NATURAL RESOURCES SYMPOSIUM
BLUEPRINT FOR CHANGE: NEW APPROACHES AND NEEDED CHANGES TO MANAGING NATURAL RESOURCE RISKS, LIABILTIES AND OPPORTUNITIES

September 25-26, 2018
Washington, DC

UNITED STATES V. THE SHIPOWNERS' INSURANCE & GUARANTY COMPANY, LTD., ET AL

CASE/SITE SUMMARY

Summary

The case, *United States v. The Shipowners' Insurance & Guaranty Company, Ltd., et al.*, involved a civil action brought under the National Marine Sanctuaries Act, the Oil Pollution Act, the Park System Resource Protection Act and other statutory authorities against the M/V Cosco Busan, its owner and operator, and Captain John Cota for response costs, natural resource damages and other claims which resulted from a November 2007 bunker fuel spill in San Francisco Bay. Key features of the case include the San Francisco Bay location and widespread shoreline oil deposition inside and outside of the Bay; rapid spread of oil; involvement of multiple local jurisdictions; high public visibility and political involvement; public (volunteer) involvement; and federal, state, and local civil and criminal cases filed early on. This case was chosen to be included in the lessons learned segment because it was resolved in a relatively short timeframe; involved several tools (greater than usual public outreach with focus on restoration, ITOPF facilitation, injury studies planned and implemented quickly, targeted use of data from other sources; and coordination with numerous government and non-government parties. NRDA approaches and/or practices that could be transferred to other cases and sites will be discussed during the symposium segment, and include, for instance, maintenance of communication and data sharing between trustees and responsible parties despite ongoing litigation and absence of a formal cooperative assessment agreement.

Site Name

M/V Cosco Busan Oil Spill

Trustees

US Department of the Interior on behalf of the US Fish and Wildlife Service (USFWS), the National Park Service (NPS), and the Bureau of Land Management (BLM), the US National Oceanic and Atmosphere Administration (NOAA), , the California Department of Fish and Wildlife (CDFW) [formerly known as CA Dept. of Fish & Game (CDFG)], and California State Lands Commission (CSLC).

Trustee Council

Cosco Busan Trustee Council – comprised of representatives from USFWS, NPS, NOAA, CDFW, and CSLC.

RPs

M/V Cosco Busan, Fleet Management Ltd., maritime pilot John Cota, Regal Stone Limited, and The Shipowners Insurance & Guaranty Company Ltd.

Site Description

On November 7, 2007, the M/V Cosco Busan allided with a support tower of the San Francisco-Oakland Bay Bridge, resulting in the release of over 50,000 gallons of bunker fuel oil into San Francisco Bay and the Pacific Ocean, including the Greater Farallones National Marine Sanctuary and the Monterey Bay National Marine Sanctuary.

Case Timeline

November 2007: Complaint filed by US DOJ in the United States District Court, Northern District of California

September 2011: Proposed Consent Decree lodged with the Court

January 2012: Consent Decree entered by the Court; Final & Full Settlement Reached

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Note: Any omissions and/or errors should be brought to our attention by contacting us at symposium@nrdonline.org.

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Terms of Settlement

Spill response costs (prior to settlement) $81,585,000

Total Settlement: $44,474,000 (federal / state response & assessment costs and fines)

NRD portion of Settlement: $36,793,000 (restoration, oversight, plus remainder of assessment costs)

Private claims (separate from NRD settlement): $59,000,000

NRDA and Related Documents

The following NRDA, Restoration, and related documents have been released:

- Notice of Intent to Conduct Restoration Planning (2010)
- Draft Damage Assessment and Restoration Plan/Environmental Assessment (2011)
- Final Damage Assessment and Restoration Plan/Environmental Assessment (2012)

NRD Assessment Approaches

The trustees organized into technical workgroups, with RP involvement, and undertook 70 studies mostly within the two years after the spill. Habitat Equivalency Analysis (HEA) & Resource Equivalency Analysis were used for ecological injury scaling. Visitor use surveys conducted by Industrial Economics (on behalf of the Trustees), focused on the estimation of baseline and affected shoreline and boating trips at selected sites. In addition, the Trustees utilized a travel cost valuation study conducted by Stratus Consulting for the City and County of San Francisco.

Restoration Projects

- Creation of grebe nesting habitat at Tule Lake National Wildlife Refuge
- Creation of nesting and roosting habitat for cormorants, pelicans, and shorebirds at the Berkeley Pier
- Creation of a grant project to benefit Surf Scoters
- Creation of over-wintering duck and grebe habitat at the South Bay Salt Ponds
- Creation of nesting habitat for seabirds at the Farallon Islands;
- Restoration of marbled murrelets in California
- Restoration of eelgrass at several sites inside the Bay, to benefit both eelgrass and herring
- Restoration of sandy beach habitats at Muir Beach and Albany Beach
- Restoration of salt marsh and mudflat habitats at Aramburu Island
- Restoration of oysters and rockweed at sites inside the Bay, to benefit rocky intertidal communities
- Human recreational use projects at over 40 sites across the spill zone

Points of Interest

Below are some of the unique characteristics of this case/site.

- According to NOAA, at the time, this was the largest NRD settlement to date pursuant to OPA, later superseded by the Deepwater Horizon NRDA settlement.
- Ten years after the accident, $20 million of the settlement fund had been allocated to over 50 restorations projects around the Bay and beyond.

Description of Approaches/Lessons Learned

Several key lessons learned and/or approaches from this case that may be transferable to other cases and sites will be discussed at the Symposium, including the assessment technical approaches and extensive communication and coordination across numerous stakeholders who became involved.

Further Information

For further information see below:

- Final Assessment - https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=42442&inline

- 2017 Newsletter - https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=150846&inline
- https://www.wildlife.ca.gov/OSPR/NRDA/cosco-busan
- https://response.restoration.noaa.gov/remembering-cosco-busan-overview-2007-oil-spill