

**Supplement to the Final DARP/EA for the Cosco Busan Oil Spill:  
Pier Piling Repair and Replacement Project  
Office of Spill Prevention and Response  
California Department of Fish and Wildlife**

**Description of Nature, Purpose, and Beneficiaries of Project**

**1. Background.**

On November 7, 2007, the freighter *Cosco Busan* struck the Bay Bridge as it attempted to depart San Francisco Bay, resulting in a spill of 53,569 gallons of oil. Within the bay, the spill affected waters and shoreline from Tiburon to San Francisco on the west and from Richmond to Alameda on the east. Significant impact was recorded on bird and fish spawn populations, as well as on shoreline habitats. The California Department of Fish and Wildlife (CDFW), the California State Lands Commission (CSLC), the National Oceanic and Atmospheric Administration (NOAA), and the Department of the Interior through the United States Fish and Wildlife Service (USFWS), the National Park Service (NPS) and the Bureau of Land Management (BLM) are the natural resource Trustees for the *M/V Cosco Busan* oil spill. CDFW was designated the Lead Administrative Trustee for the natural resource damage assessment (NRDA) pursuant to 15 C.F.R. §990.14(a)(1). In addition, CDFW through its Office of Spill Prevention and Response is required to coordinate all state actions required to assess injury to, and provide full mitigation for, and/or restore, rehabilitate, or replace natural resources injured by an oil spill, including actions required by state trustees under Section 1006 of the Oil Pollution Act (Govt. Code §8670.7(h)(2)(A)).

In 2012, the state and federal natural resource Trustee agencies prepared the final *Cosco Busan* Oil Spill Damage Assessment and Restoration Plan and Environmental Assessment (DARP/EA). Under the Oil Pollution Act, or OPA (33 U.S.C. 2706(b)), the purpose of the DARP/EA is to make the environment and the public whole for injuries resulting from the spill by implementing restoration actions that return injured natural resources and services to baseline conditions and compensate for interim losses.

The Trustees considered over 25 restoration alternatives, which they evaluated based on selection criteria consistent with the legal guidelines provided in the OPA regulations (15 C.F.R. 990.54(a)). The current project was listed in the DARP/EA as a non-preferred alternative for the restoration of fish and other aquatic resources in Section 4.3.3 of the DARP/EA. Subsequent to the DARP/EA the Trustees learned of a new, cost-effective and innovative way to enhance subtidal habitats by repurposing existing infrastructure (abandoned piers and pilings not eligible for removal) using a commercially available piling-repair jacket that encapsulates

creosote-treated piles, providing a non-toxic surface for herring spawn and shellfish. The Trustees prepared a Draft Supplement to the DARP/EA that proposed the Pier Piling Repair and Replacement Project as the preferred alternative for the restoration of herring and intertidal and subtidal habitats. The Draft Supplement was released on May 5, 2019 for public comment. No public comments were received during the 30-day public comment period.

## **2. The Project.**

The current Supplement to the Final DARP/EA project is pier piling repair and replacement, aimed at altering derelict piers and pilings in subtidal habitats to provide settling surfaces for macroinvertebrate colonization and herring spawn deposition. The project will consist of the United States Geological Survey (USGS) selecting 25 of the least deteriorated from the ~200 derelict creosote-treated timber piles at the site of the former El Campo Marina to encapsulate in piling-repair jackets. Repair jacket prototypes will be wrapped around the piles, joined at the interlocking seam, held in place with ratchet straps, and secured with stainless steel screws. The interlocking seams will be sealed with a marine-grade, non-toxic epoxy to prevent leaching from the piles. Some jackets will be wrapped with welded-wire mesh or carbon-fibre grid to improve structural support or enhance surface area for attachment of invertebrates and herring roe. Piles will be encapsulated over the three (3) meter section between the high-high and low-low tide line, dependent on costs and funding. The jackets will be installed from a shallow draft boat and kayaks. No heavy machinery will be used. The project will enhance the ongoing eelgrass restoration efforts and expand habitat for spawning herring and other subtidal organisms.

The project was listed in the DARP/EA as not preferred at the time of the publishing of the document but was adopted as the preferred alternative in the Supplement dated May 6, 2019. The project was elevated due to updated knowledge of a new, cost-effective, and innovative way to enhance subtidal habitats by repurposing existing infrastructure using a commercially available piling-repair jacket that encapsulates creosote-treated piles, providing a non-toxic surface for herring spawn and shellfish.

This project addresses creosote-treated piers and pilings along the San Francisco Bay shoreline that are not eligible for removal by other efforts. As such, the goal is to repurpose these piers and pilings through a commercially available, inexpensive, and easy to install piling encapsulation technique to create novel substrate to act as a non-toxic surface for fish spawning and invertebrate settlement in subtidal habitats. The piling-repair system is designed to stabilize the piles and prevent them from breaking apart into debris.

The California Department of Fish and Wildlife has determined that the project is categorically exempt from the preparation of environmental documents under the California Environmental Quality Act (CEQA; Public Resources Code §§ 21000 *et seq.*).

## **Reason for Exemption**

The project is categorically exempt from the California Environmental Quality Act (Pub. Resources Code §21000 *et seq.*) pursuant to the “Class 7,” “Class 30,” and “Class 33” exemptions. The Class 7 categorical exemption applies to actions taken by regulatory agencies as authorized by state law or local ordinance to ensure the maintenance, restoration, or enhancement of a natural resource where the regulatory process involves procedures for protection of the environment (Cal. Code Regs., Title 14 §15307). The Class 30 categorical exemption applies to minor cleanup actions taken to prevent, minimize, stabilize, mitigate, or eliminate the release or threat of release of a hazardous waste or substance which are small or medium removal actions costing \$1 million or less (Cal. Code Regs., Title 14 §15330). Class 30 additionally applies because the project does not consist of the onsite use of a hazardous waste incinerator or thermal treatment unit or the relocation of residences or businesses, nor does the project involve the potential release of volatile organic compounds into the air. The Class 33 categorical exemption applies to projects not exceeding five acres in size to assure the maintenance, restoration, enhancement, or protection of habitat for fish, plants, or wildlife provided that there would be no significant impact on engendered, rare, or threatened species or their habitats, that there are no hazardous materials at or around the project site that may be disturbed or removed, and that the project will not result in impacts that are significant when viewed in connection with the effects of past, current, or probable future projects (Cal. Code Regs., Title 14 §15333).

The implementation of the Supplement to the Final DARP/EA Project constitutes an activity subject to the Class 7, Class 30, and Class 33 categorical exemptions because the program implements and is consistent with OSPR’s mandate for restoration of the State’s fish, wildlife, and plants to provide the best protection for California’s natural resources. Because the goals of the project are to create new surfaces to support fish spawning and invertebrate settlement and restore wildlife populations affected by the initial spill, the project is consistent with OSPR’s duty of restoration, as well as similar duties by other Trustee agencies and regulatory schemes at the state and federal levels.