

November 19, 2004

To the Governor of the State of California
and Members of the California State Legislature

Report on Oil Spill Response and Preparedness Programs

The Lempert-Keene-Seastrand Oil Spill Prevention and Response Act (Act) established the Oil Spill Technical Advisory Committee (TAC). The TAC originally consisted of nine (9) members, five (5) of whom are appointed by the Governor, two (2) by the Speaker of the Assembly, and two (2) by the Senate Rules Committee. (See, Gov. Code §8670.54, *et seq.*). An additional member of the TAC was added pursuant to the enactment of Senate Bill 849 under Government Code 8670.54 (effective January 1, 2003) to represent the dry cargo vessel industry. This member is appointed by the Governor.

The TAC is mandated with providing public input and independent oversight of the actions of the Administrator of the Office of Spill Prevention and Response (Administrator), and the State Interagency Oil Spill Committee (SIOSC). The TAC may also provide recommendations to the Administrator, the California State Lands Commission, the California Coastal Commission, the San Francisco Bay Conservation and Development Commission, and the SIOSC on any provision of the Act including the promulgation of all rules, regulations, guidelines, and policies.

The TAC is required to provide the Governor and the Legislature with a biennial report on their evaluation of marine oil spill response and preparedness programs within the State. This report covers calendar years 2003 and 2004. In addition, the TAC may also prepare and send to the Governor and the Legislature any additional reports it determines to be appropriate.

Governor Gray Davis appointed former U.S. Coast Guard Rear Admiral Carlton Moore as the Interim Administrator of the Office of Spill Prevention and Response on February 28, 2003. On June 28, 2004, Mr. Moore was officially appointed as the Administrator by Governor Arnold Schwarzenegger.

On behalf of the TAC, you are invited to review this report and share your thoughts and comments with us. Through our mutual efforts, California will experience fewer marine oil spills and better mitigate the harm associated with oil spills that do occur. The collective efforts of State agencies involved with marine oil spill prevention and response programs, coupled with a unique working partnership of local and Federal agencies, the regulated industry, and environmental interests, make the California marine oil spill programs a model for other states to follow. These collective efforts serve to ensure greater protection of our unique coastal and marine resources.

Sincerely,

Chair

BIENNIAL REPORT

By The

CALIFORNIA OIL SPILL TECHNICAL ADVISORY COMMITTEE

To The

CALIFORNIA GOVERNOR and the LEGISLATURE

Pursuant to the

LEMPERT-KEENE-SEASTRAND OIL SPILL PREVENTION AND RESPONSE ACT

Government Code Section 8670.1 *et seq.*

November 2004

NOTE: This report is for calendar years 2003 and 2004. However, data provided in this report is for the period January 1, 2003-September 30, 2004 in order to meet the Legislatures required deadline of November 1 in the reporting year.

Executive Summary

The Technical Advisory Committee (TAC) continues to provide a unique forum for public input as well as an independent evaluation of activities financed by the Oil Spill Prevention and Administration Fund. This report to the Governor and the Legislature meets the requirement of Section 8670.55 of the California Government Code.

During the period of this report, the most significant spill event among the several hundred reported was the response to the Kinder-Morgan pipeline spill into Suisun Marsh near Cordelia. A 14-inch pipeline, owned by Kinder Morgan Energy Partners, L.P., burst on April 27 (2004) in one of the most important wetland areas in California: Suisun Marsh, north and east of San Francisco Bay.

The pipeline which carries gasoline, diesel and jet fuel from San Francisco Bay area refineries to Sacramento, Chico, and Reno, Nevada – spilled at least 100,000 gallons of diesel fuel. The exact amount released is still under investigation.

California's Oiled Wildlife Care Network – a partnership between the Office of Spill Prevention and Response (OSPR) and the University of California, Davis Wildlife Health Center – was activated, and oiled animals were taken to the San Francisco Bay Oiled Wildlife Care and Education Center in Cordelia – just two (2) miles from the spill.

The State Fire Marshal, federal Office of Pipeline Safety and OSPR oversaw the removal and replacement of the damaged pipe and monitored pressure tests of the new 48-foot section. The rupture in the pipe was approximately 18 inches long and four inches wide at the widest point. Tests by an independent laboratory indicate that section of pipe was badly corroded. The Concord-to-Sacramento pipeline resumed normal operations on Sunday afternoon, May 2, 2004. The EPA and OSPR are overseeing the remedial activities of Suisun Marsh. Some of the techniques being used are land farming and bioremediation. The Suisun Marsh Spill led to the passage of AB 1408, which requires the immediate reporting of spills and a pipeline assessment to be completed by the State Fire Marshall.

Another significant issue the TAC looked at during the reporting period was dispersant use. The Regional Response Team (RRT), working through the six (6) California Area Committees, has approved a new Draft Dispersant Use Plan for Federal waters off the coast of California (those waters more than three miles offshore). The Plan identifies all Federal waters outside of National Marine Sanctuaries as pre-approved by the RRT for dispersant use.

The United States Coast Guard (USCG), the Office of Spill Prevention and Response (OSPR), and the American Petroleum Institute sponsored the largest Spill of National Significance (SONS) exercise April 20-22, 2004. The California SONS utilized the National Incident Command organization and involved four levels of exercise play: field-, regional-, national-, and international-level exercise components. This exercise was not only the largest SONS, but was the largest National Response System exercise, and the first international SONS.

Many legislative changes affected the agencies involved in oil spill prevention and response during this period and involved issues from cruise ship operation to the establishment of harbor safety committees

Additionally, during this period, concerns were expressed by TAC regarding delays in funding, which caused delays in implementing provisions set forth in SB 849. The TAC submitted a "Resolution of the Oil Spill Technical Advisory Committee In Support of Full Implementation of the Governor's Budget for Agencies Funded by the Oil Spill Prevention and Administration Fund" to the legislature.

As a group, the TAC intends to address the following issues in the upcoming two-year period:

- Procedurally, the TAC will identify specific goals for the year, seek early notice of issues to facilitate meaningful input and judgment, and meet quarterly.
- More communication is needed with other TAC-like organizations, such as the regional Citizen Advisory Councils in Alaska and SIOSC, to increase information exchange.
- The TAC will continue to monitor the plan holder and OSRO drill programs, including the shoreline protection program relating to OSPR's implementation of SB 849.
- The TAC has considered the use of dispersants and how the State is moving forward with approval of dispersant use. There is a concern that a mechanism needs to exist between the State and Federal Trustee agencies, such as sanctuary managers, in the implementation of dispersal use policies. We will continue to look at this issue in 2005.
- OSPR programs are currently being audited by the Department of Finance as required SB 849. The TAC will review the 2004/2005 audit.
- The TAC continues to monitor lightering operations. There have been no incidents to date. Should a high-risk procedure be identified the TAC will work with the Offshore Standards Lightering Group to assess and mitigate the risk.
- The TAC will continue to look at issues regarding dangerous cargos, other than oil.
- The TAC will monitor and be briefed on Homeland Security and address issues on the impacts to spill response and how OSPR responds to spills. CSLC will report to the TAC regarding its seaport security activities as well as the status of CSLC required security at marine oil terminals.
- The TAC will continue to monitor illegal discharges at sea
- Issues related to liquefied natural gas (LNG) facilities and vessels have been brought to the attention of the TAC. The TAC will continue to follow developments on this issue as they arise and make recommendations as appropriate.
- The TAC will continue to address issues regarding cruise ship discharges.
- The TAC will review the recommendations of the Governor's California Performance Review and associated follow-up actions by the Little Hoover Commission, Administration and Legislature, and provide input as appropriate.
- The TAC will review current procedures for identifying and reporting on the causes and amounts of spills, and will provide recommendations as appropriate with respect to improving the amount, type, public availability and coordination of this information across agencies.

The past two (2) years have been a time of dramatic change. The TAC has been rejuvenated with new Committee Members, an additional Governor-appointed Committee Member added by statute who has demonstrable knowledge of the dry cargo industry, and a new Chair.

TAC meetings have been increasingly fruitful these last two (2) years, and the increased communication with the various agencies is very encouraging. Several important issues have been identified by the TAC. The TAC looks forward to a greater involvement in working on these issues, and looks forward to the support from the agencies in working through these issues in the near future.

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Highlights

Governor Gray Davis appointed Mr. Carlton Moore as the new Interim Administrator (the "Administrator") of the Office of Spill Prevention and Response (OSPR) on February 28, 2003 (effective April 1, 2003). Mr. Moore recently retired as Rear Admiral from the U.S. Coast Guard Reserve.

On June 28, 2004, Mr. Moore was officially appointed as the Administrator by Governor Arnold Schwarzenegger.

On the Legislative front in 2003 – 2004, Governor Schwarzenegger signed into law SB 1742. SB 1742 was authored by Senator Bruce McPherson and sponsored by OSPR to update the Government Code, extend Marine Waters to the Ports of Sacramento and Stockton, give grant authority for the Environmental Enhancement Fund and allow the Harbor Safety Committees to modify their membership according to regional needs.

I. BACKGROUND

A. The Lempert-Keene-Seastrand Oil Spill Prevention and Response Act

The Lempert-Keene-Seastrand Oil Spill Prevention and Response Act (Act) was signed into law on September 22, 1990 (S.B. 2040, Stats. 1990, ch. 1248). The overall purpose of the Act is to prevent and cleanup marine oil spills, and to restore damaged environment. Specific findings by the Legislature concerning the California coast and the threat of pollution from marine oil spills motivated the adoption of the Act.¹ The Administrator of the Office of Spill Prevention and Response (OSPR), and the California State Lands Commission (CSLC) are vested with the primary responsibility for implementing the Act.

B. Oil Spill Technical Advisory Committee

One component of the Act was the creation of the TAC.² The TAC provides public input and independent judgment of the actions of the Administrator of OSPR and the State Interagency Oil Spill Committee (SIOSC). The TAC consists of ten (10) members, six (6) of whom are appointed by the Governor, two (2) by the Speaker of the Assembly, and two (2) by the Senate Rules Committee. The membership must have background in marine transportation, local government, oil spill response and prevention programs, the petroleum industry, State government, environmental protection and ecosystems, the dry cargo vessel industry, and represent the public. There have been several recent personnel changes on the TAC. (See, *Appendix B for current TAC member information.*) Future activities of the TAC are discussed at the end of this Report.

The TAC makes recommendations to the Administrator, the CSLC, the California Coastal Commission (CCC), the San Francisco Bay Conservation and Development Commission (BCDC), and the SIOSC on any provision of the Act including the promulgation of all rules, regulations, guidelines, and policies.

At its own discretion the TAC may study, comment on, or evaluate any aspect of marine oil spill prevention and response in the State. To the greatest extent possible, these studies are to be coordinated with studies being done by the Federal government, the Administrator, the CSLC, the State Water Resources Control Board (SWRCB), and other appropriate State and international entities.

Effective January 1, 2003, the TAC is required to report to the Governor and the Legislature biennially on its evaluation of marine oil spill prevention and response within the

¹ See, Gov. Code §8670.2 for the specific findings.

² See, Gov. Code §§8670.54 through 8670.56.1.

State.³ The TAC may also prepare and send any additional reports they determine to be appropriate to the Governor and the Legislature.

The Department of Finance is tasked with creating a financial and programmatic report regarding the State's oil spill response, prevention and preparedness program. By August 1, 2005, the TAC is to review and comment on the report and submit its comments to the Legislature and the Governor.

The TAC meets on a quarterly basis throughout the year. All TAC meetings are open to the public and portions of each meeting are devoted to public input on any issue affecting California's marine oil spill programs.

II. OFFICE OF SPILL PREVENTION AND RESPONSE

A. Roles and Responsibilities

The Act establishes an Administrator for the prevention of and response to oil spills in California marine waters.⁴ The Administrator is in charge of OSPR. The Administrator, subject to and acting at the direction of the Governor, has the primary authority to direct prevention, removal, abatement, response, containment, cleanup, and restoration efforts with regard to all aspects of any oil spill in the marine waters of the State. The Administrator is also a Chief Deputy Director of the Department of Fish and Game (DFG), and in this capacity, the Administrator carries out the DFG public trustee responsibility for protecting California wildlife and habitat from marine oil spills.

The Administrator is mandated to provide the best achievable protection of the State's marine resources from oil spills. This mandate dictates the highest level of protection which can be achieved through both the use of the best achievable technology and those manpower levels, training procedures, and operational methods which provide the greatest degree of achievable protection.

Although OSPR is the lead State agency for marine oil spill prevention and response, under the Act the CSLC is mandated with establishing a comprehensive pollution prevention program for marine terminals and offshore oil production facilities located in State waters. The Administrator also chairs SIOSC and is responsible for keeping the twenty (20) SIOSC agencies informed of relevant issues.

Contingency Plans

OSPR requires all marine facilities, tank vessels and nontank vessels to prepare oil spill response contingency plans. The contingency plans must address the prevention of and response to marine oil spills through specific risk assessments for each facility or vessel.

Over 6862 vessels are covered by California contingency plans. OSPR's contingency plan requirements cover 186 marine facilities, detailed as follows:

Marine Facilities = 70
Facilities = 20
Leased = 7
Marine Transfer Unit = 11
Offshore = 5
Pipelines = 24
Small Marine Fueling Facility = 32
Platform = 3
OSRO = 14

³ In 2002, the reporting frequency changed from annual to biennial. S.B. 849 (Torlakson)

⁴ See, Gov. Code §§8670.1 *et seq.*; and specifically §§8670.4 through 8670.9.

Oiled Wildlife Care Network (OWCN)

The Act (and subsequent legislative actions) required the Administrator to establish rescue and rehabilitation stations for seabirds, sea otters and other marine mammals. The OWCN, a statewide collective of wildlife care providers and regional facilities interested in working with oil-affected wildlife, was established by OSPR in 1994. Its mission is to strive to ensure that wildlife exposed to petroleum products in the environment receive the best achievable treatment by providing access to permanent wildlife rehabilitation facilities and trained personnel that are maintained in a constant state of preparedness for oil spill response within California. The OWCN is currently funded by interest generated by the Oil Spill Response Trust Fund and, through a MOU with the Administrator, is administered by the Wildlife Health Center at the School of Veterinary Medicine at the University of California, Davis.

Through focused research and development of animal care protocols, the OWCN has streamlined the response to oil spills and greatly increased the chances of survival for oiled wildlife. During response, the OWCN receives assistance from its 25 participating organizations and uses one or more of 12 regional facilities either built specifically for, or modified to accommodate, oiled wildlife. When not in use for emergency oil spill response, these facilities operate additional year-round programs that benefit and educate the community through working with the local participating organizations. The facilities are maintained in a constant state of preparedness, are stocked with emergency equipment and supplies, and are staffed by local volunteers specifically trained in the care of oiled birds and marine mammals. In addition to establishing oiled wildlife care stations, the statute mandates both applied and basic research into the effects of oil on wildlife and technology development for optimizing treatment of oiled wildlife. In 1995, research and technology development was added to the tasks to be accomplished by the OWCN. Since 1996, more than 70 research projects funded by the competitive grants program have increased the knowledge of the consequences of oil exposure to wildlife and improved the quality of response technology for oil spills in California and around the world.

Monitoring, Inspections, Enforcement and Dispatch

On July 1, 2004, OSPR consolidated its 24-hour Dispatch Center with California Department of Parks and Recreation (DPR). The Dispatch Center is now located at the DPR facility in Prairie City, California.

OSPR dispatch received 11,571 incident reports from the Office of Emergency Services (OES) for this reporting period. In addition to petroleum based spills, the OES reports spills of drug lab waste, unknown substances (with no water involved), train derailments, train v. vehicle/pedestrian, etc. There were 5,425 petroleum spills, 1,268 chemical spills, 580 railroad incidents, 664 "Other" substance reports, 462 "Unspecified" substance incidents, and various other (sewage, biomedical, radiological, etc.) substance reports for this reporting period. While most of the spill reports are for very small spills, the OES notice allows for rapid response to major spill incidents. The following table shows 2003 and 2004 spill data by category:

Incident Type	2003	2004	Total
Petroleum	3160	2265	5425
Chemical	775	493	1268
Railroad	360	220	580
"Other" substance reports	399	265	664
Unspecified substance incidents	272	190	462
Subtotal	4,966	3,433	8,399
Various sewage, biomedical, radiological, etc. substance reports			3,172
Total			11,571

OSPR Enforcement Branch primarily consists of Department of Fish and Game wardens, who are peace officers. Other specialized staff (including Oil Spill Prevention Specialists, Water Quality Biologists, and Environmental Scientists) makeup OSPR's first responder team and

respond to spills as necessary. OSPR Enforcement Branch staff responded to and investigated approximately 1,684 incidents for this reporting period.

OSPR Marine Safety Branch staff monitored 71 oil transfer operations in calendar year 2003 and 41 oil transfer operations for the first six months of calendar year 2004. .

During this reporting period, OSPR completed ten (10) marine spill settlements totaling \$78,240.67 (includes costs, penalties, and damages), five (6) marine spill Administrative Civil Penalty settlements totaling \$19,574.18 (includes costs and penalties), and six(6) marine transfer violation Administrative Civil Penalty claims totaling \$3,500 (penalties).

The TAC believes this type of information should be easily accessible to the public, not only for the number of spills but also the location, cause, type of spill, type of oil, and damage caused. The TAC has recommended in the past year that OSPR maintain a database of this information and send a complete report to the TAC annually. OSPR is in the process of developing this database.

Natural Resource Damage Assessment

This program was established to assess damages to natural resources that are injured by releases of oil or other hazardous substances, and to restore these resources using settlement funds, damage awards, or other authorized funds for these purposes. The assessment of ecological injuries involves documentation of the impacted area, including impacts to fish, wildlife and their habitats, and human recreational uses. Damages include the cost of restoring resources, compensation for interim losses, and the cost of assessments. The type and amount of restoration needed following a spill or release are based on the damage assessment and, for larger cases, on the decisions of a Trustee Council (State and federal agency representatives who plan and implement restoration projects), and any relevant legal documents. This program is mandated by both State and Federal statutes. During this reporting period, a total of five (5) NRDA small settlements were reached totaling \$40,415. Since OSPR's inception, the total NRDA settlements for past spills and other releases exceed \$112 million. Currently, there are several large NRDA cases ongoing.

Applied Response Technologies

The Administrator is required to conduct studies on the use and effects of dispersants, incineration, bioremediation, and any other methods used to respond to a spill.⁵

Regarding dispersants, the Regional Response Team (RRT), working through the six (6) California Area Committees, has approved a new Draft Dispersant Use Plan for Federal waters off the coast of California (those waters more than three miles offshore). The Plan identifies all Federal waters outside of National Marine Sanctuaries as pre-approved by the RRT for dispersant use. Dispersant use in all Federal waters within the National Marine Sanctuaries within state waters, and within three (3) miles of the California/Oregon and California/Mexico borders, will still require RRT approval at the time of a spill.

Regarding in-situ burns, the Administrator is to develop a decision-making document for the use of in-situ burning to address oil spills within marine waters of the State.⁶ In furtherance of these requirements, OSPR established an in-situ burning workgroup April of 1995 responsible for the development of a statewide in-situ burning policy. Workgroup members represented the Federal, State, and local agencies and California. After almost two years of work, the workgroup forwarded a policy for the use of in-situ burning in two specific geographic areas; quick approval zones and case-by-case zones. After a series of public meetings, the case-by-case zones as identified by the workgroup were adopted by the Administrator as well as the Coast Guard and were incorporated into the State Plan and the federal areas plans in 1998. Given concerns raised regarding the quick approval process, a programmatic environmental impact report was prepared by OSPR as outlined within CEQA. This document was complete in September 2000 and was informally reviewed by the staff of Coastal Commission in 2003. OSPR will be filing the CEQA documents with the Office of Planning and Research as soon as possible.

⁵ Gov. Code §8670.12

⁶ Gov. Code §8670.7(g)

Financial Responsibility

Certain vessels and facilities are required to demonstrate that they have sufficient insurance coverage or other assets which can be available to pay for oil spills in marine water.

There are approximately 1,443 tank vessels and 4,346 nontank vessels holding California certificates of financial responsibility. For facilities, 896 certificates have been issued, broken down as 107 applicants with 564 mobile transfer units, 12 marine refueling docks, 46 marine terminals, 4 offshore platforms, pipelines 229 in State waters and 41 "others".

B. Specific Issues from 2003/2004 calendar years

(1) Oil Spill Response Organizations -- Evaluations

Vessels and facilities generally rely on oil spill response organizations (OSROs) as contractors to perform response and cleanup services, and to meet their contingency plan requirements. The Act did not expressly address the role of OSROs in spill response or drills. However, since the Act was passed, OSROs have developed into a niche industry to assist marine facilities and vessels with oil spill response.

In 2002, OSPR was given the authority to establish and test defined performance standards for OSRO Ratings, and OSPR promulgated a regulation to implement this authority.⁷

The OSRO Rating process is designed to ensure OSROs can meet plan holder needs. An individual or entity may apply for consideration as a rated OSRO for oil spill response operations, and may be given a rating for each service and area requested in their application. OSPR will only grant ratings for: booming, on-water recovery and storage, and shoreline protection.

A first-time applicant is required to agree to an unannounced drill, as a means of verifying the information in their application.

(2) Drills and Exercises

The Administrator is authorized to periodically carry out announced and unannounced drills to assess the preparedness of facilities and vessels, and the OSROs they rely upon. Also, vessels and facilities ("plan holders") are required to exercise their oil spill contingency plans entirely once every three years. Drills are dynamic, evolving, and lessons are learned from every drill. The function of a drill is to verify and improve response readiness in California. All drills are coordinated with OSPR, the U.S. Coast Guard and other federal, state, and local government entities.

Plan Holder Unannounced Drills

The Readiness Unit concentrated on conducting unannounced drills on areas (non-tank vessels and Mobile Transfer Units (MTU)) which showed the highest numbers of failures in 2001-2002. The Plan Holder Objective and Guidelines document has been updated in 2004 and is posted on our website at <http://www.dfg.ca.gov/ospr/organizational/msb/readiness/unannounced.pdf>.

⁷ Gov. Code §8670.30; California Code of Regulations, Title 14, §819.

As of August 2004, OSPR conducted thirty-four (34) non-tank vessel, seven (7) Marine Transfer Unit (MTU), and one (1) facility unannounced notification-only drills. The results are as follows:

Unannounced Notification Drill Type	# Failed	Cause For Failure
Non-Tank Vessel (34) (Contingency Plan and notification #'s located immediately by all persons in charge)	4	Vessel Captain's failed to communicate with Qualified Individual
Marine Transfer Unit (7)	2	Failure to meet notification time frames
Facility (1)	0	None

Due to OSRO rating drills conducted in late 2002, 2003 and 2004, no unannounced equipment deployments were conducted in 2003 or 2004. Plan Holder/OSRO equipment deployments will begin in late October early November 2004.

OSRO Rating Drills

On October 31, 2003, Foss Environmental Services (FES) was acquired as a wholly owned subsidiary of National Response Corporation (NRC). This West Coast combination of FES and NRC was renamed as NRC Environmental Services Inc. (NRCES) on January 12, 2004. In March 2004, NRC successfully completed their rating drill in San Francisco, California

On July 1, 2004, Clean Coastal Waters Inc. (the Southern California industry funded cooperative) merged with Marine Spill Response Corporation (MSRC). The merger with Clean Coastal Waters follows the previous merger with Clean Bay in Northern California effective January 1, 2004. These two (2) mergers created the new MSRC California Region. On August 23, 2004, MSRC successfully passed its rating drill in San Diego, California.

Marine Express applied and was granted an immediate containment booming rating for San Francisco Bay.

All OSRO's have satisfactorily completed their "first round" of OSPR rating drills. An OSRO shall be subject to one (1) unannounced drill per year in each Area Contingency Plan area in which a Rating has been issued by OSPR. These future rating drills may be held in conjunction with plan holder notification/equipment deployment unannounced drills.

Rated Oil Spill Response Organizations – 7/6/04	General Capabilities (Caps)/Services
Advanced Cleanup Technologies, Inc Ruben Garcia (310) 763-1423	Med spills in S. California Rated to 12,445 bbls – All services
Ancon Marine Services Don Couch (310)952-8140	Small spills in S. California Rated to 3125 bbls - no shoreline protection
Cal Bay Industrial Services Mike Johnson (707) 649-1660	Immediate booming in SF Bay area only
Clean Seas Merrill Jacobs (805) 684-3838	Large oil spill in Central Coast Rated to Caps - All services
Marine Express Randy Esch (510) 523-8900	Immediate booming in SF Bay area only
Marine Spill Response Corporation (MSRC) Steve Ricks (925) 685-2800	Large spills in California Rated to Caps - All services
National Response Corporation (NRC) Todd Roloff (510) 749-4121	Large spills in California Rated to Caps - All services
Patriot Environmental Services Walt Dorn (562) 436-2614	Small spills in S. California Rated to 5520 bbls - All services
So Cal Ships Services	Large spills in S. California

Rated Oil Spill Response Organizations – 7/6/04	General Capabilities (Caps)/Services
Mark Wrobel (310) 613-2566	Rated to Caps – All services
Trac-Tide Marine Corp Jon BelChere (805) 984-8062	Small spills in Port Hueneme Rated to 3125bbbls – no shoreline protection

(3) Sensitive Site Protection

Sensitive Site Strategy Evaluation Program

The SSSEP is now in its second year of operation. The four original participating OSROs have merged into two (2) – MSRC and NRC Environmental. The two (2) OSROs each complete one (1) site strategy per quarter. The OSROs remain on track to complete the remaining exercises.

As of September, 2004, fifteen (15) response strategy exercises have been completed overall with excellent participation by all involved. All fifteen (15) strategies were validated. Eleven (11) strategy exercises were completed in 2003. Four (4) of the eight (8) strategy exercises for the 2004 Program have been completed. Two sensitive sites will be revisited by a Site Information and Spill Response Strategy team. One of the sites (Islais Creek – Pier 94, South San Francisco) has a newly created marsh to be added to it, and another site (Albany Marsh) has a recommendation to re-evaluate one of the sub-strategies. Four (4) site strategies had minor modifications to the descriptions and diagrams to clarify the strategy.

The evaluation of sensitive site protections is an elementary building block of OSPR's response resource assessment program. The SSSEP enables OSPR to conduct strategy deployment exercises that test the site-specific response strategies ability to protect sensitive sites. The exercises validate protection strategies and improve them as necessary. OSPR worked with USFWS, NMFS, USCG and EPA to complete California Environmental Quality Act (CEQA) and the Endangered Species Act, Section 7 requirements. OSROs have been participating in SSEP on a voluntary basis. Plan holders do have a requirement to test sensitive sites which they could impact in the event of a release. OSROs and plan holders receive credits under the Drills and Exercise Program for participation in the SSSEP.

*Evaluation for a Statewide SSSEP is underway. Review of regional sensitive sites and strategies is currently being conducted. This is to determine if there are sensitive site strategies that need to be evaluated and validated. Many areas of the California coast have strategies that have already been tested or are restrictive in regard to sensitive species regulations. Los Angeles, San Diego, and the North Coast may have some sites that would benefit from strategy evaluations. Final evaluation of possible sites should be completed by November.

(4) Spill of National Significance Drill (SONS)

Spill of National Significance (SONS) 2004 exercise was sponsored by the U.S. Coast Guard (USCG), OSPR, and the American Petroleum Institute SONS Consortium. It used the National Incident Command organization and involved four levels of exercise play: field-, regional-, national-, and international-level exercise components.

SONS 2004 was the fourth SONS exercise under the USCG SONS exercise program and was conducted April 20-22, 2004 in Los Angeles/Long Beach, CA; San Diego, CA; Los Alamitos, CA; Washington, DC; and Ensenada, Mexico. This exercise involved over 2,200 participants representing 141 organizations. California SONS 2004 was the largest SONS exercise, the largest National Response System exercise, and the first international SONS.

The California SONS 2004 had six major objectives:

- Assess the effectiveness and efficiency of the incident command organization for SONS at all appropriate levels.
- Assess the viability and compatibility of all plans appropriate to support a SONS response.
- Evaluate the availability and adequacy of response resources in accordance with appropriate response plans.
- Evaluate the ability of the Unified Command to coordinate, control, and sustain a large-scale mobilization and deployment of private and public response resources.
- Exercise any policy, organizational restructuring, and/or new regulatory requirements (e.g., marine salvage, firefighting, and dispersant capability) for supporting or influencing response.
- Assess the joint U.S. and Mexican response coordination under the MEXUSPAC Annex of the MEXUS Plan.

All major objectives were met and the exercise successfully concluded. Because of the SONS exercise, California is in a much better posture for responding to a spill of national significance.

(5) **Regulations**

Amendments to Implement SB 849

An emergency rulemaking was approved in November 2002 to make the provisions of SB 849 effective on January 1, 2003. A regular rulemaking was completed and approved in June 2003 as a follow-up to the emergency rulemaking, and included the following:

- Implementing a 1 cent increase, from 4 cents to 5 cents, to the maximum fee that can be charged by OSPR on each barrel of oil and petroleum products entering California over or through State marine waters.
- Implementing a \$2,500 fee to be paid by nontank vessels every two years, when they submit their Certificate of Financial Responsibility (COFR) application.
- Reduced fees for “smaller” nontank vessel, as defined, based on their oil carrying capacity.

Revised Local Government Grant Regulations

The Local Government Grant regulations implement a program to provide grants for local governments to complete, update or revise an oil spill contingency plan, and to help provide a coordinated oil spill response and cleanup effort between the local government, OSPR, and federal officials. Amendments to these regulations were approved by the Office of Administrative Law (OAL) in June 2003, and include:

- Limits the inclusion of local governments on the Unified Command to only occasions when this accommodation has been pre-arranged in an MOU with OSPR, and only if certain conditions are met including recognition by the Local Government of the Federal On-Scene Coordinator’s and State On-Scene Coordinator’s authority to direct oil spill response;
- Clarifies and provides consistency with the terms/titles used to describe the Unified Command System;
- Updates geographic boundaries to make them consistent with the United States Coast Guard Areas of Responsibility;
- Refines some of the terms and conditions of the Grant Agreement;
- Amends the format for the local plans, to make them consistent with the Area Contingency Plans;
- Clarifies the coordination of the local government’s oil spill response personnel with that of the State’s Incident Command System, which is used within the Unified Command structure; and

- Clarifies what the grant money can and cannot be used for.

Revised Tug Escort Requirements for San Francisco Bay

Minor amendments were made to clarify Pilot and Marine Exchange responsibilities relating to tug escorts. These amendments were approved on May 10, 2004.

Revised Los Angeles/Long Beach Tug Escort Regulation:

Manning, work hour and training requirements were added for the tug escort crew, to enable them to adequately and safely perform their tug escort duties. The Notice of the proposed amendments went out to the public in April 2004, a hearing was held in June 2004, and approval was received on September 27, 2004.

Amendments to Implement SB 1742

The rulemaking process to implement some of the provisions regarding Harbor Safety Committee makeup and terms began during the summer of 2004. Approval is expected by December 31, 2004 to be effective January 1, 2005 (enabling legislation effective date).

(6) Budget and Personnel

On July 1, 2003 Governor Gray Davis issued Executive Order D-70-03 extending the October 23, 2001 hiring freeze to June 30, 2004 and Executive Order D-71-03 prohibiting all State agencies from filling any positions vacant as of June 30, 2003. Additionally, the Department of Personnel Administration (DPA) instructed the Department of Fish and Game to develop a layoff plan in 2003/2004 in the event budgeted savings could not be achieved through the collective bargaining process, and that these directives applied to the Administrator and OSPR despite the fact that OSPR is a specially funded program. Under this proposal, employees with fewer than thirty (30) months of State service would be subject to layoff.

The TAC expressed concerns regarding oil pollution response and prevention programs due to the Governor's Executive Orders and DPA's layoff plan instructions. Since these programs are public health and safety programs and specially funded, the TAC emphasized further their concerns and the need for the Governor to grant exceptions in these instances.

OSPR's Field Operations Units (North and South) lost a total of two (2) field staff, because the personnel serve in the United States Coast Guard Reserve which recalled them to extended active duty. This reduction in field operations personnel made prioritization of field operations activities imperative. OSPR's present plan is to augment the field by offering cross-training to Sacramento based staff.

Many Marine Safety Branch positions remained vacant due to the Governor's mandate. In March 2004, OSPR received freeze exemptions for positions earmarked pursuant to SB 849 and a subsequent BCP. The following positions were filled:

MSB Administrative Support:
Maritime Safety Unit:
Readiness Unit:
Field Operations North:
Field Operations South:

The hiring freeze was lifted when Governor Arnold Schwarzenegger decided not to extend Executive Order D-70-03 upon its June 30, 2004 expiration.

(7) Kinder Morgan Pipeline Spill

By noon on April 29, 2004, there were at least a dozen TV satellite trucks and over twenty (20) reporters at the command post. Within one (1) day, the story was news around the world. Many other Federal, State and local agencies also responded with staff and resources.

The U.S. Coast Guard's Pacific Strike Team provided a mobile command post and experienced spill responders. The State Office of Emergency Services sent their staff to assist, as well as their mobile command post and two (2) information officers to assist with the news media. The Regional Water Quality Control Board and the Solano County Department of Environmental Management were among the local agencies responding to the spill.

III. LEGISLATION

A. 2003 Calendar Year

(1) AB 433

This bill continues, and makes a number of reforms to the ballast water management program begun under AB 703 (Lempert, 1999) to combat the growing problems caused by aquatic invasive species. AB 703 made mandatory the voluntary provisions of current federal ballast water law contained in the National Invasive Species Act. AB 433 improves upon AB 703 by addressing gaps in the program that have become evident since the bill was enacted into law.

The bill extends the ballast water provisions from January 1, 2004 to January 1, 2010. Under the new program, OSPR will be required to conduct additional biological surveys of non-indigenous species in the marine and estuarine waters of the state to determine whether new species have been introduced since the baseline survey was conducted in 2001. This monitoring effort will be used to assess the effectiveness of the ballast control requirements. In addition, the DFG/OSPR would be named to an advisory panel charged with making recommendations regarding standards for the discharge of ballast water into the coastal waters of California.

Additional provisions of AB 433 include broadening the ballast water reporting requirements to include reporting for each port arrival, removing selected exemptions, continuing the fee to fund the program, using enforcement components to improve reporting compliance, establishing interim and final ballast water treatment technology, and supporting research promoting technology development.

(2) AB 471

This bill prohibits a cruise ship (commercial vessel with capacity to carry 250 or more passengers for hire), from conducting onboard incineration while operating within 3 miles of the California coast, to the extent allowed by federal law. The Governor signed this bill on September 23, 2004 (introduced 2003, effective January 1, 2005).

(3) AB 121

AB 121 directs the Water Resources Control Board to petition EPA and any other required Federal agency, as necessary, to prohibit the release of sewage sludge and oily bilge water into the waters of the State or into marine sanctuaries from large passenger vessels, and also controls hazardous waste discharge. Legislation passed in 2003 with fines and penalties outlined.

(4) AB 906

AB 906, prohibits release of gray water hazardous wastes and other wastes including medical waste, photo- and dry-cleaning chemicals into State waters and marine sanctuaries by large capacity passenger vessels. Legislation passed in 2003 with fines and penalties outlined.

B. 2004 Calendar Year

(1) AB 2388

AB 2388 was introduced in 2004 by Assembly Member Lowenthal. The Act requires the Administrator to establish certain Harbor Safety Committees and appoint the members, including a representative from a recognized labor organization involved with operations of vessels.

This bill would have required the Harbor Safety Committee for Los Angeles/Long Beach to have a designee that represents the non-management pilots in the port of Los Angeles. This issue can be resolved by SB 1742, as discussed below. On September 29, 2004, the Governor vetoed this bill.

(2) AB 2093

AB 2093 was introduced by Assembly Member Nakano. This bill would prohibit the owner or operator of a large passenger vessel from releasing, or permitting anyone to release, any gray water, as defined, from the vessel into the marine waters of the state. The bill would also require the owner or operator of a large passenger vessel to immediately notify the State Water Resources Control Board of a release of gray water from the vessel into the marine waters of the state, as specified. The bill would provide that a person who violates the prohibition of releasing gray water from a large passenger vessel into the marine waters of the state is subject to a civil penalty, as specified. The Governor signed this bill on September 23, 2004.

(3) AB 2672

AB 2672 was introduced by Assembly Member Simitian. This bill would require, until January 1, 2010, the State Water Resources Control Board to determine whether it is necessary for the state to apply to the federal government to authorize the state to prohibit the release of sewage, as defined, from large passenger vessels into the marine waters of the state. If the board determines that it is necessary, the bill would require the board to make that application. The bill would provide that it is not the Legislature's intent to establish for the marine waters of the state a no-discharge zone for sewage from all vessels, but only for a class of vessels. The bill would provide that the Legislature intends to request the Congress of the United States to provide the state with authority to regulate the release of sewage from large passenger vessels into the marine waters of the state, as specified. If the application is approved or the board determines that the application is not required, the bill would prohibit, until January 1, 2010, the owner or operator of a large passenger vessel from releasing, or permitting anyone to release, any sewage from the vessel into the marine waters of the state, and would subject a person who violates that prohibition to a civil penalty, as specified. The bill would require, until January 1, 2010, the owner or operator of a large passenger vessel that releases sewage into the marine waters of the state or a marine sanctuary, as defined, to immediately report the release to the board, as specified. The Governor signed this bill on September 24, 2004.

(4) SB 1480

SB 1480 was introduced in 2004 by Senator Sher. The existing Act requires the Administrator to adopt regulations governing tugboat escorts for tank ships and tank barges entering, leaving, or navigating in the harbors of the state, to ensure the best achievable protection of the public health and safety and the environment. The Act requires the Administrator to establish harbor safety committees for specified harbors of the state.

SB 1480 would have authorized the Administrator, in consultation with those harbor safety committees, to adopt regulations governing tugboat escorts for vessels carrying specified hazardous materials that are entering, leaving, or navigating in the harbors of the state. Enforcement provisions are provided for violations.

This bill encompasses a broad list of undefined quantities of substances which would

potentially require most tankers, barges, and cargo vessels in the harbors of the State to have a tug escort. On September 16, 2004, the Governor vetoed this bill.

(5) SB 1742

SB 1742 was introduced in 2004 by Senator McPherson. As introduced this is an omnibus-type bill making a number of clarifying and cleanup amendments to the Lempert-Keene-Seastrand Oil Spill Prevention and Response Act.

For example, the bill would revise those provisions with respect to, among other things, (1) the definition of "marine waters"; (2) use of volunteer workers for wildlife rehabilitation; (3) interstate agreements with other states; (4) revise the membership of harbor safety committees; (5) clarify periodic review of the policies for the use of in situ burning with respect to oil spills; and clarify grant authority from the Environmental Enhancement Fund.

As relates to AB 2388, SB 1742 would give a harbor safety committee the ability to petition the administrator for an unlimited number of participants on a harbor safety committee. SB 1742 would allow for the very position which AB 2388 sought. Thus, AB 2388 was unnecessary. SB 1742 was signed and chaptered in September 2004.

IV. CALIFORNIA STATE LANDS COMMISSION

A. Roles and Responsibilities

The Lempert-Keene-Seastrand Oil Spill Prevention and Response Act, as it relates to the CSLC, is codified in the Public Resources Code.⁸ The CSLC is directed to "adopt rules, regulations, guidelines, and commission leasing policies for reviewing the location, type, character, performance standards, size, and operation of all existing and proposed marine terminals within the state, whether or not on lands leased from the CSLC and all other marine facilities on lands under lease from the CSLC to minimize the possibilities of a discharge of oil." The CSLC is mandated to ensure that all operators of marine terminals within the state and marine facilities under the CSLC's jurisdiction always provide the best achievable protection of the public health and safety, and the environment.

The Act defines marine facilities, essentially, as any facility from which a discharge of oil could impact marine waters. Marine terminals, a subset of marine facilities, are those facilities used for transferring oil to or from tank ships and barges. Other facilities "under the jurisdiction" of the CSLC include all offshore state oil and gas leases, and the associated onshore processing facilities.

The State's budget deficits have affected all aspects of the CSLC programs funded by the Oil Spill Prevention Administration Fund (OSPAF). Both the Marine Facilities Division and the Mineral Resources Management Division have seen up to a twenty percent decrease in staff positions at a time when facility security, increases in facility throughput, and new program requirements have increased the demands on staff.

B. Marine Facilities Division (MFD)

Operations Manuals

The CSLC requires marine facilities to have operation manuals describing equipment and procedures employed to protect human health and safety, and the environment and to prevent oil spills. These manuals are reviewed and approved by the CSLC.

Inspections

⁸ See, Public Resources Code §§8750 through 8760.

The CSLC performs inspections at marine facilities, and regulates and inspects marine terminals. There are currently 75 marine terminals in the State at which a reported 29 billion gallons of petroleum was transferred in 2003. This includes sixty (60) fixed commercial terminals, five (5) terminals operated by the Department of Defense and U. S. Navy, and ten (10) mobile marine terminal operators. In 2003, inspectors monitored more than 2,800 marine oil terminal transfer operations statewide and conducted 58 inspections. In addition, CLSC staff inspected 46 marine facilities and performed 40 security inspections.

Security

The CSLC is the only state agency with direct regulatory authority for security in California's seaports. Under this authority, and working in conjunction with the U.S. Coast Guard Captains of the port, the CSLC adopted emergency regulations governing physical security at marine terminals. The emergency regulations, which established a minimum level of physical security of these terminals, became effective on March 7, 2002. The emergency regulations were extended for a further period of 120 days while CSLC staff worked on permanent comprehensive security regulations that would provide a higher degree of protection against terrorist activity. The permanent security regulations became effective on February 24, 2003. All marine terminals have completed and have had their required security plans approved by CSLC. The CSLC continuously monitors physical security conditions at marine oil terminals and performs annual inspections to ensure physical security arrangements are meeting the goals of the regulations. The CSLC continues to work closely with the U.S. Coast Guard to ensure the security of our marine oil terminals. MFD staff members serve as members of all of the Area Maritime Security Committees established by the U.S. Coast Guard Captains of the Port of California.

Engineering

The Marine Oil Terminal Engineering and Maintenance Standards (MOTEMS) project has been completed, and is scheduled to go before the State Lands Commissioner in August 2004 for approval. If approved, the standards will be submitted to the Building Standards Commission for adoption in late 2004. If adopted, the standards will become effective in mid-2005. These new standards include requirements for above-and below water inspections, seismic criteria for analysis/design and rehabilitation, mooring analyses, criteria for fire detection/suppression, piping, mechanical and electrical systems. Rehabilitation schedules will be mutually agreed upon, by the operator and MFD staff.

The Liquefied Natural Gas Terminal Engineering and Maintenance Standards (LNGTEMS) project has an expected start date of October 2004. This project will be similar to the MOTEMS, but is specific to LNG-receiving terminals, offshore or within a port. Along with this project, staff will continue to be actively involved in the review process for all proposed LNG terminals in California.

Pipeline testing at marine oil terminals has been a long term issue. MFD's project to develop a procedure and complementary Excel spreadsheet for pipeline static liquid pressure tests has been completed. Data is currently being gathered to establish whether or not this new procedure and spreadsheet will improve the number of successful tests.

Continuing research and development projects include a full scale pile test in the Port of Long Beach, a tsunami study for the San Francisco Bay, a passing vessel study using the wave tank at the U.S. Naval Academy, and marine oil terminal specific ADINA (Adaptive Dynamic Incremental Nonlinear Analysis) static and dynamic modeling.

Human Factors

A web-enabled database and reporting tool was implemented to manage information acquired through CSLC's incident inquiry program. The program was designed to analyze oil spills, including small spills of less than a gallon, and near-miss incidents. These analyses are opportunities to identify root causes of spills and translate them into recommendations for

prevention action.

In addition, performance measure analyses conducted in 2004 showed that regulatory violation rates decreased for facilities that underwent voluntary Safety Assessment of Management Systems (SAMS) audits.

Liquefied Natural Gas

As previously noted, there are several proposed LNG projects both onshore and offshore. CSLC staff has determined that LNG facilities fall under the definition of "oil" under the provisions of the Public Resources Code. As such, the Marine Facilities Division is working to develop a regulatory model for LNG facilities. Operations standards will be developed as well as the previously discussed LNG Terminal Engineering and Maintenance Standards.

C. Mineral Resources Management Division (MRMD)

Platform Safety Inspection Program

Mineral Resources Inspectors in the Huntington Beach, Goleta, Sacramento, and Kelseyville field offices continued the Division's monthly inspection program of offshore platforms and onshore drilling and production facilities. These inspections involve testing of facility pollution prevention and safety alarm and control devices to ensure functionality, accuracy and reliability.

CSLC has conducted safety and pollution prevention inspection and monitoring programs on drilling and production platforms in state waters since the platforms were constructed. In 1990, these responsibilities were extended to other marine facilities by the Act. In fiscal year 2000-2001, CSLC's "System Safety Analysis Program" was rejuvenated and augmented by the establishment of a "Safety Audit Program" to conduct comprehensive engineering and technical analyses of the operational safety of oil and gas producing facilities impacting State tidelands.

Through the end of FY 2003, the program has completed Audits at 15 of the 20 State Lease and other State revenue facilities with over 5,100 action items identified and over \$5 million spent on needed upgrades. Common items found result from age of the facility, improper maintenance, revisions made to the American Petroleum Institute Recommended Practices, and changes to codes, standards and regulations. Identification of common items and their apparent causes may help operators assess their operations for similar conditions and avert potential accidents or spills. After a Safety and Oil Spill Prevention Audit the monthly MRMD inspection results commonly show improvement. This translates into reduced risk to the public, personnel, and the environment.

State Lease Activities

The CSLC also monitors construction, operations, maintenance, and oil spill prevention contingency planning on all offshore oil and gas operations on State offshore oil and gas leases.

D. Specific Issues in 2003/2004 calendar years

(1) Oil Transfer and Transportation Emission and Risk Reduction Act of 2002

Assembly Bill 2083 entitled "Oil Transfer and Transportation Emission and Risk Reduction Act of 2002" was chaptered on September 12, 2002. The bill requires CSLC to develop a form that is completed by the responsible parties engaged in the internal shipments of oil between the San Francisco Bay area and the Ports of Los Angeles/Long Beach, and ports in between. The form will enable CSLC to obtain and track the quantities and types of oil transported between these areas. It will also enable CSLC to obtain the names of vessels, the vessel's routes and air emissions relating to the internal shipments of oil.

The bill requires CSLC to commence collecting this data for the calendar years 2004

through 2009, and file annual reports before April 1 of each year with the Legislature. The reports are required to include information relating to the numbers of internal transfers of oil, the number of transfers which were due to refinery shutdowns, the trends in the quantities and types of oil transferred internally, locations of air emissions, and any other pertinent information.

In developing the form, CSLC is required to consult with the Administrator, other state and federal agencies and the industry. CSLC has developed a draft form and presented it to the industry for their review. After consultation with the Western State Petroleum Association and other industry representatives, a final version of the form was agreed upon. Industry is reporting internal shipments of oil to CSLC and a database of such reports is being maintained.

V. CALIFORNIA COASTAL COMMISSION

The CCC generally receives its authority from the California Coastal Act of 1976 (Coastal Act). The CCC reviews coastal development projects (including those conducted during emergency responses) to assure that they comply with the Coastal Act provisions for protection of coastal resources. In 1978, the CCC was delegated additional responsibilities under the Coastal Zone Management Act (CZMA)⁹ to review federal activities, and federally permitted and funded activities, for their consistency with the California Coastal Management Program (CCMP). To do this, the CCC provides its federal consistency reviews using the Coastal Act as its benchmark.

In 1992, the CCC received additional responsibilities under the Act. CCC responsibilities under the Act and through a companion Interagency Agreement include, but are not limited to:

- Serves as a member of the SIOSC and SIOSC Review Subcommittee.
- Review regulations for oil spill prevention and response, and provide input on these regulations consistency with Coastal Act policies and Coastal Commission regulations.
- Review oil spill contingency plans for marine facilities located in the coastal zone.
- Attend all Harbor Safety Committee (HSC) meetings for the ports of Humboldt Bay, Port Hueneme, Los Angeles/Long Beach and San Diego, and attend all appropriate HSC subcommittee meetings as feasible.
- As feasible, attend all statewide and regional Area Committee and subcommittee meetings (e.g., dispersants, sensitive sites, trajectories, ACP update, oiled wildlife operations, wildlife volunteer coordination, GRP), and chair subcommittees as appropriate.
- As appropriate, participate in studies and workgroups conducted under the Act that will improve spill prevention response and habitat restoration.
- Participate in the development of planning materials for oiled wildlife rehabilitation facilities located in the coastal zone.
- Participation in drills called by OSPR, and coordination with state and federal agencies regarding drills called pursuant to CCC permit requirements.
- As appropriate, consult with and assist OSPR during spill response operations, including those involving shoreline cleanup and assessment, wildlife operations, alternative response technologies and natural resource damage assessment. CCC oil spill program staff monitor (via faxed notice and 24-hr pager) all reports by OES of spills in the coastal zone.

⁹ Administration of the CZMA is through the National Oceanographic and Atmospheric Administration, Office of Coastal Resource Management.

CCC staff respond at spill sites to determine whether cleanup activities are considered development and, therefore, require an emergency coastal development permit pursuant to the California Coastal Act. For emergency permit purposes, the CCC would determine whether cleanup activities could adversely affect coastal resources. The types of spill response activities that may require a coastal development permit include but are not limited to:

- Grading or construction within the coastal zone for temporary storage (e.g., storage tank for oil), access roads or staging areas;
- Grading or clearing vegetation in sensitive resource areas;
- Berming a river mouth or a lagoon;
- Repair of pipelines and facilities under water or near sensitive habitats;
- Construction of retaining walls as oil spill containment barriers.

Issuance of an emergency permit can be accomplished with a verbal approval (on scene or via telephone) by the CCC Executive Director or his/her designate. The emergency permit is issued to the party responsible for the spill, and does not impede response activities. Acceptance of the emergency permit requires the responsible party to submit (generally within 60 days) an application for a follow-up regular coastal development permit. The coastal development permit will evaluate impacts to the site specifically related to the permitted cleanup or repair and maintenance activities; it does not evaluate the impacts from the oil spill itself, or interfere with the Natural Resource Damage Assessment process.

VI. SAN FRANCISCO BAY CONSERVATION AND DEVELOPMENT COMMISSION

BCDC serves on the HSC of the San Francisco Bay Region, and the various subcommittees or work groups. BCDC is currently involved in the Prevention through People Workgroup (serving as a lead on the production of a safe navigation video, Sharing the Bay, and on an educational brochure on Rules 5 and 9 for recreational boaters), the Underwater Rocks Subcommittee, and is chairing the Tug Escort Subcommittee. Additionally, there is a newly formed Ferry Operations Workgroup.

BCDC oil spill staff attended the San Francisco Bay/Delta Area Committee, regarding Federal Area Contingency Planning. BCDC is Chair of the Volunteer Subcommittee. BCDC is also participating in sensitive sites response and other drills testing the efficacy of the Area Contingency Plan.

BCDC participated in the SONS drill by assisting in the San Diego liaison office. Within one (1) week, this training was called into play when a pipeline ruptured, spilling more than 100,000 gallons of diesel oil into the Suisun Marsh. BCDC oil spill staff was able to issue on-site verbal authorization for the response efforts requiring a Suisun Marsh development permit.

VII. TECHNICAL ADVISORY COMMITTEE ISSUES AND ACCOMPLISHMENTS FOR 2003/2004 CALENDAR YEARS

TAC Bylaws

The TAC finalized and adopted Bylaws effective January 1, 2003.

Funding

The TAC believes that OSPR's mission should not be impacted by delays in funding, supports implementation of SB 849, and has submitted a "Resolution of the Oil Spill Technical Advisory Committee In Support of Full Implementation of the Governor's Budget for Agencies Funded by the Oil Spill Prevention and Administration Fund" to the legislature.

Dispersants

The TAC has considered the use of dispersants and how the State is moving forward with approval of dispersant use. There is a concern that a mechanism needs to exist between the State and the Federal Trustee agencies, such as sanctuary managers, in the implementation of dispersal use policies.

In 2000, the Region IX RRT revised the Regional Contingency Plan providing for the use of dispersants as an applied response technology for waters 3-200 miles off the coast of California, as specified. The RRT requested that Area Committees within the State, using local expertise, to make recommendations for the use of dispersants into three (3) zones: 1) pre-approval; 2) pre-approval with consultation; and 3) RRT approval required. A modified Ecological Risk Assessment, known as a Net Environmental Benefit Analysis, was conducted in each of the six (6) Area Committees as a basis for developing the recommendations. Each of the Area Committees submitted Dispersant-Use Zone recommendations to the RRT and as of June 2003, all waters 3-200 miles off the coast of California are designated as dispersant pre-approval zones except for water three (3) miles from any land mass, within three (3) miles of the California/Oregon and California/Mexico borders and waters within the jurisdiction of the National Marine Sanctuaries. The Los Angeles Area Committee took the lead on development of a California Dispersant Use Plan, which provides a decision checklist for the Federal On-Scene Coordinator (FOOSC) and all forms and information necessary to evaluate dispersant use along the California coast. The draft California Dispersant Plan has been reviewed Area Committees, the USCG, and the RRT, and was tested at the Spill of National Significance (SONS) exercise conducted in California, April 2004. The draft plan is slated for completion and review by the RRT by the end of the year and will be incorporated into the Regional Contingency Plan with appropriate provisions to be included in Area Contingency Plans.

Crude Oil Lightering Operations – San Diego

The Lightering Standards of Care Work Group completed the Guidance Document for Lightering Operations. The final work product can be found at <http://www.uscg.mil/D11/sandiego/mso/index.htm>.

Currently there are two (2) oil transportation shipping companies conducting lightering operations off the Southern California Coast. Chevron –Texaco conducts their transfers twenty (20) or more miles off the San Diego County Coastline. Their oil goes into an offshore marine terminal at El Segundo in Los Angeles County.

British Petroleum (BP) currently conducts their lightering operations one hundred (100) miles off the coast. Some of this oil is transported to Long Beach Berth 121 in the vessel that was lightered and some goes to Cherry Point Washington. The source of the crude oil is all from the Persian Gulf states and the number of lightering events averages one (1) per month.

Liquefied Natural Gas (LNG)

OSPR has been heavily involved with the LNG Facility Site Work Group, composed of State agencies. There are currently four (4) LNG facility proposals for California. These include a Chevron Texaco proposal for Port Penguin (to be located in State waters off of Camp Pendleton), the Sound Energy Solutions facility to be located in Port of Long Beach, the Crystal Energy project to convert the offshore oil platform Grace to a re-gasification facility and the BHP Billiton project to create a new deep water port in the southern end of the Santa Barbara Channel.

The work group is looking at all aspects of transportation of LNG, facility construction, selection of facility sites, environmental impacts and the approval process for the sites. OSPR is working closely with other representatives of the DFG to ensure that all of the agency's regulatory requirements are met. OSPR is focused on marine transportation and deep water ports requirements.

Additionally, the CSLC will play an important role in any of the proposed LNG facilities in California. Several of the proposed projects will be on lands leased from the CSLC and all of the offshore facilities will require pipeline right of ways on State sovereign lands. The CSLC is the lead State agency on the BHP Billiton project and is deeply involved in the working groups discussed previously. The CSLC also intends to regulate LNG facilities under the Act as marine oil terminals.

An offshoot of the LNG facility Proposals has been a letter from the Secretaries for the Resources Agency and the Environmental Protection Agency requesting that the Los Angeles/Long Beach Harbor Safety Committee look into risks involved in the marine transportation of LNG and develop a Standards of Care document. The HSC established a work group that met several times in 2004. The work group determined that transportation of LNG poses no more higher risks than other hazardous materials currently transported in or out of the harbors. The group also looked at existing US Coast Guard Captain of the Port policy and procedures for the transportation of hazardous materials for the port and determined that those standards were adequate. The work group then wrote a letter to the Secretaries and explained their findings.

OSPR and the CSLC are also members of the LNG CORE group that will brief the Governor and the Secretaries of State agencies.

Cruise Ship Discharges

The Cruise Ship Environmental Task Force submitted its report to the Legislature on August 1, 2003. The report described all the waste streams known to come from the vessels and recommended establishing an enforcement program to control and monitor waste streams. The Legislature drafted several bills to help correct the situation yet the bills were very limited in nature and, to date, no real control of wastes from the vessels has been initiated. The number of California ports that the vessels call upon has increased with additional port calls in San Diego, Monterey, Humboldt Bay and possibly Port Hueneme. The cruise ship industry expects a 25% increase in the number of vessels calling in California over the next five (5) years. Disney will be repositioning one (1) of their cruise ships to California next year. In 2003, the cruise industry experienced a 14% increase in the number of passenger embarkations in California alone, this equates to 8.2% of all the world passengers.

2003 CRUISE SHIP PORT CALLS

LOS ANGELES	329
SAN FRANCISCO	81
EUREKA	1
MONTEREY	14
SAN DIEGO	126

Other Issues Considered

- Applied Technologies
- Monitoring of illegal discharges at sea
- OSPR 2004/2005 audit by Department of Finance

VI. FUTURE TECHNICAL ADVISORY COMMITTEE ISSUES

As stated previously, the Act established the TAC to provide a forum for public input and independent judgment of the actions of the Administrator and other California oil spill programs.

Although in the last year, OSPR Administrator and the Chair of the TAC took steps to increase the TAC's engagement in issues, the TAC can and should take more responsibility for guiding the process and being part of the solution. This has been discussed with the Administrator and other representatives, and we will make efforts to implement increased

communication in the future. As a group, the TAC intends to address the following issues in the upcoming two-year period:

- Procedurally, the TAC will identify specific goals for the year, seek early notice of issues to facilitate meaningful input and judgment, and meet quarterly.
- More communication is needed with other TAC-like organizations, such as the regional Citizen Advisory Councils in Alaska and SIOSC, to increase information exchange.
- The TAC will continue to monitor the plan holder and OSRO drill programs, including the shoreline protection program relating to OSPR's implementation of SB 849.
- The TAC has considered the use of dispersants and how the State is moving forward with approval of dispersant use. There is a concern that a mechanism needs to exist between the State and Federal Trustee agencies, such as sanctuary managers, in the implementation of dispersal use policies. We will continue to look at this issue in 2005.
- OSPR programs are currently being audited by the Department of Finance as required SB 849. The TAC will review the 2004/2005 audit.
- The TAC continues to monitor lightering operations. There have been no incidents to date. Should a high-risk procedure be identified the TAC will work with the Offshore Standards Lightering Group to assess and mitigate the risk.
- The TAC will continue to look at issues regarding dangerous cargos, other than oil.
- The TAC will monitor and be briefed on Homeland Security and address issues on the impacts to spill response and how OSPR responds to spills. CSLC will report to the TAC regarding its seaport security activities as well as the status of CSLC required security at marine oil terminals.
- The TAC will continue to monitor illegal discharges at sea
- Issues related to liquefied natural gas (LNG) facilities and vessels have been brought to the attention of the TAC. The TAC will continue to follow developments on this issue as they arise and make recommendations as appropriate.
- The TAC will continue to address issues regarding cruise ship discharges.
- The TAC will review the recommendations of the Governor's California Performance Review and associated follow-up actions by the Little Hoover Commission, Administration and Legislature, and provide input as appropriate.
- The TAC will review current procedures for identifying and reporting on the causes and amounts of spills, and will provide recommendations as appropriate with respect to improving the amount, type, public availability and coordination of this information across agencies.

VIII. CONCLUSION

The past two (2) years have been a time of dramatic change. The TAC has been rejuvenated with new Committee Members, an additional Governor-appointed Committee Member added by statute who has demonstrable knowledge of the dry cargo industry, and a new Chair.

TAC meetings have been increasingly fruitful these last two (2) years, and the increased communication with the various agencies is very encouraging. Several important issues have been identified by the TAC. The TAC looks forward to a greater involvement in working on these issues, and looks forward to the support from the agencies in working through these issues in the near future.

APPENDIX A
California Government Code
[Selected Sections]

Article 8. Oil Spill Technical Advisory Committee

§ 8670.54. Committee established; appointment of members

(a) The Oil Spill Technical Advisory Committee, hereafter in this article the committee, is hereby established to provide public input and independent judgment of the actions of the administrator and the State Interagency Oil Spill Committee. The committee shall consist of ten members, of whom six shall be appointed by the Governor, two by the Speaker of the Assembly, and two by the Senate Rules Committee. The appointments shall be made in the following manner:

(1) The Speaker of the Assembly, and Senate Rules Committee shall each appoint members who shall be representatives of the public.

(2) The Governor shall appoint a member who has a demonstrable knowledge of marine transportation.

(3) The Speaker of the Assembly and the Senate Rules Committee shall each appoint a member who has demonstrable knowledge of environmental protection and the study of ecosystems.

(4) The Governor shall appoint a member who has served as a local government elected official or who has worked for a local government.

(5) The Governor shall appoint a member who has experience in oil spill response and prevention programs.

(6) The Governor shall appoint a member who has been employed in the petroleum industry.

(7) The Governor shall appoint a member who has worked in state government.

(8) The Governor shall appoint a member who has demonstrable knowledge of the dry cargo vessel industry.

(b) The committee shall meet as often as required, but at least twice per year. Members shall be paid one hundred dollars (\$100) per day for each meeting and all necessary travel expenses at state per diem rates.

(c) The administrator and any personnel the administrator determines to be appropriate shall serve as staff to the committee.

(d) A chairman and vice chairman shall be elected by a majority vote of the committee.

§ 8670.55. Recommendations from committee; studies

(a) The committee shall provide recommendations to the administrator, the State Lands Commission, the California Coastal Commission, the San Francisco Bay Conservation and Development Commission, and the State Interagency Oil Spill Committee, on any provision of this chapter including the promulgation of all rules, regulations, guidelines, and policies.

(b) The committee may, at its own discretion, study, comment on, or evaluate, any aspect of oil spill prevention and response in the state. To the greatest extent possible, these studies shall be coordinated with studies being done by the federal government, the administrator, the State Lands Commission, the State Water Resources Control Board, and other appropriate state and international entities. Duplication with the efforts of other entities shall be minimized.

(c) The committee may attend any drills called pursuant to Section 8601.10 or any oil spills, if practicable.

(d) The committee shall report biennially to the Governor and the Legislature on its evaluation of oil spill response and preparedness programs within the state * * * and may prepare and send any additional reports to be appropriate to the Governor and the Legislature.

(e) On or before August 1, 2005, the committee shall review the Department of Finance report required under Section 8670.42 and prepare and submit to the Governor and the Legislature comments on the report, including, but not limited to, recommendations for improving the state's oil spill prevention, response, and preparedness program.

§ 8670.56. Funding

The administrator may expend from the Oil Spill Prevention and Administration Fund any amounts necessary for the purposes of carrying out this article.

§ 8670.56.1. Committee members; immunity from liability

(a) The Legislature hereby finds and declares that because the administrator must rely on expertise provided by members of the committee and be guided by their recommendations in making decisions that relate to the public safety, members of the committee should be entitled to the same immunity from liability provided other public employees.

(b) Members of the committee appointed pursuant to this article, while performing duties required by this article or by the administrator, shall be entitled to the same rights and immunities granted public employees by Article 3 (commencing with Section 820) of Chapter 1 of Part 2 of Division 3.6 of Title 1. Those rights and immunities are deemed to have attached, and shall attach, as of the date of appointment of the member to the committee.

APPENDIX B
Office of Spill Prevention and Response
TECHNICAL ADVISORY COMMITTEE (TAC)
Member Contact Information

Member	Alternate
<p>Mr. Stephen Ricks (Chair) Marine Spill Response Corporation 2070 Commerce Avenue Concord, California 94520 Tel: (925) 685-2800 Fax: (925) 825-2203 Email: ricks@msrc.org</p>	<p>Mr. Raymond C. Nottingham Clean Coastal Waters, Inc. 190 S. Pico Avenue Long Beach, California 90802 Tel: (562) 432-1415, x222 Fax: (562) 432-1510 Email: rnottingham@cleancoastalwaters.org</p>
<p>Dr. Jonna Mazet (Vice Chair) Wildlife Health Center School of Veterinary Medicine University of California – Davis One Shields Avenue Davis, California 95616 Tel: (530) 754-9035 Fax: (530) 752-3318 Email: jkmazet@ucdavis.edu</p>	<p>Dr. Michael Ziccardi Wildlife Health Center School of Veterinary Medicine University of California – Davis One Shields Avenue Davis, California 95616 Tel: (530) 752-4167 Fax: (530) 752-3318 Email: mhziccardi@ucdavis.edu</p>
<p>Ms. Sejal P. Choksi Waterkeepers Northern California 55 Hawthorne Street, Suite 550 San Francisco, California 94105 Tel: (415) 856-0444, ext. 107 Fax: (415) 856-0443 Email: sejal@sfbaykeeper.org</p>	
<p>Mr. Russell H. Long Bluewater Network 311 California Street, #510 San Francisco, California 94104 Tel: (415) 544-0790 (415) 332-9181 (home) Fax: (415) 544-0796 Email: rlong@bluewaternetnetwork.org</p>	<p>Ms. Teri Shore Bluewater Network 311 California Street, #510 San Francisco, California 94104 Tel: (415) 544-0790 Fax: (415) 544-0796 Email: tshore@bluewaternetnetwork.org</p>
<p>Mr. R. Mitchel Beauchamp Pacific Southwest Biological Services Post Office Box 985 National City, California 91951-0985 Tel: (619) 477-5333 Fax: (619) 477-5380 Email: mitch@PSBS.com</p>	
<p>Mr. Matt Rezvani BP America, Inc. 6 Center Pointe Drive La Palma, California 90623 Tel: (714) 670-5462 Fax: (714) 670-5480 Email: rezvams@BP.com</p>	<p>Mr. James E. Bobbitt BP Shipping (USA) 1300 Pier B Street Long Beach, California 90813 Tel: (562) 499-2332 (714) 848-6854 (home) Fax: (562) 499-2300 Email: bobbittje@bp.com</p>
<p>Governor Schwarzenegger, Marine Transportation Rep. New appointee pending</p>	

Member	Alternate
<p>Ms. Joan Lundstrom 48 Frances Avenue Larkspur, California 94939 Fax: (415) 927-5098 Email: jlundstrom@ci.larkspur.ca.us</p>	<p>Ms. Rosemary M. Corbin 114 Crest Avenue Richmond, California 94801 Tel: (510) 235-5779</p>
<p>Linda Sheehan Executive Director California Coastkeeper Alliance P.O. Box 3156 Fremont, California 94539 Voice: 510-770-9764 Email: lsheehan@cacoastkeeper.org</p>	<p>Ms. Sarah Newkirk The Ocean Conservancy Pacific Regional Office 116 New Montgomery Street, Suite 810 San Francisco, California 94105 Tel: (415) 979-0900 Fax: (415) 979-0901 Email: snewkirk@oceanconservancyca.org</p>
<p>Governor Schwarzenegger, Dry Cargo Industry Rep. Appointment pending</p>	