

Dated: July 2, 2002.

David B. Allen,

Regional Director, Region 7, U.S. Fish and Wildlife Service.

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Intent To Conduct Restoration Planning for Natural Resources Injured by the Release of Oil From the T/V Command, San Francisco, CA

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of intent.

SUMMARY: The U.S. Department of the Interior, acting through the Fish and Wildlife Service, the U.S. Department of Commerce, acting through the National Oceanic and Atmospheric Administration, California Department of Fish and Game (CDFG), the California State Lands Commission (SLC), and the California Department of Parks and Recreation (DPR), are joint trustees (Trustees) for natural resources and are authorized to assess injuries to Federal and State resources caused by the T/V Command Oil Spill and to plan and implement restoration actions to address those injuries. The Trustees announce the intent to prepare a draft Restoration Plan (RP) and Environmental Assessment (EA) for the T/V Command Oil Spill. As an initial step, a scoping document has been prepared to guide development of the restoration plan. The Trustees have invited and encouraged agencies and the public to provide written comments on the scoping document through publication in newspapers, mailings, agency websites and other notices. In addition, a public meeting on the scoping document was held in May, 2002, and other opportunities for public comment are provided through public review and comment on documents contained in the Administrative Record, and on the Draft Restoration Plan when it has been prepared.

ADDRESSES: Written comments on all restoration planning documents should be sent to: Field Supervisor, Fish and Wildlife Service, Sacramento Fish and Wildlife Office, 2800 Cottage Way, Room W-2605, Sacramento, CA 95825 (facsimile 916/414-6713). Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address. All restoration planning

documents will be available on the T/V Command website at <http://www.darcnw.noaa.gov/command.htm> and <http://www.dfg.ca.gov/Ospr/restorations.html>. Copies of Comments and reports will also be on file at the Gulf of the Farallones National Marine Sanctuary, Fort Mason, Building 201, San Francisco, CA 94123; (415) 561-6622. It is available for public inspection during normal business hours, by appointment, at that address.

FOR FURTHER INFORMATION CONTACT: For further information, or to be notified of future restoration planning activities contact Charlene Hall, Fish and Wildlife Service, Sacramento Fish and Wildlife Office (*see ADDRESSES* section) at (916) 414-6739 or visit the T/V Command website at <http://www.darcnw.noaa.gov/command.htm> and <http://www.dfg.ca.gov/Ospr/restorations.html>.

SUPPLEMENTARY INFORMATION:

Background

On September 26, 1998, the T/V Command (owned and operated by Anax International Agencies) left San Francisco Bay bound for Panama. As it traveled in the southbound traffic lane off San Francisco and San Mateo County coasts, it released an estimated 3,000 gallons of Intermediate Bunker Fuel (IBF) 380, also known as Fuel Oil No. 6. On September 30, oil began to wash ashore, largely in the form of scattered tarballs, over 15 miles of beaches, primarily in San Mateo County.

The primary impacts from the spill were: (1) Injuries to large numbers of seabirds; (2) Injuries to sandy beach and rocky intertidal shoreline habitats; and (3) Lost and diminished use of beaches for human recreation. The restoration effort is aimed at developing a strategy for restoring habitats, species, and natural resource services that are lost or impaired as a result of the spill. The draft RP/EA will describe the restoration alternatives considered and identify a preferred restoration alternative.

The Trustees reached a settlement with Pearl Shipping Corporation and Anax International Agencies, Inc. (responsible parties). The Settlement was embodied in a Consent Decree that was reviewed by a U.S. District Court and was subject to public comment prior to being formally entered by the Court on March 31, 2000. Pursuant to the Consent Decree, the responsible parties placed a total of \$5,518,000 into an interest bearing account. Of the total civil settlement, \$3,913,015.97 was deposited in the Natural Resources Damage Assessment and Restoration Fund created pursuant to 43 U.S.C.

1474b (NRDAR Fund) as natural resource damages.

The Trustees have committed to the expenditure of the NRDA money for the design, implementation, permitting (as necessary), monitoring and oversight of restoration projects, and for the costs of complying with the requirement of the law to conduct a restoration planning and implementation process. The Trustees share joint responsibilities regarding the injured seabirds, habitat, and human use losses and have entered into a Memorandum of Understanding (MOU) to coordinate restoration planning and oversight activities.

Trustees' Determinations

The Trustees have made the following determinations pursuant to 15 CFR 990.41 and 990.42:

(1) Beginning on or about September 26, 1998, an occurrence involving a vessel in the Southern Traffic Lane seaward of San Francisco Bay, California, within the territorial sea of the United States, resulted in the discharge of oil into and upon navigable waters and adjoining shorelines of San Francisco and San Mateo Counties, and other areas to be determined, within the State of California. This occurrence constituted an incident within the meaning of 15 CFR 990.30. The Incident is also a spill or discharge as defined at California Government Code 8670.3(aa).

(2) The Incident was not permitted under a permit issued under Federal, State, or Local law: was not from a public vessel; and was not from an offshore facility subject to the Trans-Alaska Pipeline Authority Act, 43 U.S.C. 1651 *et seq.*

(3) Oil discharged during the Incident affected marine habitats, wildlife, and human uses in the area. Consequently, natural resources under the trusteeship of the Trustees have been injured as a result of the incident.

(4) As a result of the foregoing determinations, the Trustees have jurisdiction to pursue restoration under the Federal Oil Pollution Act (OPA), 33 U.S.C. Sections 2701-2761, and California's Lampert-Keene-Seastrand Oil Spill Prevention and Response Act, Government Code Sections 8670.1 *et seq.*

Trustees' Determination To Conduct Restoration Activities

(1) Injuries resulted from the Incident. Data collected and analyzed pursuant to 15 CFR Section 990.43 demonstrate that injuries to natural resources are likely to have resulted from the incident, including, but not limited to the following:

(A) Seabirds: Oiled birds were collected during the response. One hundred seventy-seven live and dead birds were recovered from the beaches. In addition, other birds were believed injured based on modeling, although not directly recovered. Injured species were primarily common murrelets, California brown pelicans and marbled murrelets, along with various other seabird species. California brown pelicans and marbled murrelets are listed as threatened and/or endangered species under the Endangered Species Act (ESA) (16 U.S.C. Section 1533(c)), and the California Endangered Species Act (Fish & Game Code Sections 2050, *et seq.*).

(B) Sandy Beach and Rocky Intertidal Shoreline Habitats: The T/V Command oil spill affected over 15 miles of shoreline areas extending from Montara State Beach to Bean Hollow State Beach in San Mateo County, California.

(C) Lost Human Use: From September 30 to October 11, the Incident interrupted recreational services to individuals participating in beach-related activities in San Mateo County, California. These activities include, but are not limited to, walking, jogging, swimming, surfing, tidal viewing, and picnicking.

(2) Response actions have not adequately addressed the injuries resulting from the Incident. Although response actions were initiated promptly, the nature of the discharge and the sensitivity of the environment precluded prevention of injuries to some natural resources.

(3) Feasible primary and/or compensatory restoration actions exist to address the potential injuries. The Trustees will be considering restoration projects that are feasible to implement. Components of a restoration plan may include seabird enhancement, shoreline habitat enhancement, and compensation for lost human use.

Based on the above findings, the Trustees made the determination that they have jurisdiction to pursue restoration pursuant to the Oil Pollution Act, 33 U.S.C. Sections 2702 and 2706 (b)-(c).

Restoration Planning

The primary impacts from the spill were injuries to large numbers of seabirds, primarily common murrelets. In addition, a number of California brown pelicans and marbled murrelets were impacted along with various other seabird species. California brown pelicans and marbled murrelets are listed as threatened and/or endangered species under the Endangered Species Act (ESA) (16 U.S.C. 1533(c)) and the

California Endangered Species Act (Fish & Game Code 2050, *et seq.*). In addition, injuries occurred to sandy beach and rocky intertidal shoreline habitats and lost and diminished use of beaches for human recreation.

The Trustee Council has begun the public scoping process for restoration planning. The goal of scoping is to initiate a public process to determine the scope of issues under consideration. The Trustees have developed a public scoping document to involve the public in the development of a draft restoration plan and environmental assessment (RP/EA). All persons affected by, or otherwise interested in, the proposed restoration plan have been invited (through publication in newspapers, mailings, and other notice) to participate in determining the scope of significant issues to be considered in the draft RP/EA by submitting written comments on the scoping document. Through the scoping process, the Trustees will identify and prioritize alternatives for potential restoration actions.

The Trustees will develop a restoration plan and environmental assessment (RP/EA) to restore the resources injured from this spill. The RP/EA will set forth the details of specific project proposals to be developed by the Trustees. The final restoration plan will be prepared and implemented jointly by the Trustees, after providing public notice, opportunity for public input, and consideration of any public comment. In addition, certain projects may require the preparation of individual environmental impact statements or other additional compliance for NEPA or state NEPA-equivalent laws.

Administrative Record

The Trustees have opened an Administrative Record (Record) in compliance with 15 CFR Section 990.45. The Record will include documents relied upon by the Trustees during the assessment and restoration planning performed in connection with the Incident. The Record is on file at the Gulf of the Farallones National Marine Sanctuary, Fort Mason, Building 201, San Francisco, California 94123. Arrangements can be made to review the Record by calling (415) 561-6622. The Record can also be viewed on the T/V Command website at <http://www.darcnw.noaa.gov/command.htm> and <http://www.dfg.ca.gov/Ospr/restorations.html>.

Opportunity To Comment

Pursuant to 15 CFR 990.44, the Trustees seek public involvement in

restoration planning through public review and comment on the public scoping document and documents contained in the Administrative Record, as well as on the Draft Restoration Plan when it has been prepared. To receive future public notices regarding restoration planning, and for review of restoration planning documents, contact Charlene Hall (*see ADDRESSES* section) or visit the T/V Command website at <http://www.darcnw.noaa.gov/command.htm> and <http://www.dfg.ca.gov/Ospr/restorations.html>. Requests must be in writing to be processed.

National Environmental Policy Act

The Fish and Wildlife Service and any other agencies that may receive funds from the Trustees must agree to obtain and comply with any applicable permits or authorizations from environmental regulatory agencies. In addition, recipients of funds must complete all environmental documentation and public review requirements under the National Environmental Policy Act (NEPA) and/or California Environmental Quality Act (CEQA).

Author

The primary authors of this notice are Kolleen Bannon (NOAA) and James Haas (Service; *see ADDRESSES* section).

Authority

The authority for this action is the Oil Pollution Act of 1990 (33 U.S.C. 2701 *et seq.*).

Dated: July 26, 2002.

D. Kenneth McDermond,

Deputy Manager, California/Nevada Operations Office, Sacramento, California.

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DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Submission of Information Collection to the Office of Management and Budget for Review Under the Paperwork Reduction Act

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: This notice announces the Information Collection Request for the Johnson-O'Malley Program Annual Report Form has been submitted to the Office of Management and Budget for approval and renewal under provision