

**NEPA Decision Document/Finding of No Significant Impact (FONSI)
For the Surf Scoter Supplement to the Cosco Busan Oil Spill
Damage Assessment and Restoration Plan/Environmental Assessment**

**Department of the Interior: United States Fish and Wildlife Service
September 17, 2013**

Introduction:

On November 7, 2007, the freighter *Cosco Busan* struck the Bay Bridge and spilled approximately 53,000 gallons of oil into the Bay. At least 6,849 birds representing 65 different species were injured, an estimated 14-29% of the winter 2007-8 herring spawn was lost, and approximately 3,367 acres of shoreline habitat was impacted. In addition, approximately 1,079,900 human recreation user-days were lost, representing a wide variety of aquatic and shoreline activities.

Under the Oil Pollution Act of 1990 (OPA), the Natural Resource Trustee Agencies (the Trustees), including the United States Fish and Wildlife Service (USFWS), the National Park Service (NPS), the Bureau of Land Management (BLM), the National Oceanic and Atmospheric Administration (NOAA), the California Department of Fish and Wildlife (CDFW), and the California State Lands Commission (CSLC) are Trustees for the natural resources injured by the spill. Each agency is authorized to act on behalf of the public under state and/or federal law to assess and recover natural resource damages and to plan and implement actions to restore, rehabilitate, replace, or acquire the equivalent of the affected natural resources injured as a result of a discharge of oil.

The Trustees prepared the *Cosco Busan Oil Spill - Final Damage Assessment and Restoration Plan/Environmental Assessment* (DARP/EA) dated February, 2012 which describes the injuries resulting from the spill, and identifies restoration alternatives that would compensate for those natural resource injuries. A Decision Document/FONSI completed the evaluation conducted under the National Environmental Policy Act (NEPA) for the DARP/EA. Based on a lack of readily-identifiable projects, the Trustees elected to release a request for proposals (RFP) for restoration concepts to address injuries to Surf Scoters. Accordingly, the Trustees also deferred their project selection and environmental impacts analyses under the Oil Pollution Act (OPA) and the NEPA, respectively, until specific projects had been identified.

Based on the response to that RFP, the Trustees identified two preferred projects, described in a Supplement (June 18, 2013) to the Final DARP/EA. Through postings on agencies' websites and emails to interested parties, the Trustees invited public review and

comment on the Supplement between June 18, 2013 and July 18, 2013. No comments were received.

Restoration Alternatives:

The Supplement to the DARP/EA evaluated several restoration alternatives for Surf Scoters in a public process, including a "no action" alternative. The Trustees developed criteria to evaluate projects that were under consideration. These criteria included the project's ability to restore those resources directly impacted by the release of oil and/or response actions, and compliance with the relevant federal and state law provisions governing use of recoveries for natural resources. A complete list of the evaluation criteria can be found in the DARP/EA. The Trustees considered and rejected the "no action" alternative, which relied on natural processes for recovery of the injured natural resources. Natural recovery does not compensate for interim losses suffered by the public's resources, and the OPA clearly establishes trustee authority to seek and obtain compensation for interim losses pending recovery of natural resources. Furthermore, technically feasible project alternatives for Surf Scoter restoration exist to compensate for these losses. Thus, the Trustees reject the "no action" alternative and instead have selected the appropriately scaled Surf Scoter restoration projects and approaches listed below as the preferred alternative:

- Enhancing prey availability for wintering and migrating Surf Scoters in San Francisco Bay, and
- Removal of derelict fishing nets in the Salish Sea.

This decision document concludes that a FONSI is appropriate for the Surf Scoter restoration actions selected for implementation by the Trustees and evaluated in the Supplement to the DARP/EA for the *Cosco Busan* Oil Spill as summarized here.

Alternatives Considered:

Following are the Surf Scoter project alternatives that the Trustees considered. Selected projects appear in italics with a brief project description. Non-preferred projects are also listed and may be reconsidered if funds become available or if selected projects prove to be infeasible. For a complete description of all of the restoration alternatives, see the attached Supplement to the DARP/EA.

- *Enhancing prey availability for wintering and migrating Surf Scoters in San Francisco Bay*

This project proposes to influence scoter populations by deploying two types of prey enhancement treatments in San Francisco Bay: herring eggs on kelp (HEOK) and mussel recruitment substrates. Increasing herring roe availability for scoters may be particularly

important in light of current efforts to remove creosote-treated pilings in San Francisco Bay that historically provided spawning substrates and scoter foraging opportunities. Proposed prey enhancements will improve scoter body condition and carrying capacity which in turn should lead to higher survival, earlier migration, and increased productivity.

- *Removal of derelict fishing nets in the Salish Sea*

The goal of this project is to increase the annual survival of scoters, scaup, loons, and grebes by removing abandoned fishing nets that regularly kill these birds. The initial focus will take place in the Canadian waters of Puget Sound and the Strait of Georgia, an important migration stop-over location for scoters and other large divers, including for scoters which overwinter in San Francisco Bay. The likelihood of deadly entanglements of Surf Scoter in gill nets is suspected to have a significant contribution toward mortality in the Baynes Sound region—a key area for Surf Scoters with a high likelihood for derelict fishing nets because of active herring and salmon fisheries and shallow reefs and underwater structures which can snag and retain nets.

The following projects are non-preferred at this time:

- Develop and implement an outreach campaign to inform managers and the public about conservation of key coastal habitats and prey for scoters;
- Enhancing prey availability for wintering and migrating Surf Scoters in the Salish Sea;
- Assess the relative risk of function loss to key Pacific coast Surf Scoter breeding areas due to landscape changes and develop habitat conservation targets in the Western Boreal Forest;
- Wetlands or salt pond enhancement around San Francisco Bay;
- Wintering foraging habitat enhancement;
- Removal of derelict fishing nets in Puget Sound;
- Removal of derelict fishing nets in San Francisco Bay or elsewhere in California;
- Disturbance reduction in San Francisco Bay;
- Rehabilitation of sick and injured scoters; and
- Research of scoter mortality.

Environmental Consequences:

The Trustees analyzed the effects of each restoration project on the quality of the human environment. As documented in the DARP/EA and Supplement, the Trustees expect the proposed actions to substantially benefit Surf Scoters, and to be implemented without significant adverse effects to soil, air quality, water resources, floodplains, wetlands, vegetation, fisheries, wildlife, visual quality, aesthetics/recreation, wilderness, subsistence, cultural resources, park management, or the local economy. The proposed actions are designed to make the environment and the public whole for injuries to, or lost use of, natural resources and services from the Spill.

Overall, the Trustees' selected restoration projects for the *Cosco Busan* NRDA will result in long-term net improvement in fish and wildlife habitat, restoration of ecological balance in areas where disturbances have led to adverse impacts on sensitive native species, and improvement in the natural resource services provided by fish and wildlife in the region. The cumulative impacts for the restoration projects selected are summarized below from the analysis presented in the DARP/EA and Supplement.

All of the selected projects to restore ecological services to compensate for injuries from the oil spill to birds, fish, and habitats are consistent with and in some cases a part of ongoing regional environmental restoration efforts described in plans for projects such as the San Francisco Baylands Ecosystem Goals Project and the San Francisco Bay Subtidal Goals project.

All of the past and proposed wetlands and subtidal habitat enhancement efforts for this region are part of a long-term strategy to recreate a complex mosaic of wetlands and subtidal habitats in the greater San Francisco Bay area. The selected restoration projects, considered along with other restoration projects, will result in cumulatively beneficial impacts to plants and wildlife, including special-status species, will provide additional habitat to support recovery of these sensitive communities and will result in greater habitat complexity, diversity, and productivity.

Summary:

The Trustees believe that, overall, the alternatives selected in the Surf Scoter Supplement to the DARP/EA, when considered along with past and reasonably foreseeable future projects, will have long-term, local and regional beneficial impacts to natural resources.

Environmentally Preferred Alternative:

The environmentally preferred alternative is the alternative that will promote the policies of NEPA, as expressed in Section 101 of NEPA. The environmentally preferred alternative is the one that best meets the following:

- Fulfills the responsibility of each generation as trustee of the environment for succeeding generations;
- Ensures for all Americans a safe, healthful, productive, and aesthetically and culturally pleasing surrounding;
- Attains the widest range of beneficial uses of the environment without degradation, risk of health or safety, or other undesirable and unintended consequences;
- Preserves important historic, cultural, and natural aspects of our national heritage, and maintains, wherever possible, an environment which supports diversity and variety of individual choice;

- Achieves a balance between population and resource use which will permit high standards of living and a wide sharing of life's amenities; and
- Enhances the quality of renewable resources and approaches the maximum attainable recycling of depletable resources.

Based upon analyses of the proposed action when compared to the alternative projects (non-preferred) and the no action alternative, the proposed action meets the criteria above and is, therefore, also the environmentally preferred alternative.

Basis for Decision:

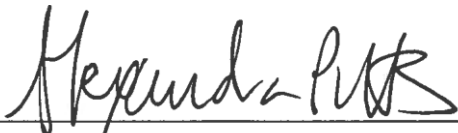
Implementation of the proposed actions will have local and regional long-term beneficial impacts on natural, cultural, and social resources, with minimal short-term unfavorable impacts during project implementation activities. No highly uncertain or controversial impacts, unique or unknown risks, significant cumulative negative effects, or elements of precedence have been identified, and implementing the proposed and preferred alternative will not violate Federal, State, or local environmental protection laws.

Public Involvement:

The Trustees sought the public's input on a draft version of the Supplement to the DARP/EA with public review occurring between June 18 and July 18, 2013. No public comments were received.

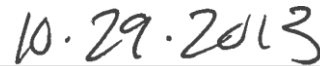
Conclusion:

Based upon an environmental review and evaluation of the Surf Scoter Supplement to the DARP/EA for the *Cosco Busan* Oil Spill as summarized above, it is determined that implementation of the Surf Scoter restoration projects in the Supplement to the restoration plan 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.



Acting

Regional Director, Pacific Southwest Region
U.S. Fish and Wildlife Service



Date

