

**DEPARTMENT OF THE INTERIOR****Fish and Wildlife Service**

[FWS–R8–FHC–2011–N176; 81420–9812–0520–Y4–FY11]

**Draft Damage Assessment and Restoration Plan and Environmental Assessment for the M/V Cosco Busan Oil Spill**

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of availability; request for comments.

**SUMMARY:** In accordance with the Oil Pollution Act of 1990 (OPA) and the National Environmental Policy Act (NEPA), we, the Federal and State trustee agencies (trustees), have written a Draft Damage Assessment and Restoration Plan/Environmental Assessment (draft DARP/EA) that describes proposed alternatives for restoring injured natural resources and compensating recreational losses resulting from the *Cosco Busan* oil spill, which occurred in November 2007 in the San Francisco Bay Area. The purpose of this notice is to inform the public of the availability of the draft DARP/EA and to seek written comments on our proposed restoration alternatives in the draft DARP/EA.

**DATES:** We will consider public comments received on or before October 31, 2011.

**ADDRESSES:** You may download the Draft Damage Assessment and Restoration Plan/Environmental Assessment (draft DARP/EA) at any of the following *Web sites*:

- <http://www.fws.gov/contaminants/Issues/OilSpill.cfm>.
- [http://www.dfg.ca.gov/ospr/Science/cosco\\_busan\\_spill.aspx](http://www.dfg.ca.gov/ospr/Science/cosco_busan_spill.aspx).
- [darrp.noaa.gov/southwest/cosco/index.html](http://darrp.noaa.gov/southwest/cosco/index.html).

Alternatively, you may request paper copies of the draft DARP/EA from Janet Whitlock, U.S. Fish and Wildlife Service, 2800 Cottage Way, Room W–2605, Sacramento, CA 95825–1888. For other methods of obtaining the draft DARP/EA, as well as how to view the administrative record for this action, please see Obtaining Documents for Comment.

You may submit comments on the draft DARP/EA by one of the following methods:

- *E-mail:* [janet\\_whitlock@fws.gov](mailto:janet_whitlock@fws.gov).
- *U.S. Mail or Hand Delivery:* Janet Whitlock, at the above address.

**FOR FURTHER INFORMATION CONTACT:** Janet Whitlock, at the above address.

**SUPPLEMENTARY INFORMATION:**

**Background**

On November 7, 2007, the cargo carrier M/V *Cosco Busan* struck a portion of the fendering system for the San Francisco-Oakland Bay Bridge's Delta Tower. This ruptured one or more of the vessel's fuel tanks, allowing a portion of the vessel's bunker oil to be discharged into the San Francisco Bay. The estimated discharge amounted to approximately 53,000 gallons of Intermediate Fuel Oil 380, a heavy fuel oil used primarily to propel ships. The oil spread with the tides throughout the central San Francisco Bay and outside the Bay as far north as Point Reyes and as far south as Half Moon Bay oiling shorelines and wildlife. A wide variety of resources were impacted, including birds, fish, shoreline habitats, and human recreational activities.

We, the Federal and State trustees, have completed the injury assessment under the Oil Pollution Act of 1990 (OPA; 33 U.S.C. 2701 *et seq.*), and have estimated that 6,849 birds were killed, 3,367 acres of shoreline habitat were oiled, 14–29 percent of the 2007–08 herring spawn was lost, and 1,079,000 human recreational trips were lost.

The trustees are:

- U.S. Department of the Interior, acting through the U.S. Fish and Wildlife Service, National Park Service, and the Bureau of Land Management;
- U.S. Department of Commerce, acting through the National Oceanic and Atmospheric Administration; and
- State of California, acting through the California Department of Fish and Game and the California State Lands Commission.

**Legal Settlement**

The trustees negotiated a settlement in which the responsible parties, the owner and the operator of the vessel under OPA, will pay damages to compensate the public for the injuries to natural resources and lost recreation. The Consent Decree, the legal agreement which gives effect to the settlement, has been lodged in the Federal District Court and is the subject of a separate **Federal Register** notice and public comment period. Pursuant to the Consent Decree, the trustees expect to receive \$32.3 million to implement and oversee restoration projects to benefit the resources that were injured in the spill and the public whose use of the resources was disrupted. The trustees anticipate allocating funds among the categories of injured resources and public use enhancements as follows: \$5 million to benefit birds, \$4 million to benefit shoreline habitats, \$2.5 million to benefit eelgrass and fish, and \$18.8

million for recreational improvements. Additional details regarding the proposed use of these funds are included in the draft DARP/EA and are summarized below.

**Overview of the Draft DARP/EA***Summary*

The draft DARP/EA is being released in accordance with the OPA, the Natural Resource Damage Assessment regulations found in the Code of Federal Regulations (CFR) at 15 CFR part 990, and the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*) It describes the trustees' proposal to restore natural resources injured by the M/V *Cosco Busan* spill and evaluates the impacts of the preferred restoration actions. The draft DARP/EA also describes the injury assessment; uses selection criteria to evaluate various projects to benefit birds, fish and eelgrass, and shoreline habitats; and discusses the environmental consequences of each preferred project. In addition, the draft DARP/EA describes a process for selecting recreational improvement projects.

*Preferred Restoration Actions***Birds**

The preferred restoration actions to benefit birds proposed in the draft DARP/EA include: creating roosting and nesting platforms on the old Berkeley Pier; nest site improvements on the Farallon Islands; water level management for wintering diving birds at the South Bay Salt Ponds; Grebe colony enhancement at Tule Lake National Wildlife Refuge; marbled murrelet nesting habitat protection at Humboldt Redwoods and Grizzly Creek State Parks; and projects benefiting surf scoters and diving ducks.

**Shoreline Habitats**

Preferred restoration actions to benefit shoreline habitats include: Dune restoration at Muir Beach in the Golden Gate National Recreation Area; restoration at Albany Beach in the East Bay; restoration at Aramburu Island; native oyster restoration at multiple sites in San Francisco Bay; and rockweed restoration at multiple sites in San Francisco Bay.

**Fish and Eelgrass**

Preferred restoration actions to benefit fish and eelgrass include eelgrass restoration at multiple sites in the San Francisco Bay.

**Recreational Improvement Projects**

Preferred restoration actions to benefit recreational uses throughout the Bay

Area and outer coast will be determined through a separate process.

#### Administrative Record

Pursuant to the OPA Natural Resource Damage Assessment regulations, the trustees have developed an Administrative Record that informs the public of information considered by them in restoration planning. Additional information and documents, including public comments received on this draft DARP/EA, the Final Restoration Plan (when it becomes available), and other related restoration planning documents, will also become part of the Administrative Record.

#### Request for Comments

Interested members of the public are invited to review and comment on the draft DARP/EA by the methods listed under **ADDRESSES**. Note that there are separate instructions in the draft DARP/EA document on how to submit comments. If you submit written comments according to the instructions in the draft DARP/EA, please do not resubmit them using another method. Submit only one set of comments by only one of the methods listed in this notice or by the method listed in the draft DARP/EA.

Written comments will be considered and addressed in the final DARP/EA at the conclusion of the restoration planning process. Comments will become part of the administrative record and available for public review as part of the record.

#### Public Availability of Comments

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

#### Obtaining Documents for Comment

##### Draft DARP/EA

The draft DARP/EA can be viewed in person by contacting Janet Whitlock at (916) 414-6599.

##### Administrative Record

The documents comprising the Administrative Record can be viewed electronically at the following location:

- [http://www.dfg.ca.gov/ospr/Science/cosco\\_busan\\_admin.aspx](http://www.dfg.ca.gov/ospr/Science/cosco_busan_admin.aspx).

The administrative record is on file at the following location:

- California Department of Fish and Game, Office of Spill Prevention and Response, 1700 K Street, Suite 250, Sacramento, CA 95814.

Arrangements may be made to view the record at this location by contacting Steve Hampton by telephone at (916) 323-4724.

#### Author

The primary author of this notice is Janet Whitlock (address above).

#### Authority

The authority for this action is the Oil Pollution Act of 1990 (33 U.S.C. 2701 *et seq.*) and the implementing Natural Resource Damage Assessment regulations found at 15 CFR part 990.

Dated: September 19, 2011.

**Alexandra Pitts,**

*Acting Regional Director, Pacific Southwest Region.*

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**BILLING CODE 4310-55-P**

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

[FWS-R2-ES-2011-N155; 20124-1112-0000-F2]

#### Draft Environmental Impact Statement and Draft Habitat Conservation Plan for Oncor Electric Delivery Facilities in 100 Texas Counties

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice; correction.

**SUMMARY:** We, the U.S. Fish and Wildlife Service, correct a previously published notice that announced the availability of the draft environmental impact statement (DEIS) and the draft Oncor Electric Delivery Company, LLC, habitat conservation plan (HCP). Due to an inadvertent error, the prior notice mischaracterized the alternatives evaluated in the draft environmental impact statement. We correct the descriptions of the alternatives in this notice. The error was not in the DEIS or the HCP, but only in our previous notice.

**DATES:** *Comments:* We must receive written comments on the draft environmental impact statement and draft habitat conservation plan on or before close of business (4:30 p.m. CDT) October 13, 2011.

*Public meetings:* Up to nine public meetings will take place throughout Oncor's proposed 100-county permit area through September 28, 2011. Exact meeting locations and times will be

announced in local newspapers, on the Austin Ecological Services Office Web site (<http://www.fws.gov/southwest/es/AustinTexas/>), and on Oncor's Web site (<http://www.oncor-eis-hcp.com>) at least 2 weeks prior to each meeting.

**FOR FURTHER INFORMATION CONTACT:** Mr. Adam Zerrenner, Field Supervisor, by U.S. mail at U.S. Fish and Wildlife Service, 10711 Burnet Road, Suite 200, Austin, TX 78758, or by phone at (512) 490-0057.

#### SUPPLEMENTARY INFORMATION:

#### Background

On July 15, 2011, we published a notice in the **Federal Register** (76 FR 41808) that announced that Oncor Electric Delivery Company, LLC, has applied under section 10(a)(1)(B) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*) (Act), for an incidental take permit (ITP) (TE-40918A-0). The requested ITP, which would be in effect for a period of 30 years if granted, would authorize incidental take of 11 federally listed species. The proposed incidental take would occur in 100 Texas counties that comprise the Applicant's service area, excluding Williamson and Travis counties and with the addition of Runnels County, and would result from activities associated with maintenance and repair of existing electric facilities and installation and operation of new facilities.

The July 15, 2011, notice (76 FR 41808) provided information about Oncor's draft habitat conservation plan (HCP) and our draft environmental impact statement (DEIS) prepared under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*). Please refer to that notice for further information, including details about public meetings, ways to obtain copies of the documents, and comment submission.

Due to an inadvertent error, the July 15, 2011, **Federal Register** notice did not accurately reflect the three alternatives explored in the DEIS. Therefore, we correct our description of the alternatives below in this document. Please note that all the documents we made available from the date of publication of our earlier notice (July 15, 2011) are correct. If you already obtained any documents for review, you do not need to get new copies. The only error was in the text of our notice.

#### Alternatives

The DEIS examines three alternatives:

1. *No Action—Project-Based Consultation—Project-by-project consultations or ITPs.* This alternative