

## WORKSHOP Oil Spills in Your Backyard — WHAT’S THE PLAN?

**Session: Health & Response Gaps**

**Handout: Spill Lessons Learned**

	Exxon Valdez	BP DWH	Tar sands Michigan	Tar sands Arkansas
<b>HUMAN HEALTH</b>				
Respiratory distress – trouble breathing, cough				
Central Nervous System symptoms – headaches, dizziness, nausea, seizures, blurry vision				
Gastrointestinal issues, vomiting				
Skin rashes, blistering & lesions				
Blood issues – nose & ear bleeds, blood in urine, bleeding hemorrhoids				
Hair loss				
Immune suppression – sick frequently				
Mental health – stress, substance abuse, domestic violence, divorces, suicides, children trauma, +				
Other (list)				
Other (list)				
Other (list)				
<b>OTHER DAMAGE</b>				
Boats, underwater equipment				
Homes, personal belongings				
Non-economic harm – subsistence/culture, mental health, +				
Response operations – militarized, stress				
Litigation – unfair, divisive				
Other				
Other				

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### NOT ONE DROP: Table 1. Some Corporate Defense Strategies in Adversarial Litigation

Adopted from Brent Marshall, Steven Picou, and Jan Schlichtmann, "Technological Disasters, Litigation Stress and the Use of Alternative Dispute Resolution Mechanisms," *Law and Policy* 26 (2): 289-307, 2004.

1. Hire a small army of the best lawyers money can buy. This business cost is written off at taxpayers' expense, while plaintiffs pay lawyers out-of-pocket or on contingency.
2. Limit discovery to hide extent of culpability by claiming thousands of documents are "privileged." This forces plaintiffs to argue for individual documents, a time-consuming and costly burden.
3. Eliminate thousands of claims before requesting class certification. Plaintiffs usually request class certification from the onset to preserve individual claims.
4. Remove case to court with politically sympathetic judge.
5. File spurious lawsuits to obfuscate the main case and burden plaintiffs.
6. File a blizzard of motions to hide culpability and wealth from jury. Plaintiffs must respond to each motion.
7. Try to change standards of evidence (or safety) to increase chance of prevailing in court.
8. Execute legally questionable and morally deficit secret deals to reduce anticipated losses; e.g., Exxon's secret deal with the Seattle Seven fish processors will return 11 percent of the punitive damage award to Exxon.
9. Eliminate damaging biological and social evidence and witnesses so jurors never know the 'whole truth'—the full extent of harm caused by the accident and the trail of broken promises leading to it; e.g., Exxon successfully denied all non-economic damage claims by preventing studies on mental health trauma and community harm from being admitted as court evidence.
10. Fund scientists to assess environmental and other damages. Use corporate-sponsored science to attack credible science; e.g., the illusion of "scientific uncertainty" caused the jury in the *Exxon Valdez* case to reduce damage claims for lost fish harvests.
11. Launch professional and personal attacks to discredit scientists who challenge corporate supremacy in science; e.g., Exxon attacked scientists who disagreed with Exxon's science.
12. "Use biased accounting strategies to overestimate costs to [corporate] defendants and underestimate costs to victims."
13. Fund comprehensive campaign against punitive damage awards; e.g., such Exxon-sponsored studies found their way into respected law journals and the court itself without mention of their corporate sponsor.
14. Retry the case through appeals. Also through appeals, attempt to reduce or eliminate any large damage awards, using the legal system to stall for time to recoup through investments whatever might have to be paid in awards plus interest.
15. Organize a massive public relations campaign that deconstructs what really happened and reconstructs an all clear signal, pronouncing that damages are gone and all victims (ecological and human) have recovered.
16. Advance rights of corporate "persons."

# WORKSHOP Oil Spills in Your Backyard — WHAT'S THE PLAN?

Session: Marine Spill Scenario

Handout: Response Gaps & Needs – 1

## WORKER HEALTH (Private & public)

<b>Screening &amp; monitoring protocols</b> – pre- and post-evaluations, health monitoring of crews √ ALERT <u>proposed</u> revisions to National C-Plan, Section 300.150: <a href="http://alertproject.org/wp-content/uploads/2015/05/Coalition_revisions.pdf">http://alertproject.org/wp-content/uploads/2015/05/Coalition_revisions.pdf</a> √ Ott, <i>Sound Truth and Corporate Myth</i> \$, Chapters 2–3, 10
<b>HAZWOPER 40 training course</b> – full course, trainers, PPE stored & ready, etc.
<b>Independent health monitoring</b> √ Massachusetts Licensed Site Professional Association <a href="http://www.mass.gov/eea/agencies/massdep/cleanup/the-privatized-waste-site-cleanup-program.html">http://www.mass.gov/eea/agencies/massdep/cleanup/the-privatized-waste-site-cleanup-program.html</a>
<b>Triggering criteria for unsafe conditions</b> √ ALERT <u>proposed</u> revisions to National C-Plan, Section 300.150
<b>Other</b>
<b>Other</b>

## PUBLIC HEALTH

<b>Risk communication</b>
<b>Monitoring</b> – Rapid health assessments, long-term monitoring (epidemiology), funding √ FILM: Toxic Trespass (2008), Canadian Women’s Health Network, <a href="http://www.cwhn.ca/node/39374">http://www.cwhn.ca/node/39374</a> √ FILM: The Beloved Community (2006), <a href="http://newsreel.org/video/THE-BELOVED-COMMUNITY">http://newsreel.org/video/THE-BELOVED-COMMUNITY</a>
<b>Triggering criteria for evidence-based harm ACTION</b> √ ALERT <u>proposed</u> revisions to National C-Plan, Section 300.152: <a href="http://alertproject.org/wp-content/uploads/2015/05/Coalition_revisions.pdf">http://alertproject.org/wp-content/uploads/2015/05/Coalition_revisions.pdf</a>
<b>Procedures for temporary evacuation, housing, water</b>
<b>Occupational &amp; Environmental Medicine-trained health care professionals</b> √ Ott, <i>Sound Truth and Corporate Myth</i> \$, biological impacts to people & wildlife
<b>Mental health care</b> – risk assessments & long-term monitoring, funding √ Ott, <i>Not One Drop</i> , psychosocial community-level trauma & healing √ Sociologist Steve Picou, <a href="http://www.stevenpicou.com/pdfs/peer-listener-training-manual-gulf-of-mexico.pdf?id=593">http://www.stevenpicou.com/pdfs/peer-listener-training-manual-gulf-of-mexico.pdf?id=593</a>



## WORKSHOP Oil Spills in Your Backyard — WHAT'S THE PLAN?

Session: Marine Spill Scenario

Handout: Response Gaps & Needs – 2

### DISPERSANTS & OTHER CLEANUP PRODUCTS

<b>Screening protocols – How effective is it? (efficacy tests) How toxic is it? (toxicity tests)</b> √ ALERT comments on EPA rulemaking, Section 900.915, pg. 94-101, <a href="http://alertproject.org/wp-content/uploads/2015/05/ALERT-FINAL-NCP-Rules-150422_1.pdf">http://alertproject.org/wp-content/uploads/2015/05/ALERT-FINAL-NCP-Rules-150422_1.pdf</a> √ PWS RCAC <a href="http://www.pwsrcac.org/announcements/epa-wants-your-comments-on-proposed-changes-for-using-chemical-dispersants-during-oil-spills/">http://www.pwsrcac.org/announcements/epa-wants-your-comments-on-proposed-changes-for-using-chemical-dispersants-during-oil-spills/</a>
<b>Monitoring protocols during and after use – Did it work? Was it a net benefit?</b>
<b>Authority to make decisions – to use or STOP use, where to store or stage products, etc.</b>
<b>Conditional criteria – seasonal, weather, temperature, salinity, prohibited substances, +</b>
<b>Criteria to ban products that don't work as intended – community acceptance?</b>
<b>Risk communication – health, notification of use, staging areas, etc.</b>
<b>Other</b>

### ENVIRONMENTAL HEALTH

<b>Baseline surveys – pre-spill monitoring</b> √ Vancouver Aquarium Ocean Pollution Research Program – <a href="https://www.vanaqua.org/act/research/ocean-pollution-research-program">https://www.vanaqua.org/act/research/ocean-pollution-research-program</a>
<b>Monitoring during &amp; after spill – based on life cycles of key species, 10 years minimum?</b> √ Ott, <i>Sound Truth and Corporate Myth</i> \$, Part 2
<b>Wildlife rescue &amp; rehabilitation – public trust or commons, volunteers, +</b>
<b>Authority to decide how clean is “clean” – criteria, local voice, +</b>
<b>Other</b>

## WORKSHOP Oil Spills in Your Backyard — WHAT'S THE PLAN?

Session: Marine Spill Scenario

Handout: Response Gaps & Needs – 3

### DECONTAMINATION ACTIVITIES & WASTE DISPOSAL

<b>Authority to decide where – Decon: marina, neighborhood? Disposal: hazardous?</b>
<b>Risk communication to public – what's going on, where, MSDS for products, etc.</b> √ <a href="http://www.nalcoesllc.com/nes/documents/MSDS/NESLLC-COREXIT-EC9580A-Mar2012.pdf">http://www.nalcoesllc.com/nes/documents/MSDS/NESLLC-COREXIT-EC9580A-Mar2012.pdf</a> √ <a href="http://www.cenovus.com/contractor/docs/Cold-Lake-Blend-Crude.pdf">http://www.cenovus.com/contractor/docs/Cold-Lake-Blend-Crude.pdf</a>
<b>Reporting &amp; accounting requirements</b>
<b>Site rehabilitation – standards, who decides “done”</b>
<b>Other</b>

### VOLUNTEER OPPORTUNITIES & TRAINING REQUIREMENTS

<b>Affiliated volunteers – associated with existing volunteer organizations</b>
<b>Unaffiliated/convergent volunteers – spontaneously appear to help, coordination, +</b>
<b>Wildlife Volunteer Plan – authority, training requirements,</b>
<b>Worker Health Volunteer Plan – data collection, training requirements, monitoring, +</b>
<b>Public Health Volunteer Plan – data collection, training requirements, monitoring, +</b>
<b>Local Government or First Nations Volunteer Plan – research, writing, daily reports, +</b>
<b>Other</b>

## WORKSHOP Oil Spills in Your Backyard — WHAT'S THE PLAN?

**Session: Citizen Actions**

**Handout: Ideas & Deeds**

### THINGS THAT HAVE BEEN TRIED

B = Before, D = During, A = After	EVOS	BP DWH	Tar S Mich.	Tar S Ark.
<b>Human health risk assessments</b>	A	D	–	D, A
<b>Air quality monitoring</b> (Before, During, After)	–	D	–	D
<b>Trained responders on stand-by</b> (paid) SERVS example ✓ HAZWOPER training ✓ Drills, PWSRCAC, <a href="http://www.pwsrcac.org/programs/oil-spill-response/fishing-vessel-training/">http://www.pwsrcac.org/programs/oil-spill-response/fishing-vessel-training/</a> ✓ SERVS Ship Escort/ Vessel Response System	A	–	–	–
<b>Citizen's Advisory Councils</b> ✓ Alaska: Prince William Sound Regional Citizens' Advisory Council <a href="http://www.pwsrcac.org">http://www.pwsrcac.org</a> ✓ Arkansas: Faulkner County Citizens' Advisory Group <a href="http://www.desmogblog.com/2013/04/29/study-reveals-30-toxic-chemicals-high-levels-exxon-arkansas-tar-sands-pipeline-spill-site">http://www.desmogblog.com/2013/04/29/study-reveals-30-toxic-chemicals-high-levels-exxon-arkansas-tar-sands-pipeline-spill-site</a> <a href="https://www.facebook.com/pages/Faulkner-County-Citizens-Advisory-Group/198591143535475">https://www.facebook.com/pages/Faulkner-County-Citizens-Advisory-Group/198591143535475</a>	A	–	–	B
<b>NVDA – Fishermen's blockade of Valdez Narrows</b>	A			
<b>Photo-documentation, Logs</b>		D	D	D
<b>Media events</b>	D	D	–	D
<b>Policy changes – legislation, regulations</b>	A			
<b>Student Involvement – Oil Spill Curriculum</b> ✓ <a href="http://www.pwsrcac.org/outreach/education/">http://www.pwsrcac.org/outreach/education/</a>				
<b>Oil Spill Prevention &amp; Response Trust Fund – examples</b> ✓ Massachusetts: <a href="https://malegislature.gov/Laws/GeneralLaws/PartI/TitleII/Chapter21m/Section8">https://malegislature.gov/Laws/GeneralLaws/PartI/TitleII/Chapter21m/Section8</a>				

### NEW IDEAS TO CONSIDER

<b>Escrow accounts for before (liquidated) &amp; after (punitive) damages</b>
<b>Require mediation instead of litigation</b>
<b>Create incentives for mediation – i.e., no government contracts until litigation resolved; seize corporate assets, +</b>

## WORKSHOP Oil Spills in Your Backyard — WHAT'S THE PLAN?

Session: Break-out groups

Handout: What Can I/We Do?

### PERSONAL COMMITMENT

1. Follow up meeting with other workshop attendees to plan action within two months
2. Request your municipality include elements of oil spill planning in Neighborhood Emergency Preparedness Planning
3. Team up and host a house party to share what you learned
4. Email, call, or tweet your local government, MLA and MP to request action on something you learned about oil spill plans
5. Attend a public council meeting to request action on something you learned
6. Don't wait for an oil spill! Call local government and volunteer NOW to help strengthen oil spill response efforts
7. Read the workshop report when it arrives and share it – with 2 friends and 1 nonprofit organization
- 8.
- 9.
- 10.

### LOCAL GOVERNMENT

#### **Local government should create oil spill response plans:**

1. In coordination with federal and provincial agencies, other coastal local governments, First Nations, and key stakeholder.
2. That clearly identify roles and operational responsibilities for all relevant agencies, governments, entities, and citizen volunteers within a Unified Command System.
3. That clearly identify priority areas for protection of the environment and public health and welfare.
4. That are practiced and refined every year through table-top drills and on-the-water exercises with other parties to the plan.
5. Local governments will need additional resources and support from senior spill response agencies to accomplish this, and should work together to advocate for this.

## WORKSHOP Oil Spills in Your Backyard — WHAT'S THE PLAN?

**As part of its public trust responsibilities, local government should include in oil spill response plans (list not exhaustive):**

1. A worker safety oversight program – screening evaluations, training requirements, rapid risk monitoring, long-term health monitoring, action criteria; outreach/education; trained professionals in chemical illness.
2. A public health monitoring program – baseline, rapid risk, long-term epidemiology; action criteria; outreach/ education; trained professionals in chemical illness.
3. A mental health care program – Peer Listening trainers, outreach/education program.
4. An emergency program for evacuation, temporary housing, medical care.
5. A volunteer opportunities & training program.
6. A Product Schedule identifying what products can be used safely based on a listing and testing protocols, including environmental monitoring to determine if product worked as intended.
7. A risk communication program.
8. An environmental monitoring program, including before, during & after spill.
9. A decontamination activities program.
10. A program to dispose of contaminated wastes.
11. Wildlife collection, treatment, and rehabilitation.
12. Criteria for evaluating spill response and cleanup.

### PROVINCIAL GOVERNMENT

**Provincial government should strengthen oil spill prevention and response; specifically, it should:**

1. Allocate additional funding to the environmental emergency program to allow for adequate staffing and oversight
2. Create a dedicated oil spill fund for BC
3. Ensure that any new province-wide spill response organization is led by, and accountable to, public rather than private interests
4. Conduct a BC Environmental Assessment of the Kinder Morgan Pipeline that includes making the company's emergency response plan public.
- 5.
- 6.
- 7.
- 8.



## WORKSHOP Oil Spills in Your Backyard — WHAT'S THE PLAN?

### FEDERAL GOVERNMENT

**The federal government should strengthen oil spill prevention and response; specifically, it should:**

1. Reopen the Kitsilano Coast Guard base, reopen the Tofino and Vancouver Coast Guard centers, and continue operations at the Comox Coast Guard center.
2. Require double tug escorts from the terminal to 20 km off the Vancouver Island coast until shippers can demonstrate capacity to successfully contain and remove non-buoyant oil from the marine environment.
3. Create an Oil Spill Prevention & Response Trust Fund by requiring a nickel-barrel surcharge on oil shippers
4. Require Citizens' Advisory Councils for each geographic response plan and require shippers to fund Councils as part of doing business.
5. Create a committee of representatives from WCMRC, federal and provincial agencies, coastal local governments, First Nations and key stakeholders. The Committee's mandate should be to clearly identify the roles and detailed operational responsibilities of all the relevant agencies, and ensure that these are clearly documented in the response plans of all parties.
6. Increase the liability cap for maritime spills to at least 20 billion dollars.
7. Require, review, and approve oil spill response plans developed by provincial and local governments, and by private interests such as WCMRC.
8. Require that oil spill response plans developed by private interests
9. are publicly available documents, as a condition of operations.
10. Include clear delineations between government public trust responsibilities and private duties
11. Include provisions for independent government evaluation of all programs; and
12. Include a SERVS (Ship Escort/ Response Vessel System) program & drills

### OIL OPERATORS & SHIPPERS

**Oil spill response plans developed by WCMRC on behalf of private interests should:**

1. Be available in the public domain, include operational language as to roles and responsibilities, and be integrated with plans developed by local and provincial governments and other spill response partners;
2. Have demonstrated capacity to meet or exceed claims.
- 3.
- 4.

## WORKSHOP Oil Spills in Your Backyard — WHAT'S THE PLAN?

NOTES

# WORKSHOP — WHAT’S THE PLAN? with Dr. Riki Ott

## EVALUATION FORM

Name (optional): \_\_\_\_\_

I attended these sessions.

- Morning:     Intro & exercise       Health & response gaps       Spill scenario  
 Afternoon:  Citizen actions       Small group session       Report back

	Disagree 1	2	3	4	Agree 5
<b>SESSIONS</b>					
Exercise “Why am I here?” was useful.					
Health & response gaps: Info was clear and easy to understand.					
Exercise “Marine spill scenario” was useful and easy to understand.					
Discussion about “Citizens Actions” was useful and easy to understand.					
Small group sessions were useful.					
Report back session was useful.					
<b>OVERALL</b>					
The presenter was knowledgeable about the workshop material.					
The handouts I received were useful.					
Given the time allowed, the amount of material was appropriate.					
<b>TAKING IT HOME</b>					
<b>Before</b> this workshop I was concerned about oil spill response planning.					
<b>After</b> this workshop I am concerned about oil spill response planning.					
Local government can and should be doing more to prepare for oil spills.					
Federal and provincial governments should be doing more to prepare for spills.					
I am willing to go to Council meetings with to share information from this workshop.					
I am interested in learning more.					



## WORKSHOP — WHAT'S THE PLAN? with Dr. Riki Ott

Three key things I learned and will take away from this workshop are:

Do you have any suggestions to improve this workshop?

General comments