

**NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION
FINDING OF NO SIGNIFICANT IMPACT**

**Refugio Beach Oil Spill Final Damage Assessment and Restoration Plan/
Environmental Assessment**

Background:

Under the Oil Pollution Act of 1990 (OPA) the Natural Resource Trustee Agencies (Trustees), including the National Oceanic and Atmospheric Administration (NOAA); the United States Department of the Interior, represented by the United States Fish and Wildlife Service (USFWS), National Park Service (NPS) and Bureau of Land Management (BLM); the California Department of Fish and Wildlife (CDFW); the California Department of Parks and Recreation (CDPR); the California State Lands Commission (CSLC); and the Regents of the University of California (the Regents) (collectively, the Trustees) prepared the Final Damage Assessment and Restoration Plan and Environmental Assessment (DARP/EA). The DARP/EA evaluates restoration alternatives for natural resource injuries incurred as a result of this oil spill.

On May 19, 2015 a 24-inch diameter on-shore pipeline (Line 901) that extends approximately 10.7 miles along the Santa Barbara County coastline in California ruptured, resulting in the release of approximately 2,934 barrels (bbl) of heavy crude oil (Pipeline and Hazardous Materials Safety Administration 2016). Line 901 is a buried, insulated pipeline that transported heated crude oil from Exxon Mobil's storage tanks in Las Flores Canyon westward to Plains' Gaviota Pumping Station. The pipeline is owned and operated by Plains Pipeline, L.P., a subsidiary of Plains All-American Pipeline Company (Plains). The Pipeline and Hazardous Materials Safety Administration (PHMSA) determined that the cause of the Line 901 failure was external corrosion under insulation that thinned the pipe wall to a level where it ruptured suddenly and released heavy crude oil. Crude oil from the buried pipeline saturated the soil and flowed into a culvert that crosses under Highway 101 and railroad tracks and ultimately discharged into the Pacific Ocean at Refugio State Beach.

The crude oil that entered the ocean posed a significant risk to and injured marine plants and wildlife, including seagrasses, kelp, invertebrates, fish, birds, and mammals. In addition to direct natural resource impacts, the closure of beaches and fisheries occurred just days before the Memorial Day weekend resulting in losses for local businesses and lost opportunities for the public to visit and enjoy the shore and offshore areas. Some tar balls attributable to the Line 901 release were carried by southerly ocean currents and eventually reached some beaches in Los Angeles County.

Following the incident, representatives of the Trustees and the vessel owners jointly conducted a Natural Resource Damage Assessment (NRDA) to determine the nature and extent of injuries resulting from the spill to natural resources.

The injuries from the oil spill can be divided into the following categories:

- SHORELINE HABITATS
- SUBTIDAL AND FISH HABITATS
- BIRDS
- MARINE MAMMALS
- HUMAN RECREATIONAL USE

Restoration Alternatives:

The Trustees cooperatively developed the Final DARP/EA. It examines and evaluates potential projects to restore natural resources in compensation for injuries resulting from the spill.

The Trustees published a Draft DARP/EA in April 2020 and invited the public to comment on it. The Draft DARP/EA included discussion of a “no action” alternative and several active restoration alternatives to address the injured resources. The Trustees rejected the “no action” alternative because it does not compensate the public for losses suffered by the resources. OPA clearly establishes Trustee authority to seek compensation for injuries and interim losses pending recovery of natural resources. Furthermore, technically feasible alternatives for restoration are available. For the remaining active restoration alternatives, the Trustees considered criteria to evaluate the entire suite of projects that were under consideration. These criteria included each project’s ability to restore resources of the type impacted by the incident and relevant federal and state laws governing use of damages for natural resources. Based on an evaluation under these criteria, the Trustees selected several alternatives that would compensate for injuries to natural resources affected by the spill. Several non-preferred projects were also considered in the DARP/EA. These projects may be reconsidered if funds become available or if selected projects prove to be infeasible. For a complete description of all of the restoration alternatives, see the Final DARP/EA.

This decision document concludes that a Finding of No Significant Impact (FONSI) is appropriate for restoration actions evaluated in the DARP/EA as summarized here. For the following projects that are developed to a sufficient level of detail, and for which the DARP/EA contains a full environmental impacts analysis, the Final DARP/EA serves to satisfy NOAA’s requirements under the National Environmental Policy Act (NEPA).

SHORELINE HABITATS

Injury: Trustees estimate that approximately 1,500 acres of shoreline habitat were impacted including sandy beach and rocky intertidal habitats.

Restoration: Remove Ellwood seawall, enhance black abalone populations, and restore degraded sand dune habitats.

SUBTIDAL AND FISH HABITATS

Injury: Trustees estimate that approximately 2,200 acres of benthic subtidal and fish habitat were impacted.

Restoration: Restore abalone populations in Marine Protected Areas, restore eelgrass beds in Refugio cove, and restore sand-dwelling kelp offshore of Goleta Beach.

BIRDS

Injury: Trustees estimate 558 birds were killed, representing approximately 28 different species.

Restoration: Remove invasive plants from brown pelican nesting colonies on Anacapa Island, reduce seabird injuries from recreational fishing and implement conservation actions for western snowy plovers.

MARINE MAMMALS

Injury: Trustees estimate 156 pinnipeds and 76 cetaceans were injured or killed.

Restoration: Increase the capability to recover and rehabilitate marine mammals in distress in Santa Barbara and Ventura Counties, and increase the capability to respond to instances of cetacean entanglement in the Santa Barbara Channel.

For the following selected actions that are at various stages of conceptual planning, and for which it is not possible to conduct a full environmental analysis, NOAA (or the lead implementation Trustee agency) will conduct further environmental analysis as the project details are more fully developed if determined to be required.

HUMAN RECREATIONAL USE

Injury: Trustees estimate over 140,000 recreational user-days were lost.

Restoration: Various projects to improve human recreation, with funds to be allocated as follows: 53% to State Parks for projects benefitting camping or shore-based recreation, including and upcoast of El Capitan State Beach; 46% for a grants program for projects downcoast of El Capitan State Beach on non-State Parks lands benefitting coastal recreation, as well as boating and off-shore recreation in Santa Barbara, Ventura, and Los Angeles Counties; and approximately 1% to the Regents for projects at the Coal Oil Point Reserve.

Public Involvement:

Throughout the NRDA process, the Trustees have made information available to the public. The Trustees held a public meeting in Santa Barbara shortly after the oil spill on January 20, 2016, and they published a series of newsletters to keep the public up to date on the progress of the NRDA.

The Trustees published a Notice of Intent (NOI) to Conduct Restoration Planning on March 8, 2019, pursuant to the OPA NRDA regulations (15 C.F.R § 990.44), and concurrently opened an administrative record (15 CFR § 990.45). The Record includes documents relied upon or considered by the Trustees during the assessment and restoration planning process.

A 45-day public review period was held for the Draft DARP/EA beginning on April 22, 2020, and closing on June 8, 2020. During the public review period, the Trustees received extensive comments on the Draft DARP/EA, which can be found with the Trustees' responses in Appendix O of the Final DARP/EA.

The Trustees held virtual public meetings on May 13, 2020 at 1:00 and 6:00 pm PDT. At these meetings, the Trustees presented an overview of the Draft DARP/EA, answered questions, and accepted public comments.

The Administrative Record is available through the following link:
<https://www.diver.orr.noaa.gov/web/guest/diver-admin-record/6104>.

Alternatives Considered:

The DARP/EA evaluates an array of project alternatives for restoration of the various injured resources. The evaluation criteria used by the Trustees considered the following, taken from the NRDA regulations promulgated under the Oil Pollution Act: the cost to carry out the alternative action, the extent to which each alternative is expected to meet the Trustees' goals and objectives in returning the injured natural resources and services to baseline and/or compensating for interim losses, the likelihood of success of each alternative, the extent to which each alternative will prevent future injury as a result of the oil spill and avoid collateral injury as a result of implementing the alternative, the extent to which each alternative benefits more than one natural resource and/or service, and the effect of each alternative on public health and safety. In addition, the Trustee considered proximity to the geographic location of the injury, the relative costs of potential projects, how quickly a project would provide benefits, the duration of benefits, benefits to multiple resources, the extent to which a project would contribute to the overall restoration plan, the potential for maintenance and oversight of projects, opportunities to collaborate with other entities involved in restoration projects, the ability to document project benefits to the public, education and research value of projects, the degree to which project benefits would duplicate each other, and compliance with applicable federal and state laws and policies. The Trustees selected the most meritorious projects based on this evaluation.

Dozens of projects underwent evaluation. The specific projects that the Trustees considered are discussed in greater detail in the Final DARP/EA.

Environmental Consequences:

The NEPA requires an analysis of the effects of government actions on the quality of the human environment. In addition, Council on Environmental Quality (CEQ) regulations and NOAA's

implementing procedures for NEPA recommend the avoidance of repetitive discussions when more than one environmental document addresses the same action(s).

The Companion Manual for NOAA Administrative Order 216-6A (Companion Manual, January 13, 2017) contains criteria for determining the significance of the impacts of a proposed action. In addition, the CEQ regulations at 40 C.F.R. §1508.27 state that the significance of an action should be analyzed both in terms of “context” and “intensity.” The significance of this action is analyzed based on the Companion Manual criteria and CEQ’s context and intensity criteria. The criteria listed below are relevant to making a Finding of No Significant Impact, and have been considered individually, as well as in combination with the others, and include:

(1) Can the proposed actions reasonably be expected to cause substantial damage to the ocean and coastal habitats and/or essential fish habitat as defined under the Magnuson Stevens Act and identified in Federal Management Plans (FMPs)?

Response: No. As documented in the Final DARP/EA, the Trustees do not expect the selected projects to cause substantial damage to the ocean and coastal habitats and/or essential fish habitat as defined under the Magnuson-Stevens Act. Any short-term and temporary localized impacts from the restoration activities, such as those associated with projects can be minimized by the use of Best Management Practices. As documented in the Final DARP/EA, the Trustees expect the selected projects to substantially benefit the habitat targeted for restoration and the species associated. The planned restoration actions will have beneficial impacts by increasing and or enhancing habitats for anadromous fish, and special status fish species, and endangered and protected species. Overall, impacts to the ocean, coastal habitats, and/or essential fish habitat are expected to be beneficial.

(2) Can the proposed actions be expected to have a substantial impact on biodiversity and/or ecosystem function within the affected area (e.g., benthic productivity, predator prey relationships, etc.)?

Response: No. The selected projects are not expected to have substantial adverse impacts; however, they are expected to have beneficial impacts on ecosystem function and species biodiversity. As documented in the Final DARP/EA (in sections 4.3.4 and 4.5), all of the projects described in the DARP/EA will result in beneficial impacts to plants and wildlife, including special-status species, providing additional habitat to support recovery of these sensitive communities and resulting in greater habitat complexity, diversity, and productivity. These projects will cumulatively increase the availability and quality of ecologically valuable and productive habitats, such that there would be an expected increase in ecosystem function and species biodiversity. Any potential adverse impacts (such as those discussed in (1) above) are expected to be minimal, short term, localized, and are not expected to decrease function or species biodiversity.

(3) Can the proposed actions reasonably be expected to have a substantial adverse impact on public health and safety?

Response: No. The selected projects are not expected to have any impacts on public health and safety. The implementation of the proposed restoration projects would not present any unique physical hazards to humans. Any human use projects that are selected later under the framework outlined in the Final DARP/EA may provide benefits to public health and safety; however, any such projects would have to undergo additional review beyond this Final DARP/EA.

(4) Can the proposed actions reasonably be expected to adversely affect endangered or threatened species, their critical habitat, marine mammals, or other non-target species?

Response: No. The selected projects are not expected to adversely affect endangered or threatened species, their critical habitat, marine mammals, or other non-target. Overall, the selected projects are expected to benefit special status species and their habitats. In addition, for each project selected in the Final DARP/EA that requires additional environmental review and has not already undergone consultation with the USFWS and/or NOAA under Section 7 of the Endangered Species Act, the Federal Trustees will complete consultation prior to and as a condition of future project implementation.

(5) Are significant social or economic impacts interrelated with natural or physical environmental effects?

Response: No. The Trustees do not expect there to be significant adverse social or economic impacts interrelated with natural or physical environmental effects of the selected projects. On the contrary, these projects are expected to promote positive economic returns to local communities and associated areas impacted by the spill. It is anticipated that any selected recreational projects will provide positive social interactions with the natural environment.

(6) Are the effects on the quality of the human environment likely to be highly controversial?

Response: No. The selected restoration projects are not controversial. The public's response during the Draft DARP/EA public comment period was positive, with regard to the projects discussed in this document. Furthermore, due to the environmentally beneficial nature of the selected projects, the Trustees anticipate that the public will remain supportive.

(7) Can the proposed actions reasonably be expected to result in substantial impacts to unique areas, such as historic or cultural resources, park land, prime farmlands, wetlands, wild and scenic rivers, essential fish habitat, or ecologically critical areas?

Response: No. Any adverse impacts to unique areas, such as historic or cultural resources, park land, prime farmlands, wetlands, wild and scenic rivers, EFH, or ecologically critical areas are not expected to be substantial. Best management practices and mitigation are employed to limit the impacts to these unique areas

(8) Are the effects on the human environment likely to be highly uncertain or involve unique or unknown risks?

Response: No. The areas in which the projects will be implemented are well known to the project implementers, and none of the project methods that are expected to be used are unique, controversial, or untried.

(9) Are the proposed actions related to other actions with individually insignificant, but cumulatively significant impacts?

Response: No. The Trustees evaluated the restoration projects selected in the Final DARP/EA in conjunction with other known past, proposed or foreseeable closely related projects that could potentially add to or interact with these projects within the affected area to determine whether significant cumulative impacts may occur. All of the selected projects restore ecological services to compensate for injuries from the oil spill to birds, fish, and habitats are consistent with and in some cases a part of ongoing regional environmental restoration efforts described in plans such as the Gaviota Coast Plan, and the Marine Life Protection Act.

(10) Are the proposed actions likely to adversely affect districts, sites, highways, structures, or objects listed in or eligible for listing in the National Register of Historic Places or may cause loss or destruction of significant scientific, cultural or historical resources?

Response: No. As noted in the Final DARP/EA, the Trustees have evaluated the selected projects and determined that they are not expected to impact any cultural, scientific, or historic resources. However, if potential impacts become known during project implementation, the Trustees will either conduct or require the project implementer to conduct any appropriate compliance under the National Historic Preservation Act.

(11) Can the proposed actions reasonably be expected to result in the introduction or spread of a non-indigenous species?

Response: No. The Trustees do not believe that any of the restoration projects set forth in this Final DARP/EA have the potential to cause or promote the introduction or spread of invasive species. However, some of the restoration projects considered in this Final DARP/EA are aimed at the removal or control of non-native species.

(12) Are the proposed actions likely to establish a precedent for future actions with significant effects or represent a decision in principle about a future consideration?

Response: No. The selected restoration projects are not expected to set precedents for future actions that would significantly affect the human environment or represent a decision in principle about a future consideration.

(13) Can the proposed actions reasonably be expected to threaten a violation of Federal, State, or local law or requirements imposed for the protection of the environment?

Response: No. Implementation of the selected projects for which we have completed environmental review will not require any violation of federal, state or local laws designed to protect the environment. All projects will undergo required Federal and State review and permits, if needed, prior to implementation.

(14) Can the proposed actions reasonably be expected to result in cumulative adverse effects that could have a substantial effect on the target species or non-target species?

Response: No. The proposed action will not result in a substantial cumulative adverse effect on target species and non-target species. The proposed restoration projects are not expected to contribute to potentially significant cumulative impacts. The reasons for this conclusion are detailed in the Final DARP/EA “Cumulative Impacts” section. Furthermore, since the proposed restoration projects are designed to achieve recovery of injured natural resources, any cumulative environmental consequences will be largely beneficial.

DETERMINATION

Based upon an environmental review and evaluation of the Final DARP/EA for the Refugio Beach Oil Spill, as summarized above, we have determined that implementation of the projects in the restoration plan does not constitute a major Federal action significantly affecting the quality of the human environment under the meaning of Section 102(2)(c) of the National Environmental Policy Act of 1969 (as amended). Accordingly, an environmental impact statement is not required for this action. This determination applies only to those projects, identified above, for which the Final DARP/EA serves as the final NEPA impacts analysis.

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As designated by the Director of the Office of Habitat Conservation

Date

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Date