and a NOAA fact sheet on potentially polluting shipwrecks, and Mr. Helton's presentation slides will be made available for download on the ARRT website, <http://alaskarrt.org>, on the ARRT meetings page.

In Alaska, two wrecks have been identified as being nationally significant: the John Straub, a WWII shipwreck with 12,000 barrels (bbl) of Bunker C fuel onboard, and the Aleutian, a passenger vessel that sank in 1929, with potentially 7,000 bbl of Bunker C fuel onboard. The John Straub has not been located but is known to be in an area south of False Pass. The wreck of the Aleutian was discovered off the northwest coast of Kodiak Island. Multiple smaller wrecks exist in Alaska. These were screened, and determined not to warrant attention as national priorities, due to the small amounts of fuel estimated to be contained in them.

Mr. Folley asked why, among all of the WWII-related shipwrecks in Alaska, only the John Straub is included as a national priority. Mr. Helton responded that many of the wrecks of that era were coal-powered vessels, or contained low volumes of petroleum at the time of sinking.

Mr. Everett asked how these shipwrecks should be included in subarea contingency plans (SCP). Mr. Helton replied that he expected that they would be included among other facilities identified as potential sources of discharges, and that they should be considered potential sources when pollution from an unknown source is reported.

Tribal Engagement Guidance Task Force Update

Nick Knowles (EPA) presented a brief overview of the Tribal Engagement Guidance Task Force. At the direction of the ARRT co-chairs, a task force was assembled to develop a tribal engagement guidance document for actions of the ARRT. The members of the task force include himself, Cecil McNutt (USCG), Sudie Hargis (USCG), Tami Fordham (EPA) and John "J.R." Herbst (EPA). Currently the task force is engaged in preparing a draft guidance document. It is expected that this draft will be delivered to ARRT members for review in April 2013, for approval at the May ARRT meeting. Following ARRT approval, it may be submitted to tribes and other interested parties for additional review and comment.

Pamela Bergman (DOI) asked what the process would be for soliciting input on the guidance from Federally-recognized tribes. Mr. Knowles responded that at this point in time, the objective was for the task force to formulate and document guidance for improving involvement and outreach to tribes. Mr. Knowles stated that this document would establish the process by which the ARRT engages tribes, and that such a process had to be established before approaching tribes. Ms. Bergman acknowledged that while that might be one approach, a better approach may be to involve tribes in the formulation of this process.

Ms. Bergman asked whether the ARRT members would be asked to approve this document at the next ARRT meeting. Mr. Knowles answered that the next step in the process was to deliver the draft document to the ARRT members for review and comment. Mr. Everett stated that, as we are still in the early stages of developing these guiding principles, he would not rule out the possibility of engaging outside entities for comment on the draft. He would like to keep the door open for such engagement.

Cindy Sacks (DOT/FAA) recommended that the task force look to the Denali Commission for examples of successful tribal engagement strategies. They are developing similar guidance.

Nikos Pastos, of the Alaska Inter-Tribal Council, expressed his dismay that there is no tribal representative on the ARRT. Mr. Knowles replied that the ARRT has made tribal participation in ARRT activities a goal, but that, with 229 Federally Recognized Tribe in Alaska, finding the best solution would be a deliberative process, and would take time.

Mr. Everett reminded the attending members of the public that time would be made available for public comment, later in the agenda, and requested that discussion be limited to the ARRT members, and those presenting information to the ARRT.

Mr. McNutt reminded members that the ARRT, and its individual member agencies, are already actively engaging tribes as part of their regular activities, and that the task assigned to the task force is largely to capture and formalize what the ARRT is already doing.

Wildlife Protection Committee Report

Ms. Bergmann reported that the committee has not met since the last ARRT meeting.

Cultural Resources Protection Committee Report

Ms. Bergmann reported that the committee has not met since the last ARRT meeting. She presented information regarding cultural resource protection efforts by the Prince William Sound Subarea Committee at its meeting in Valdez, AK on February 13, 2013.

Potential Places of Refuge (PPOR) Subcommittee Report

Ms. Bergman reported that she and Larry Iwamoto (ADEC) are currently working on a revision to the PPOR Guidelines (Unified Plan, Annex O) to ensure that they are consistent with national guidelines. Issues to be addressed include defining and re-categorizing groups previously categorized as stakeholders, to specify entities such as federally-recognized tribes, and to better address incident-specific collaboration.

Proposed revisions were sent to Federal on-scene coordinators (FOSC) and State on-scene coordinators (SOSC) in December. The OSC's were asked to provide comments by February 15th. Due to the Kulluk incident, and other scheduling conflicts, the OSCs were not able to review the document in the time designated. Ms. Bergman proposed that the draft be submitted to the ARRT and OSC's for review, and that comments be received prior to the ARRT meeting scheduled for May. After which, the draft document will be submitted for tribal review, and then public review. The Co-chairs agreed to Ms. Bergman's proposed timeline.

Science and Technology Committee Report

CDR Paul "Bo" Stocklin (USCG), CAPT Dan Travers (USCG), Mr. Field and Roberta Runge (EPA) provided an update on the status of the Science and Technology committee's (STC) revisions and updates to dispersant use guidelines in appendix I to annex F of the Unified Plan (UP).

CDR Stocklin began the discussion by acknowledging the work of the members, and by thanking Dr. John Whitney (NOAA), who previously served as the leader of the dispersants working group (DWG) for

the STC. Currently, the DWG members are Marcia Combes (EPA), Mr. Dietrick, CAPT Scott Bornemann (USCG), CAPT Travers, Ms. Bergman, and Dr. Whitney.

Mr. Field stated that he wanted to speak to several ongoing efforts of current ARRT focus. The first is the STC's effort to update dispersant use guidelines, and the second is the efforts of the headquarters senior-level inter-agency work group, as well as the ongoing Endangered Species Act section 7 consultation.

Mr. Field gave the following background information regarding the Annex F update: This effort has been ongoing for a number of years. The current guidelines are outdated. Recent increases in oil exploration activities in the Arctic are drawing increased attention from the public and from senior level government officials. There is a need to ensure that the dispersant use policy is up-to-date, and that FOSC's are able to use all of the tools they need in the event of a spill. In November, 2012, as the STC was preparing to finalize a revision to Annex F, the State of Alaska proposed the reinstatement of preauthorization of chemical dispersant use in the guidelines. Subsequently, the working group members revised the existing draft, to reflect this change.

Regarding the senior executive-level inter-agency work group, Mr. Field explained that Executive Order 13580 requires federal agencies to work together, and to ensure that nothing prevents or inhibits energy extraction in Alaska, particularly in the arctic. The work group is led by Department of Interior Deputy Secretary Hayes. DS Hayes reports directly to the U.S. President's administration, which remains focused on making sure that drilling can occur. Our piece in this is spill preparedness. The work group looks to the NRT to make sure that effective spill preparedness exists in Alaska, and the NRT looks to the ARRT. That is why NRT Chairman Larry Stanton attended the ARRT meeting one year ago, in Juneau, and NRT Vice Chair CAPT John Caplis, and Mark Mejoness of EPA headquarters attended our meeting last fall in Fairbanks. Joining us today is Ms. Runge from EPA headquarters in Washington, DC, also representing the NRT. The NRT has promised to work with the ARRT to make sure that we are fully prepared for a spill. The work group and the NRT remain focused on ensuring that chemical dispersants and in-situ burning (ISB) remain viable tools available to the FOSC during a response. As such, they are very interested in seeing that we complete the update to our dispersant, and ISB policies. The two main focuses of the work group seem to be seeing completion of the Annex F update, with reestablishment of dispersant preauthorization, and enhancing engagement with stakeholders and tribes.

CAPT Travers provided additional background on the progress of the Annex F update. The revised draft was submitted to USCG Headquarters for review in December 2012. USCG Headquarters quickly returned the draft with comments to be incorporated, but by then, many of the DWG members were on leave for the holidays. Then, on New Year's Eve, the Kulluk incident occurred, and DWG work was halted. Work on the draft resumed in mid-January, with himself, Ms. Combes, CAPT Bornemann, Mr. Dietrick, and Mr. Folley, all working to incorporate USCG Headquarters comments in a manner acceptable to D17, EPA, and ADEC, while meeting the preauthorization threshold. At this point, Ms. Bergmann and Dr. Whitney have been brought in to provide additional input. Working group member agencies have been asked to complete their reviews of the draft by April 2013. The current target date for completion of the draft is the end of April.

Ms. Runge stated that senior managers from DOI, NOAA, BSEE, and EPA have been working together to outline a path forward to reestablish a preauthorization plan, agreed upon by the agencies, to insure that FOSC's have all tools available to them, should a spill occur off the north coast of Alaska. To that end, these managers have developed a step-wise process, wherein the first step was to see to completion the previous draft of Annex F, which included incident-specific expedited approval procedures, and to conduct community outreach among all of the coastal communities, to educate them on that process. This outreach was to lead us, over time, to reestablishment of preapproval of dispersants use. Two weeks ago, they were presented with the new draft, which includes preauthorization. The managers feel that the new

draft has potential to achieve success in Alaska. The new draft has been reviewed by EPA Office of Council, which found no major issues with it. The EPA Office of Council is expected to approve a draft, once some corrections are incorporated. So, there are now two competing processes for reestablishment of preauthorization in Alaska, which is required by federal regulations. The managers are pleased with this outcome.

Ms. Combes clarified that the new draft includes preauthorization of dispersant use statewide, and not only in Cook Inlet and Prince William Sound, as was the case prior to USDO's withdrawal of approval for Alaska's preauthorization agreement. As such, the new draft addresses concerns of the Sector Anchorage Captain of the Port, who has expressed concern that the area of greatest risk is currently off the Aleutian Island chain and of the senior-level managers, who are concerned about preparedness for an incident that may result from increased oil exploration and/or production in the Beaufort and Chukchi Seas. She acknowledged that it is a little bit confusing that we now have two very different processes both striving to achieve the same desired outcome. She reiterated Mr. Field's earlier point regarding focus on public outreach. If preauthorization is reinstated, we will need to conduct extensive public outreach with tribes and other interested parties. This is good, as we desire stakeholder input, and we want the UP to be the best document that it can be.

Mr. Everett opened the floor to questions from the ARRT members.

Mr. Helton asked when outreach would occur, and expressed concern that, to him, it sounded as if they were being asked to approve a plan, and that outreach would occur following that approval, as opposed to receiving stakeholder input during the formulation of the plan. CAPT Bornemann addressed this concern, stating that the intent was to find a solution that was palatable to the agencies before going out for consultation with stakeholders, and that outreach would still be conducted prior to signature and promulgation. The reason for the April time frame, was a desire to test the process in the 2013 SONS exercise, to further evaluate the effectiveness of the new draft, prior to conducting stakeholder outreach.

Mr. Helton further expressed concern that expansion of the preauthorization plan to include the entire State would introduce a great many additional stakeholders, many of whom would want to talk about this, rather than just North Slope communities, so that we may be setting ourselves up for a long consultation process.

Ms. Bergmann stated that at the last ARRT meeting, the members had all agreed to a process that had been developed over approximately one year, and that everyone had been given an opportunity to comment and provide input on that process. In that meeting, it was agreed to by all of the ARRT members that all that remained were some small revisions to that draft, which were accomplished in the November meeting of the DWG. She stated that the DWG members believed that the next step was to engage tribes and stakeholders and offer them an opportunity to review and comment on the draft, and that potentially, a final draft could have been approved at this meeting. Now it appears that discussions have taken place at various levels of USCG and EPA, and that DOI and DOC were not totally engaged in those discussions at the Washington, DC level. She was only given a copy of the new draft on Friday (February 15th), and DOC had not yet seen it. Mr. Helton stated that he had just received a copy. Ms. Bergmann stated that it is important for folks to know that this new draft represents a significant departure from what had been previously agreed to. The previous plan required FOSC's to consult with DOI and DOC on an incident-specific basis for all requests for authorization to apply dispersants. The new draft includes preauthorization to apply dispersants in all federal waters, everywhere, out to the Exclusive Economic Zone, but not in State waters. She further expressed concern regarding a stated goal to achieve consensus by April of this year, when the previous draft had undergone review for several months. Ms. Bergman stated that it was a little confusing that there currently seem to be two plans moving forward, one being the new draft of Annex F, and the other being a plan discussed by the inter-agency working

group, without DOI, at a meeting on January 18th, where NOAA, EPA, USCG, the NRT Co-chairs (sic), and others resolved to remove the term “preauthorization” from the draft dispersant guidelines, and to conduct outreach among coastal communities to see if, over a 2-year period, it would be possible to achieve preauthorization. DOI has trust responsibility for migratory birds, marine mammals, threatened and endangered species and their critical habitats (many of which are in marine environments), and 19,000 miles of marine shoreline, managed by DOI bureaus. The Bureau of Indian Affairs has a special trust responsibility to federally recognized tribes, many of whom have passed resolutions requesting a ban on the use of chemical dispersants, because of potential impacts to their subsistence resources. Ms. Bergmann stated that she does not have line authority over DOI bureaus, and that her responsibility is to go back to those potentially affected bureaus to reach consensus regarding documents proposed for approval by the ARRT. She has not yet had an opportunity to fulfill this responsibility.

Mr. Folley acknowledged that this is indeed a change to the previous draft that came out of the DWG originally. Over the last few months, he has learned a lot from USCG Headquarters about what does and does not constitute preauthorization. The DWG had previously taken a broad view of the definition, only to learn that USCG and EPA’s definition is much narrower. State of Alaska leadership has a strong interest in preauthorization, much of which hinges on USCG regulations that prohibit them from requiring potentially responsible parties (PRP) to stockpile dispersant chemicals, absent an approved preauthorization. This is mostly why the State is a proponent of preauthorization. While no one doubts that incident-specific consultation can be conducted in a timely manner, USCG regulations put this issue in a whole new light, if in fact, the absence of preauthorization can somehow hinder the ability to have a dispersant capability.

Ms. Bergmann asked Mr. Folley to explain the differences between the broad and narrow definitions of the term “preauthorization”.

Mr. Folley answered that his understanding of the term as defined by USCG Headquarters, is that, given a preauthorization agreement, upon notification of a spill, the FOSC may authorize the use of dispersants without any additional notifications or consultations.

CAPT Bornemann expanded on that stating that, given an approved preauthorization plan, upon notification of the spill, the FOSC can direct dispersant use, but that, immediately following that decision, consultation is conducted to ensure that such a decision is sound. The reason that the FOSC can make the decision immediately is to get assets rolling. This is especially important given the logistical challenges associated with the vastness of Alaska and its waters. Once the decision to use dispersants is made, it can subsequently be reversed, affirmed, or modified with caveats. Consultation will occur prior to any dispersant application, but in order to meet the definition of “preauthorization”, the FOSC must be empowered to make the decision to use dispersants autonomously. He further stated that, in order to effect this change to the draft of Annex F, only about 20% of the document had to be altered, so that reviewing the document should be less challenging than it was when we had a fresh document for agencies to evaluate.

Ms. Bergman noted that the primary difference between the two drafts is that, under the new draft, the State of Alaska and EPA are stripped of their power to deny the FOSC the authority to use dispersants.

CAPT Bornemann stated his belief that no FOSC would ignore advice from an SOSC, resource agencies, and other subject matter experts, who would inform the FOSC’s decision. Were that to occur, the FOSC would be immediately relieved from duty, and replaced before application of dispersant could occur.

Ms. Bergmann stated that she understood the on-water oil removal capacity (CAPS) rule stating that USCG cannot require tanker vessel operators to stockpile dispersant chemicals absent preauthorization,

but asked Mr. Folley whether any State powers exist that would enable State regulators to impose such a requirement.

Mr. Folley answered that the State can require PRP's to demonstrate dispersant capability, only if dispersant use is included in their approved contingency plan.

Robert Whittier (EPA) asked for an approximation of how long it would take to apply dispersants given a spill. CAPT Bornemann stated that the time required would depend on the location of the spill and the location of the dispersant chemicals.

Mr. Helton asked whether the current draft of Annex F meets the definition of "preauthorization", even with the exclusion of the three nautical mile buffer along the coast. He stated that, in Alaska, many sensitive areas exist outside of 3 nautical miles, and speculated as to whether that distance could be increased, so as to exclude those sensitive areas as well, while maintaining the FOSC's authority to require stockpiling of dispersants. CAPT Bornemann answered that the question would have to be posed to CAPT Caplis and Bob Pond (USCG), and that he did not know the answer to that question.

Ms. Bergmann stated that if the goal of the senior managers is to insure that Alaska has dispersant capability on-hand, that they should be advised that such capability currently exists, as required by the State. She noted that the CAPS requirement does not apply to drilling vessels, and that BSEE has the authority to require those PRP's to stockpile dispersants, and that indeed Shell Oil had dispersant capability on-hand, while conducting exploratory operations in the Arctic, last summer. She stated that the CAPS requirement would only apply to areas traversed by petroleum tankers, and would be in addition to existing state requirements, so why not limit the preauthorization to those regions (Prince William Sound and Cook Inlet).

Mr. Helton reiterated his question as to whether 3 miles was a magic number, or could it be increased so as to encompass a greater portion of sensitive areas. He stated that the farther out the exclusion buffer went, the easier it would be for resource agencies to concur.

CAPT Bornemann noted that in the lower 48 states, all of the preauthorization agreements utilize a three nautical mile exclusion buffer.

Mr. Helton noted that most dispersant operations do not occur within three miles of shore, anyway. As an example, he noted that during the Deepwater Horizon incident, a decision was made to employ aerial application of dispersants only outside of three miles from shore, despite the fact that there was a large volume of oil within three miles of shore, upon which dispersants could have been applied.

Gary Folley noted that it should be remembered that, outside of three nautical miles from shore, the State lacks jurisdiction to direct the response, except when State waters are threatened.

Ms. Bergman asked what change would be made to the existing dispersant application zones in Prince William Sound and Cook Inlet under the new draft of Annex F.

Mr. Folley stated that no such zones would be necessary under the new draft, as those areas lie completely within three nautical miles of shore.

Ms. Bergmann stated that one reason that resource agencies might object, is that the State of Alaska is a co-trustee with DOI and its bureaus with responsibilities for protection of migratory birds and marine mammals, and the State is maintaining authority to veto dispersant use within its jurisdiction, but resource agencies are asked to surrender their consultation expectation outside of State waters. She observed that

there is little difference between trust resources located at 2.999999999 miles from shore, and those existing at mile 3.0.

CAPT Borneman noted that this would be the case, even if the buffer to be extended to 20 miles from shore.

Ms. Runge pointed out that under the current version of the document; the FOSC has the authority to use dispersants if life is at risk, with State concurrence within 3 miles, and with or without concurrence outside of 3 miles, only up to 96 hours from the time the spill occurred. Sometime within that 96-hour window, the USCG must seek consultation from other trustees. EPA reviewers deemed this requirement important enough to request that it be moved from the table within the document, to the text near the front of the document. She also addressed Ms. Bergman's statement that DOI was not present at the January 18 meeting. She noted that DOI was invited to that meeting, but was unavailable to attend. She noted that, following the meeting, a copy of the draft plan was provided to DOI for review and approval, which was subsequently granted, and that DS Hayes then sent the plan out to the inter-agency workgroup and to the RRT's. She stated that she was not sure how much more engagement could be had on the part of DOI. She stated that the gold standard is to get to the point where preauthorization is in place outside of the 3-mile zone, so that the USCG can have that capability, for the perhaps one percent of the time when we may need to use dispersants.

CAPT Bornemann stated that he believed the new draft to be more substantive, because absent a document, if, for instance, a spill occurred at 4.5 miles from shore, an FOSC can, with concurrence from EPA, and consultation with DOI and DOC, authorize dispersant use.

CAPT Travers noted that the new draft is based upon language that exists in the 40 CFR, subpart J. To clarify CAPT Borneman's point, he stated that right now, 3 nautical miles offshore, where federal jurisdiction starts, the FOSC with EPA's concurrence, and the State's concurrence if the dispersants are going to impact their waters, and in consultation with DOC and DOI, can use dispersants. That is true absent any preauthorization agreement, according to the National Contingency Plan (NCP). His point being that USCG has not arbitrarily selected 3 nautical miles as a standard, but instead, it has gotten that number from the text of the NCP. Under the provisions in the new draft Annex F, the FOSC would be empowered to make that decision without concurrence from EPA, and without consulting DOI and DOC, and the whole point of that empowerment is to allow the FOSC to get the process moving. He noted that under either scenario, the environmental unit, the planning section, and the unified command, will all work together to address resource issues. They must complete the "Part II" dispersant application document, and the "Part III" incident-specific resources at risk document, and then they must complete the dispersants checklist. He noted that the environmental unit has representatives from EPA, State, DOI, DOC, and Coast Guard, as well as the tribes and stakeholders, and that all of these parties will have a chance to provide input to inform the FOSC's decision. The environmental unit has the option to validate, modify, or disagree with the decision of the FOSC. Regarding Ms. Bergmann's statement about 2.999999999 miles, CAPT Travers stated that no FOSC will go forward with a decision to apply dispersants in opposition to the recommendation of EPA, the State, or the resource agencies. Regarding Ms. Runge's point about DOI being invited to the January 18th meeting, CAPT Travers noted that the State was also not invited, despite the large stake they hold in the outcome of this process. However, had they been present, he is sure that State representatives would have conveyed a desire for preauthorization. While dispersant use is not likely, it is possible that an instance may occur in which dispersant application is the best choice to protect State resources, which is the goal of all of this effort. Additionally he noted that the reason that Ms. Bergmann had not been involved until Friday, was in part, that she was on vacation for the whole month of January, and that the group tried to reach her beforehand, because their goal was to produce a document that met the four requirements stated in her memo from March 2012. He stated that, moving forward, they will try to be as inclusive as practicable.

Ms. Bergmann noted that while it is correct that DS Hayes did send the draft plan out for review, we are now discussing the draft changes to Annex F. She further noted that while she had heard that a subsequent meeting, regarding the senior-level inter-agency work group's proposed plan, had been held between DOI and BSEE, neither the DOI NRT representative nor the alternate representative have been involved in any of these discussions. Ms. Bergmann stated that one of the challenges involved, stems from conflicting information regarding the net environmental benefit of dispersants use, and no consensus exists among the scientific community on this issue. She stated that we do not know the long term effects of dispersant use in the Gulf of Mexico, because the long term is not yet here. The reason that the DWG deliberated the previous draft of Appendix I for a year, was to arrive at consensus, and that the consensus among the group was that it is best to make dispersant decisions on an incident-specific basis. She feels that it is always important for resource agencies to be involved in the response, to provide information on natural resources, regardless of whether or not the spill occurs within three miles of shore.

Mr. Folley stated that the consultation process exists within the proposed preauthorization agreement. The difference is whether or not the FOSC can start the process of mobilizing resources before that consultation takes place. That process can still result in modification or even rejection of the decision to disperse.

Ms. Bergman posited that, if it is appropriate for the FOSC to decide to disperse outside of the three mile exclusion zone, then why not within the zone as well.

CAPT Borneman answered that a number had to be chosen, and the number chosen was three. He stated that alternatively, the group could have designated the exclusion zone as "all State waters".

Mr. Folley stated that, should the State agree to this preauthorization, it would be waiving its right to deny dispersant use outside of the three mile zone, but it is not granting any such waiver for operations within three miles. In any case, the State would still be a part of unified command and the environmental unit, but that the FOSC would have no statutory obligation to grant a State request to not disperse.

Steve Russell (ADEC) asked whether subarea committees would have authority to extend the range of the exclusionary zone to a distance greater than 3 NM from shore, under such an agreement, since subarea plans extend to 200 NM.

CDR Ben Hawkins (USCG) stated that his understanding of the NCP was such that subarea committees were at liberty to take a more conservative approach to preauthorization. Mr. Russell concurred that his understanding was the same.

Mr. Helton asked what rules currently apply, while the draft document is still in the review and consultation process. Mr. Folley answered that, following suspension of the previously existing preauthorization agreement in 2008, the regulations in the NCP became the guiding policy for dispersants use in Alaska. He stated that since that time, this process is what has been used in drills and actual events, and that it has actually worked quite well in terms of the decision-making process.

Some discussion followed regarding which process had been drilled in November 2012. Ms. Bergman stated that the process drilled at that time was the draft process that was presented to the ARRT by the STC at the fall 2012 meeting in Fairbanks. Ms. Runge explained that one problem with that process was that it was entitled "preauthorization" when it, in fact, was not. She stated that that plan served as a starting point for the senior managers trying to get to the point of actual preauthorization. She stated that the current draft version actually meets the regulatory requirements to be called a preauthorization agreement.

Ms. Bergmann stated that those in Alaska actually working on responses all the time had agreed that incident-specific consultation met everyone's needs. Ms. Bergmann stated that a preauthorization agreement is not required to give us dispersant capability, because such a capability already exists in Alaska, right now, and that it is, in fact, required by State regulators for tanker vessels.

Mr. Folley clarified that the State can only require and regulate dispersant capability in instances where the PRP has chosen to include dispersant use in its contingency plan. CDR Hawkins added that a PRP is not required to include dispersants in its contingency plan, and that, in the next iteration, it could remove dispersants from its plan, thereby eliminating the State's requirement to maintain dispersant capability. Ms. Runge noted that, likewise, [Royal Dutch] Shell Oil is under no requirement to stockpile dispersant for its drilling rigs. Ms. Bergman noted that, while that may be true, a preauthorization agreement would not change that fact, as the CAPS rule applies only to tank vessels, and not to drilling rigs or their support vessels.

Ms. Bergmann asked Christy Bohl (BSEE) whether BSEE, if it wanted to, could require Shell to have dispersant capability, as part of its spill contingency plan. Ms. Bohl answered that Shell is required to have a dispersant application process, but that there is no requirement for them to maintain an inventory of dispersant in Alaska. Ms. Bergman asked Ms. Bohl whether BSEE had the authority to require Shell to do so. Ms. Bohl replied that she did not answer that. Ms. Bergman stated that, because of this, it is not as though we lack dispersant capability. She stated that she hopes that folks in Washington, DC have gotten the message that those actually responding to spills know how to be responsive to the needs of the OSC, and she has not heard that any issues arose from the Kulluk incident, or that there was any problem with natural resource trustees providing timely information to the OSC. She stated that the natural resource trustees know how to support the OSC 24 hours a day, seven days a week, and that they are, in fact, doing so all the time.

Mr. Russell stated that it would be inconceivable to him that dispersants would be used anywhere in the state absent a phone call from the federal counterparts. CAPT Bourneman noted that it wouldn't be a phone call, as the SOSOC would be seated next to the FOSC.

CAPT Bourneman pointed out that they have never relied on industry to act as USCG feels it should, but rather, they have relied on law and regulation to require it. Just because industry maintains the capability by its own volition, does not mean that it will always do so.

Mr. Terada concluded the discussion, noting time constraints, and reiterated that the DWG was asked to complete a draft by April, and that he looked forward to hearing their report at the next ARRT meeting.

Mr. Everett thanked all the participants for their input.

Pacific Strike Team Report

CWO Mike Jolly, Emergency Response Officer for the USCG Pacific Strike Team provided an overview of their response capabilities. A copy of his presentation will be made available on the ARRT website.

The ARRT recessed for lunch.

OSC Reports

The FOSCs for USCG (CAPT Bornemann, CDR Hawkins, and CDR Shane Montoya) and EPA (Mr. Whittier and Matt Carr) and Mr. Folley, representing Alaska SOSCs, presented reports on recent responses, exercises and drills, planning initiatives, outreach and engagement, and lessons learned. Presentation slides will be made available on the ARRT website. A complete list of significant responses is available in these slides.

The upcoming major drills and exercises include a SONS drill, a North Slope mutual aid drill (MAD), a Canada-United States Dixon Entrance (CANUSDIX) exercise, and a Port of Valdez area exercise.

Significant lessons learned addressed by the OSCs included the following:

- During the Kulluk Response, it was necessary to exercise the protocol for requesting assets from the U.S. Department of Defense (DOD), via the ARRT. The process proved successful and DOD assets were assigned to assist in the response.
- The role, function, and composition Regional Stakeholder Committees (RSC) should be addressed in the UP and SCP's. Issues that arose during the Kulluk response included the frequency of meetings between the RSC and Unified Command versus other command staff; types of information provided to the RSC; and whether there is a need to redact personal contact information, proprietary information and other sensitive information, like security. The means by which the RSC provides input to the Unified Command should also be clarified. Mr. Russell commented that Annex B of the UP was overly prescriptive and included overly detailed procedures.
- Providing accurate and consistent public information and communication is always important. In the Kulluk response, this included keeping stakeholders, media, and the general public well informed. A consistent format for the Unified Command's website should be developed.
- Geographic Information Systems data from the Subarea Plans, particularly for Geographic Response Strategies (GRS), should be created.

Federal/State Plans Update

Mr. Knowles presented an overview of the status of planned updates to the UP and SCP's. The current UP is in need of numerous updates. However, the update process is onerous, and may require revision. In the interim, policy updates are posted on the Alaska RRT website. These updates will eventually be incorporated in the UP when it is revised.

Multiple SCPs are currently being revised. Changes to the Bristol Bay and Western Alaska SCPs are complete with promulgation of Change 1 to each of these plans expected by the end of February. The Southeast SCP is out for public review. Updates to the Aleutian Islands, Alaska Interior, and Prince William Sound SCPs have begun, and these plans are currently under review by their respective Subarea Committees.

Additional GRS's are being developed for the Southeast Alaska, the Northwest Arctic and Aleutians Islands SCP's. EPA is in the early stages of developing a risk assessment, which will identify potential inland GRS locations.

Mr. Everett noted that there are four SCPs currently under revision and commended the subarea committees for their effort.

Mr. McNutt reminded ARRT members that development of these GRS's is contracted out, and that the process is bound by contract timelines. It is imperative that reviewers submit comments within the designated comment period, if comments are to be incorporated into the final document.

Dr. John French reminded the ARRT that the Cook Inlet and Prince William Sound Regional Citizens Advisory Councils (RCAC) provided significant funding for GRS development. He requested that the ARRT recognize this support.

Mr. Folley added that ADEC may be able to commit some future resources for testing the effectiveness of existing GRSs instead of exclusively for developing new ones.

ARRT Endangered Species Act, Section 7 Consultation Implementation Workgroup

Ms. Combes provided an update on the progress of the Endangered Species Act (ESA) Consultation Implementation Workgroup. A presentation is available on the ARRT website.

The workgroup has prepared a draft final Biological Assessment (BA). Due to a large number of comments received (over 300), the workgroup was required to prepare an intermediate draft BA, resulting in the exhaustion of budgeted resources. The workgroup is engaged in determining the best way forward, to complete the consultation. They expect to have a final BA by June 2013. There are currently no plans to conduct an analysis of essential fish habitat, as described in the Magnison-Stevens Fishery Conservation and Management Act.

The estimated date for receipt of a Biological Opinion (BO) from U.S. Fish and Wildlife Service (USFWS) and NOAA National Marine Fisheries Service (NMFS) (hereafter, the Services) is December 2013. Following receipt of the BO, the workgroup will formulate next steps, including identification of any necessary revisions to the Unified Plan.

Ms. Bergman asked what effect the proposed change to dispersant use policy could have on the consultation process. Ms. Combes responded that any change to the current decision-making process would need to be incorporated into the BA, prior to submission to the Services in order to be considered under this consultation process. Otherwise, it will need to be submitted to the Services later, for separate consideration.

Dr. Whitney asked if there had been any feedback from the Center for Biological Diversity (CBD), whose notice of intent to file suit had precipitated this consultation. Ms. Combes stated that the working group has not provided a draft BA to CBD; therefore, the workgroup has received no comments from them. However, CBD has filed suit again against EPA Region 9 along with USCG District 11, on the same grounds, but they have not yet filed suit in against EPA Region 10 or USCG District 17, so presumably, CBD is satisfied with the progress of the consultation.

Biennial Work Plan Discussion

Mr. Everett led an overview and discussion about the 2013-2014 Biennial Work Plan. He spoke to recent revisions to the work plan. A draft work plan has been distributed to ARRT members via email. Copies were also made available at this meeting and are posted on the ARRT website. He then directed the members to areas of the work plan he felt warranted further discussion.

Goals - Tribal Outreach: The current wording in the Work Plan specifies outreach only to federally-recognized tribes. However, it may be appropriate to rephrase this to include other native organizations. It was noted that there is a responsibility to reach out not only to tribes but to other stakeholders and an

additional bullet under “Goals” should be added to specify outreach to ‘other stakeholders and all interested parties.’”

Goals - Development of Dispersant Use Preauthorization - Mr. Everett recommended tabling discussion of this topic to avoid duplicating the same discussion held earlier in the day. A few new issues were raised specific to this agenda item. These included the recommendation by Ms. Runge (EPA Headquarters) to remove the phrase “as directed by the NRT.” She stated that a preauthorization is required by regulation, and not necessarily by the members of the NRT. Another issue concerns whether or not preauthorization is a goal of ARRT. CAPT Bornemann and Mr. Folley agreed it was goal of the FOSC’s and the State.

Goals – Phase-out alternative compliance measures for vessel response plans - Mr. Everett questioned whether the phasing out of alternative compliance measures is in fact a goal of the ARRT. Mr. Folley responded that the alternative compliance regime was never intended to be permanent, but was created as an interim solution, pending the promulgation of non-tank vessel rules. The ARRT should continue to advocate for new rules from USCG headquarters. A recommendation was made to include this as a goal in the ARRT annual report. It was further suggested that the ARRT lobby the NRT to advocate for promulgation and implementation of new USCG rules. Mr. Everett noted that such a decision is beyond the scope of the ARRT. At this time the ARRT is unable to do more than advocate for the desired action.

Scheduled Meetings - A question was raised regarding the revised meeting schedule, which lists three meetings each year, unlike previous years in which only two meetings were held. Mr. Everett recommended leaving the schedule at three meetings per year. He noted that, overall, it equated to 3 meeting days per year instead of four meeting days, since previously, the ARRT held two 2-day meetings each year. He also noted that collocation of RRT meetings with subarea committee meetings has resulting in an improved experience for the meeting attendees.

Preparedness Products - Alaska RRT Response Aids: The ARRT was recently activated in response to the Kulluk incident, which occurred late on the evening of New Year’s Eve. The co-chairs and coordinators were unable to reach most of the ARRT members for the activation. Mr. Everett reminded the members of the importance of being available at all times for emergency responses. The ARRT coordinators will be preparing a draft policy on activation procedures and protocols designed to improve the activation process.

Preparedness Products - Ms. Bergman recommended adding the recent PPOR Guidelines revision (Unified Plan, Annex O) to the list of Preparedness Products.

Public Comments

Attendees were invited to address members of the ARRT. A sign-up sheet was made available throughout the day. Three speakers came forward. Each commenter was allotted 10 minutes.

Dr. John French spoke to his concerns regarding public outreach, and dispersant use. He stated that consultation with federally-recognized tribes, stakeholders, and other interested parties is an important process and it must also be a two-way process; not just notification to the other parties by the government. Regarding dispersant use, he spoke to his concerns that dispersant use in Alaska waters may have different affects due to the upwelling structure of the nutrient cycle as opposed to a near-shore to off-shore cycle as exists elsewhere, and that marine mammals could be negatively affected by dispersant chemicals in the water.

Ms. Karen Plentnikoff, Aleutians Pribilofs Islands Corporation commented that no tribes or other stakeholders have yet been involved in ARRT's discussions regarding preauthorization. She perceives that this is because the State and USCG want to get the preauthorization set in stone prior to consultation. She also questioned whether there exists a timeframe for how long preauthorization will last. In regards to improved outreach and consultation with tribes, she stated that she hopes the ARRT will work with subject matter experts, like herself, in determining how the organization can best reach out to tribes. She recommends the use of EPA Region 10 tribal consultation guidelines and DOI tribal outreach procedures as both include effective practices to be examined and possibly adopted by the ARRT. She commented on the issue of animals exposed to oil or dispersants that may later be consumed as subsistence foods, and whether Alaska Natives would have any way of knowing whether they were consuming potentially contaminated food. She also noted concern that the Fukushima Daiichi radiation release is not yet over and there has been very little work on the continued impacts thereof, and that this is a significant concern in the Aleutian Islands. She also voiced her belief that there needs to be a tribal representative on the ARRT.

Tom Lakosh, Alaska Inter-tribal Council (AITC) expressed his desire that the AITC be included as a member of the ARRT and the Prince William Sound and Aleutian Islands subarea committees. He stated that the AITC has ninety signatory members, most of whom are federally-recognized tribes, and has submitted letters to EPA and USCG regarding this issue. He also addressed his concern that not all vessels that may pose a risk of oil spill are regulated by the USCG and that alternative compliance does not allow Chadux to assess proper fees to its clients.

Closing Remarks

ARRT members were invited to make any closing remarks.

MAJ Todd Stoll, DOD stated that much was learned from the Kulluk Incident and Economy Act request.

Dr. John Whitney, NOAA, stated that \$65,000 is needed to complete shorezone surveys for St. Lawrence Island.

Doug Helton, NOAA noted continued increased focus on Alaska, the arctic, dispersant use, lessons learned, and litigation from the Deep Water Horizon incident. He also stated that NOAA will be hiring another Scientific Support Coordinator to work with Dr. Whitney in Anchorage.

Gary Sonnenberg, USDA/USFS commented that while both the Chugach and Tongass National Forests have significant amounts of shoreline, the majority of focus for his agency has been on Prince William Sound, and not Southeast Alaska.

Pamela Bergman, DOI spoke to the importance of conducting outreach. She noted a concern raised during the Seladang Ayu response by subsistence hunters who wanted to be able to choose whether or not to eat formerly oiled wildlife. As a result of her comments, rehabilitated birds are now banded to indicate their status.

CDR Shane Montoya, USCG, stated there are easy decisions and there hard decisions and that FOSCs need the greatest degree of support for making the hard decisions.

CAPT Scott Bornemann, USCG added that prevention is easier and cheaper than response.

Gary Folley, ADEC, remarked that it is important to follow through with the lessons learned from the Kulluk, particularly with issues regarding outreach and public communications. He also added that both the chief planner, Larry Iwamoto, and the Southeast SOSC, Scott Tiernan, will retire soon.

Mark Everett, USCG Co-Chair, commented that since he has been attending the meetings, ARRT meetings have improved; becoming less contentious and more productive. He also noted that he will be preparing letters for retiring/recently retired members and participants.

Cecil McNutt reminded participants of the importance of providing RSVP prior to the meeting.

Mr. Everett thanked attendees and asked that, during the pending federal government sequester, should any member or alternate member be furloughed, please notify the ARRT coordinators of the appropriate agency point of contact in the event of an emergency response and/or ARRT activation.

Mr. Terada thanked attendees, and adjourned the meeting.

Mr. Helton reminded attendees of the forthcoming vacancy announcement for a NOAA scientific support coordinator in Anchorage to assist Dr. Whitney.