

## **Appendix L: Summary of Public Comments and Trustee Responses**

Prepared by the *Cosco Busan* Oil Spill Natural Resource Trustees

This appendix summarizes, by topic, the public comments received by the Trustees on the draft Damage Assessment and Restoration Plan/Environmental Assessment (DARP), and provides the responses of the Trustees to each issue. Copies of the full written public comments are available in the Administrative Record, which is at [http://www.dfg.ca.gov/ospr/Science/cosco\\_busan\\_admin.aspx](http://www.dfg.ca.gov/ospr/Science/cosco_busan_admin.aspx).

### **Restoration Priorities**

*Public comment:* The amount of settlement funds allocated to bird and habitat restoration is too small relative to that allocated for recreational use projects.

*Trustee Reply:* The Trustees did not determine a lump sum settlement amount to be allocated among the various resource categories, i.e., there was no allocation process among the categories of injuries. Rather, the amount of compensation for each injury category (e.g. birds, habitat, recreational uses) was assessed and calculated separately, each on its own merits. The monetary compensation is derived in a scientific manner, directly linked to the degree, duration, and size of the injury.

As to the resource categories, this injury quantification information is then compared to the benefits expected from one or more restoration projects. The projects are scaled in size so that their benefits offset the injury. The cost of implementing the “scaled” projects is the amount of money needed for compensation for that particular resource injury. This method, known as Habitat or Resource Equivalency Analysis is used nationwide in most oil spill cases.

For recreational use, the calculation is simply the number of lost user-days multiplied by the value of those user-days to the public. Based on an extensive economic study, this came out to 1,079,900 lost user-days, an average value of \$17.41 per user-day (which varied depending upon the activity and the number of alternative beaches open), and a resulting total lost value of \$18.8 million. This value per user-day is well within the range typically found in outdoor recreational value studies.

### **Bird Injury**

*Public Comment:* The bird injury was underestimated because the search and collection effort during the response was inadequate.

*Trustee Reply:* The estimate of bird mortality did take into account the level of search effort, estimating the number of impacted birds *not* collected because they were scavenged, missed by search teams, or came ashore at inaccessible locations or unsearched beaches. A sophisticated Beached Bird Model is used to calculate these parameters, taking into account the “life expectancy” of a bird carcass on the beach. Subsequent to the carcass search and collection effort conducted during the response, specific field studies were conducted both

inside and outside the Bay, and along different shoreline types, in which bird carcasses were placed on the beach and checked over time in order to determine the predation rate(s).

This modeling exercise has been regularly used on past spills. In this case, there were detailed records of each search conducted by a Wildlife Operations search and collection team. Compared to other oil spill cases both in California and worldwide, this spill actually had the most comprehensive and well-documented bird search and collection effort ever conducted. Nearly every accessible beach in the high deposition zones was searched daily, or multiple times per day.

### **Rehabilitated Birds as Mitigation of Human Impacts**

*Public Comment:* This is the first oil spill injury assessment that subtracts from the bird mortality estimate a percentage of rehabilitated birds that are likely to survive, thus giving credit for rehabilitation efforts.

*Trustee Reply:* Actually, subtracting a percentage (typically 25%) of the rehabbed birds has been done in many NRDA's. Most recently in California, a similar approach was used in the *Kure, Stuyvesant, and Luckenbach* NRDA's.

### **Other Restoration Projects for Surf Scoters**

*Public Comment:* The Trustees should consider the following projects to benefit scoters: identification and mitigation of mortality factors affecting sea ducks in California and rehabilitation of sea ducks and other seabirds.

*Trustee Reply:* While these suggested projects may have merit, the Trustees indicated in the Draft DARP that they would issue a Request for Proposals (RFP) after issuance of the Final DARP to address this category of injury. Consequently, any of these suggested projects that are submitted in response to the RFP will be considered on its merits in that process.

### **Temporary Reduction of Hunting Pressure**

*Public Comment:* Injuries to scoters could be compensated for by a reduction in hunting equivalent to the number of birds killed in the spill.

*Trustee Reply:* While intuitively appealing, such a project is not practical, and may be inconsistent with Congress's intent in funding the Wildlife and Sport Fish Restoration Program, pursuant to 16 U.S.C. 669. Hunting regulations are set through a different process which evaluates the current populations of the various game species, while supporting hunting, wetland conservation, and other wildlife associated recreation. Even assuming that the trustees had an ability to impose restrictions on hunting, the effect would be to simply shift the oil spill impacts to a subset of the public (i.e. to recreational duck hunters).

### **Other Restoration Projects for Birds**

*Public Comment:* The Trustees should consider the following projects to benefit birds: Albany Bulb jetty cuts; Snowy Plover predator management in the Monterey Bay area; restoration for seabirds along West Cliff Drive, Santa Cruz; bird blind along Devil's Slide Coastal Trail.

*Trustee Reply:* The Trustees appreciate receiving information on these additional restoration projects. The Trustees have considered and evaluated each of these projects and added them to the Final DARP. Projects that are non-preferred in the Final DARP may be reconsidered if funds become available or if preferred projects become infeasible.

### **Marbled Murrelet Restoration**

*Public Comment:* The Trustees should consider conditioned taste aversion (CTA) and should consider conducting murrelet restoration in the Santa Cruz Mountains.

*Trustee Reply:* The Trustees agreed that these suggested approaches should be considered and, consequently, issued a revised Marbled Murrelet section of the Draft DARP seeking public comment on them. The project in the original Draft DARP was focused exclusively on corvid management at Humboldt Redwoods and Grizzly Creek State Parks, with the option to consider habitat protection should a parcel providing suitable murrelet nesting habitat become available. The revised Marbled Murrelet section expanded the options in the selected project to include a wider variety of murrelet conservation actions (including CTA) in the Santa Cruz Mountains as well as in Zone 4. The Trustees received only one comment on the revised Marbled Murrelet section of the Draft DARP, which was supportive. This revised section is now incorporated into the Final DARP.

### **Berkeley Pier Enhancement Project**

*Public Comment:* Support for the Berkeley Pier Enhancement Project and suggestions for construction.

*Trustee Reply:* The Trustees acknowledge the comments, and have retained the Berkeley Pier Enhancement project in the Final DARP as preferred.

### **Kent Island, Bolinas Lagoon Restoration**

*Public Comment:* The Trustees should move the Kent Island project in Bolinas Lagoon from non-preferred to preferred.

*Trustee Reply:* The Trustees currently understand the Kent Island project to be fully funded under the Estuaries Restoration Act through the Army Corps. The comment requested long-term monitoring funds through years 6-10 of the project. Although the Trustees understand the need for long-term monitoring, other potential projects to address this injured habitat type within the spill zone are either unfunded or partially funded for on-the-ground restoration work. The Trustees place priority on active restoration activities that are in need of funding to help restore the resources impacted by the spill in a timely fashion, rather than on projects that already have funding for active restoration. The Trustees have retained the Kent Island project in the Final DARP as non-preferred and will reconsider it if funds become available or if preferred projects become infeasible.

### **Seadrift Lagoon Restoration**

*Public Comment:* The Trustees should fund restoration of Seadrift Lagoon.

*Trustee Reply:* This is a multi-million dollar project that would still require design and permitting and may be many years from implementation. There are also issues regarding invasive species that will need to be resolved before the project is ready for implementation. The Trustees give priority to projects where implementation is likely in the short term.

### **Aramburu Island Habitat Restoration**

*Public Comment:* Support for the Trustees selecting the Aramburu Island Habitat Restoration Project.

*Trustee Reply:* The Trustees acknowledge the comments, and have retained the Aramburu Island project in the Final DARP as preferred.

### **Sears Point Restoration Project**

*Public Comment:* The Trustees should fund restoration at Sears Point, in San Pablo Bay.

*Trustee Reply:* The Trustee's preference is to target potential restoration sites within the Central Bay where most of the oil impacts occurred. The Trustees feel that there are a sufficient number of appropriate projects in the spill zone to compensate for injuries to these habitats.

### **Albany Beach Restoration Project**

*Public Comment:* The Trustees should consider the current and future human and dog use on the beach, in consideration to any habitat improvements at Albany Beach. An alternative project in the area would be to create jetty cuts in lagoon at the west end of Albany Bulb.

*Trustee Reply:* The Trustees acknowledge the comments regarding human (and dog) use patterns at Albany Beach. The plan does not include any efforts to prevent continued use of the beach and trails by users. The beach dune restoration area is intended to be located behind the intertidal zone, with adequate area for continued human use on and around the beach. The dune restoration areas will include plantings of native vegetation, and fencing and appropriate control efforts will be provided in those areas, in order to prevent unintended human (and dog) encroachment. Further, the proposed improvements, including restoration and expansion of dunes, are included in the East Shore State Park General Plan that was approved in 2002.

The suggested project regarding jetty cuts at the west end of Albany Bulb has been added as a potential project for shorebirds. This project would still require complete design and permitting and may or may not be feasible. The Trustees give priority to projects ready for implementation.

### **Oyster Reef Restoration at Breuner March**

*Public Comment:* The Trustees should fund oyster reef restoration at Breuner Marsh.

*Trustee Reply:* The Trustee's preference is to target sites within the Central Bay (such as the Emeryville/Berkeley shoreline) where most of the rocky intertidal injury occurred. However, other sites such as Breuner Marsh may be considered, especially if sites within the Central Bay are not feasible. The Final DARP has been amended to reflect this change.

### **Richardson Bay Eelgrass Beds and Boat Moorings**

*Public Comment:* The Trustees should consider addressing the destruction of eelgrass caused by boat moorings and abandoned vessels in Richardson Bay.

*Trustee Reply:* The Trustees agree that the need to avoid impacts to eelgrass beds is a high priority for Richardson Bay. The Trustees considered the Richardson Bay mooring issue during the restoration planning process and examined the possibility of changing out mooring chains for those that were more environmentally friendly. The Trustees concluded that a permitting process had not been established for the live-aboard vessels and moorings.

However, the Trustees have included this project in the Final DARP, and may reconsider it if funding becomes available and there is resolution of the permitting issues.

### **Herring Monitoring**

*Public Comment:* Herring should be monitored at the eelgrass restoration sites.

*Trustee Reply:* The Trustees agree that monitoring the success of herring health and spawning with the associated eelgrass restoration projects is important. All restoration projects included in the DARP will have monitoring components so that the Trustees may evaluate the success of the projects. We have clarified language in the DARP to include herring monitoring as a component of the eelgrass restoration projects.

### **Permitting**

*Public Comment:* The DARP correctly states that project implementers will need to apply for required permitting, including permitting from the San Francisco Bay Conservation and Development Commission (BCDC), as appropriate. Please refer implementing agencies to BCDC's Chief of Permits or Senior Permits Analyst.

*Trustee Reply:* The Trustees will require project implementers to obtain required permitting and will refer implementing agencies to BCDC's Chief of Permits or Senior Permits Analyst, as appropriate.

### **Submittal of Recreation Project Ideas and Proposals**

*Public Comment:* Various agencies and organizations plan to submit recreation project ideas. Several commenters have specific recreation project ideas that they would like to see implemented with settlement funds. Public and private organizations should be able to submit project ideas and implement recreation projects with settlement funds.

*Trustee Reply:* The Trustees encourage all those with specific project ideas or specific project proposals to collaborate with the appropriate entities to develop and/or submit recreation project proposals that enhance fishing, boating or other shore-based recreation throughout the area affected by the spill. Project proposals should carefully address the project selection criteria outlined in the DARP (see Section 4.2). Several criteria relate to project feasibility. If an organization (either private or public) submits a proposal for a project that benefits recreation users, it may be incumbent on that organization to

demonstrate that they have the authority to implement the project, the ability to obtain necessary permits, and otherwise have the capacity to successfully carry out the project. The Trustees are responsible for the final selection of recreation projects to fund for implementation.

For more information on how to submit your project ideas or proposals contact the following:

For projects to primarily benefit recreational activities associated with units of the National Park Service (NPS) located in San Francisco and Marin counties contact Daphne Hatch of the National Park Service at [daphne\\_hatch@nps.gov](mailto:daphne_hatch@nps.gov).

For projects to primarily benefit recreational activities in the East Bay, San Mateo County and the non-NPS portions of Marin County, information on the grant process can be found at: [www.nfwf.org/coscobusanrec](http://www.nfwf.org/coscobusanrec).

For projects to primarily benefit recreational activities associated with non-NPS lands located within the City and County of San Francisco, contact Don Margolis at [don.margolis@sfgov.org](mailto:don.margolis@sfgov.org) or Tom Lakritz of the City of San Francisco at [tom.lakritz@sfgov.org](mailto:tom.lakritz@sfgov.org).

For projects to primarily benefit recreational activities associated with lands located within the City of Richmond, contact Bill Lindsay of the City of Richmond at [bill\\_lindsay@ci.richmond.ca.us](mailto:bill_lindsay@ci.richmond.ca.us).

### **Selection of Recreation Projects**

*Public Comment:* Non-trustee agencies and organizations would like to participate in the selection of recreation projects.

*Trustee Reply:* The Trustees may contact various entities to request their technical assistance in reviewing specific recreation project proposals. However, the Trustees are responsible for the final selection of recreation projects to fund for implementation.

### **Boating versus Shoreline Impacts**

*Public Comment:* Boaters sustained losses that were different than “land-based” users of the shoreline and should be compensated with separate projects that benefit boaters.

*Trustee Reply:* As noted in the Draft DARP, boating losses were quantified separately from (a) impacts to fishing and (b) impacts to shoreline uses. It is the Trustees intent to fund projects that specifically benefit fishing, boating, and shoreline recreation. To clarify this objective, the Final DARP has been clarified to read: “It is a goal of the Trustees to select projects spanning the geographic area of the spill and to address the various types of activities (*e.g., boating, fishing, other uses*) that were impacted by the spill” [Addition in italics].

### **Size of Boating Impacts**

*Public Comment:* Boating impacts are significantly underestimated because they do not include consideration of access from private facilities other than marinas and yacht clubs (*e.g.,*

mooring sites associated with private residences). It would be appropriate to note that these sites were not quantified in the assessment.

*Trustee Reply:* The estimate of boating impacts does not account for mooring sites associated with private residences. It is appropriate to note that these sites were not quantified in the assessment. The following text has been added to the DARP: “The estimate of lost boating trips focuses on impacts at marinas and yacht clubs, where the highest density of trips occurs. It does not include lost boat trips derived from private residences around the San Francisco Bay.” While important to consider trips originating from private residences in restoration planning, the Trustees believe that the total estimated loss originating from the 17,788 boat slips that were quantified represents the significant majority of trips affected by the spill.