

# **FINDING OF NO SIGNIFICANT IMPACT**

## **Final Supplement to the Damage Assessment and Restoration Plan/Environmental Assessment for the Cosco Busan Oil Spill, San Francisco Bay, California**

### **Pier Piling Repair and Replacement Project**

#### **Background**

On November 7, 2007, the freighter Cosco Busan struck the San Francisco-Oakland Bay Bridge as it attempted to depart San Francisco Bay. The accident created a gash in the hull of the vessel, causing it to spill 53,569 gallons of oil into the Bay, according to US Coast Guard calculations. Wind and currents took some of the oil outside of the Bay, where it affected the outer coast from approximately Half Moon Bay to Point Reyes. Inside the Bay, the oil primarily affected waters and shoreline within the central portion of the Bay, from Tiburon to San Francisco on the west side and from Richmond to Alameda on the east side.

Under the Oil Pollution Act (OPA), the Natural Resource Trustee Agencies (Trustees), including the National Oceanic and Atmospheric Administration (NOAA); the U.S. Fish and Wildlife Service, Bureau of Land Management, and the National Parks Service, on behalf of the Department of the Interior, the California Department of Fish and Wildlife, the California State Lands Commission released the Cosco Busan Final Damage Assessment and Restoration Plan (DARP) in February 2012. That document described the injuries resulting from the spill and the restoration projects intended to compensate the public for those injuries. The document is also an Environmental Assessment (EA) intended to satisfy the Federal Trustees' requirement to evaluate the environmental impacts of the selected restoration projects and the alternatives under the National Environmental Policy Act (NEPA). The integrated document is called a DARP/EA.

Implementation of the various projects identified in the DARP/EA has been ongoing since 2012. The trustees have been implementing a variety of projects that would restore intertidal and subtidal habitats, in particular eelgrass, rockweed and native oysters. Recently the Trustees for the Cosco Busan settlement and have received new information that is pertinent to potential options for restoring herring and intertidal and subtidal habitats injured by the 2007 Cosco Busan oil spill. Consequently, the Trustees have prepared a "Supplement" to the 2012 Cosco Busan Final DARP/EA (Supplement). This Supplement proposes a pier piling repair and replacement project that uses new materials to encapsulate or wrap the pilings, as a new preferred alternative for implementation. This project will not replace the subtidal restoration efforts currently underway. Instead, it will work synergistically with the eelgrass work and expand habitat for spawning herring and other subtidal organisms. The Trustees have evaluated this project using the OPA NRDA threshold and screening criteria developed to select restoration projects as part of the DARP/EA, and concluded that this project is consistent with and meets the objectives of these selection factors.

## **Public Involvement**

Throughout the NRDA process, and in accordance with NEPA and OPA regulations, the Trustees have made information available to the public. The Draft Supplement was released on May 5, 2019, for a 30-day public comment period via a posting on the CDFW Cosco Busan and San Francisco Bay Joint venture websites. No comments were received on the Draft Supplement during the public comment period.

## **Alternatives Considered**

The pier piling replacement project was originally discussed as an alternative for the restoration of fish and other aquatic organisms in Section 4.3.3 of the Final DARP/EA, however, that alternative was considered non-preferred due to the potential for greater-scale benefits from eelgrass restoration projects (a selected preferred alternative in the DARP/EA), given the greater subtidal spawning surface area that eelgrass habitat expansion would create. Subsequently, it has come to the Trustees' attention that there are new, cost-effective and innovative ways to enhance subtidal habitats by repurposing existing infrastructure (abandoned piers and pilings not eligible for removal) using a commercially available piling-repair jacket that encapsulates creosote-treated piles, providing a non-toxic, rugose surface to allow for herring spawn, shellfish and other micro and macro invertebrate and algae to attach. The piling-repair jacket is also designed to stabilize deteriorated piles, preventing them from breaking and becoming marine debris. Augmenting existing infrastructure with commercially available materials is a cost-effective alternative to enhance subtidal habitat by creating a self-sustaining and low maintenance reef with multiple habitat and wildlife benefits. The project is located near the El Campo Marina in Tiburon, California, in the central portion of San Francisco Bay. The area is described in Section 2.0 of the Final DARP/EA.

NEPA requires the Trustees to consider a "no action" alternative, and the OPA regulations require consideration of a roughly equivalent "natural recovery" alternative. Under this alternative, the Trustees would take no direct action to restore injured natural resources or to compensate for lost services. Instead, the Trustees would rely on natural processes for recovery of the injured natural resources. The principal advantages of the natural recovery approach are the ease of implementation and the absence of monetary costs. However, while natural recovery may occur over time for many of the injured resources, the interim losses suffered by those resources would not be compensated under the no action alternative. Given that technically feasible restoration approaches are available to compensate for interim natural resource and service losses, the Trustees rejected this alternative and instead have selected the pier piling repair and replacement project described above as the preferred alternatives.

NOAA and its co-Trustees prepared a Supplement to set forth: (1) the decision-making process that takes into account the environmental impacts of an action and how the public was involved in that decision making, (2) its determination that the selected alternative other than the no-action alternative would be the most ecologically sound alternatives, and (3) its determination that an environmental impact statement does not need to be prepared for this action. In compliance with OPA NRDA regulations and NEPA, the selection of the preferred alternative was finalized following and based on public review and comment.

### **Environmental Consequences**

NOAA's Companion Manual (Jan 13, 2017) for NOAA's Administrative Order (NAO) 216-6A (April 22, 2016) contains criteria for determining the significance of the impacts of a proposed action. In addition, the Council on Environmental Quality (CEQ) regulations at 40 C.F.R. § 1508.27 state that the significance of an action should be analyzed both in terms of "context" and "intensity." The significance of this action is analyzed based on the NAO 216-6 criteria and CEQ's context and intensity criteria. The criteria listed below are relevant to making a Finding of No Significant Impact, and have been considered individually, as well as in combination with the others, and include:

(1) Can the proposed action reasonably be expected to cause substantial damage to the ocean and coastal habitats and/or essential fish habitat as defined under the Magnuson Stevens Act and identified in Federal Management Plans (FMPs)?

Response: No. The Trustees do not expect the selected project to cause substantial damage to the ocean and coastal habitats and/or essential fish habitat as defined under the Magnuson-Stevens Act. Any short-term and temporary localized impacts from the restoration activities, such as those associated with installing the encapsulation material, would be minimized by the use of Best Management Practices (BMPs). As documented in the Supplemental EA, the Trustees expect the selected project to result in long-term, beneficial impacts to coastal habitat and associated species by increasing the area and ecological function of benthic subtidal habitat injured by the spill

(2) Can the proposed action be expected to have a substantial impact on biodiversity and/or ecosystem function within the affected area (e.g., benthic productivity, predator prey relationships, etc.)?

Response: No. The selected project is not expected to have any substantial impacts beyond a local level; the beneficial impacts on ecosystem function and species biodiversity would not be substantial at a regional or larger scale. As documented in the Supplement, the proposed project is expected to result in moderate long-term beneficial impacts to fish, invertebrates and algae, providing additional habitat to support recovery of these sensitive communities and resulting in greater habitat complexity, diversity, and productivity. The project is expected to increase the availability and quality of subtidal habitat. As such there would be an expected increase in ecosystem function and species biodiversity. Any potential adverse impacts are expected to be minimal, short term, localized, and not expected to decrease function or species biodiversity.

(3) Can the proposed action reasonably be expected to have a substantial adverse impact on public health and safety?

Response: No. The selected project is not expected to have any impacts on public health and safety. The implementation of the proposed restoration project would not present any unique physical hazards to humans.

(4) Can the proposed action reasonably be expected to adversely affect endangered or threatened species, their critical habitat, marine mammals, or other non-target species?

Response: No. The selected project is not expected to adversely affect endangered or threatened species, their critical habitat, marine mammals, or other non-target species. Overall, the selected project is expected to benefit species through improved habitat availability and function.

(5) Are significant social or economic impacts interrelated with natural or physical environmental effects?

Response: No. The Trustees do not expect there to be significant adverse social or economic impacts interrelated with natural or physical environmental effects of the selected project. It is anticipated that the selected project will provide positive social interactions with the natural environment.

(6) Are the effects on the quality of the human environment likely to be highly controversial?

Response: No. The effects on the quality of the human environment from the proposed action are not expected to be highly controversial. The selected project is anticipated to have long-term, beneficial impacts to habitat quality via increases in production and biodiversity. The Trustees did not receive any comments from the public on the Draft Supplement.

(7) Can the proposed action reasonably be expected to result in substantial impacts to unique areas, such as historic or cultural resources, park land, prime farmlands, wetlands, wild and scenic rivers, essential fish habitat, or ecologically critical areas?

Response: No. The project area and associated environment includes subtidal bay and pilings, which are not historic structures. While these areas do contain unique characteristics, the proposed project is expected to be beneficial to restore the ecological function of nearshore subtidal habitats. Furthermore, no unique or rare habitat would be destroyed due to the proposed restoration project. Furthermore, the wrapping of the pilings does not involve excavation and will not disturb any existing resources.

(8) Are the effects on the human environment likely to be highly uncertain or involve unique or unknown risks?

Response: No. The project area is not within a publically accessible area. Wrapping pilings is not a new technique; however, new materials used will be. The wrapping is made of natural materials that are not controversial, and have been used in other projects in California and Washington.

(9) Is the proposed action related to other actions with individually insignificant, but cumulatively significant impacts?

Response: No. The Trustees evaluated the piling project in the Supplement in conjunction with other known past, proposed or foreseeable closely related projects and determined that there are no significant cumulative impacts. The projects will only temporarily impact resources during construction activities and will utilize all BMPs to minimize these impacts. Cumulative effects would occur if there were one or more other construction projects planned in the immediate project area during the 60 days of construction, and/or planned to occur soon before or after the proposed action. However, no such projects were identified during the site selection process for the proposed action or during consultation with the San Francisco Bay Conservation and Development Commission, the State agency with permitting jurisdiction over submerged lands in the vicinity of the project site.

(10) Is the proposed action likely to adversely affect districts, sites, highways, structures, or objects listed in or eligible for listing in the National Register of Historic Places or may cause loss or destruction of significant scientific, cultural or historical resources?

Response: No. As noted above, the project will not adversely affect National Historic Places or cultural, scientific, or historic resources, and all necessary consultations and concurrences have taken place.

(11) Can the proposed action reasonably be expected to result in the introduction or spread of a non-indigenous species?

Response: No. The project is not expected to result in the introduction or spread of a non-indigenous species. The material used for construction is sterile and will not have any fouling organisms when placed into the bay. Although existing non-native organisms found in San Francisco Bay could attach to the piling, the project is meant to attract native species and colonization of the restored habitat is expected to be from the local environment, as such, would not introduce or spread non-indigenous species.

(12) Is the proposed action likely to establish a precedent for future actions with significant effects or represent a decision in principle about a future consideration?

Response: No. The selected restoration project is not expected to set a precedent for future actions that would significantly affect the human environment or represent a decision in principle about a future consideration.

(13) Can the proposed action reasonably be expected to threaten a violation of Federal, State, or local law or requirements imposed for the protection of the environment?

Response: No. Implementation of the selected project would not require any violation of Federal, State or local laws designed to protect the environment. The project is undergoing the required Federal, State, and local reviews and environmental

permitting. All regulatory authorizations are expected, and no project implementation activities will occur until all authorizations have been secured.

(14) Can the proposed action reasonably be expected to result in cumulative adverse effects that could have a substantial effect on the target species or non-target species?

Response: No. As described above and in the Supplement, the Trustees evaluated the restoration project and determined that there are no significant cumulative impacts.

**DETERMINATION**

Based upon an environmental review and evaluation of the "Supplement to the Final Damage Assessment and Restoration Plan/Environmental Assessment for the Cosco Busan Oil Spill, San Francisco Bay, California," as summarized above, it is determined that implementation of the pier piling repair and replacement project does not constitute a major Federal action significantly affecting the quality of the human environment under the meaning of Section 102(2)(c) of the National Environmental Policy Act of 1969 (as amended). Accordingly, an environmental impact statement is not required for this action.

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