



3510-JE

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Discharge of Oil from the Plains All American Pipeline Line 901 into the Pacific Ocean Near Santa Barbara County, California, May 19, 2015

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of Intent to Conduct Restoration Planning.

SUMMARY: On May 19, 2015, Line 901, a 24-inch diameter underground oil pipeline owned by Plains All-American Pipeline Company (“Plains”) ruptured, releasing what has been estimated to be at least 2,940 barrels of crude oil. Much of the heavy crude oil flowed into the Pacific Ocean near Refugio Beach State Park in Santa Barbara County, California. The oil spread southward and eastward impacting adjoining shorelines in Santa Barbara county and downcoast. The discharge affected natural resources in the general area. All of the foregoing is referred to as the "Incident."

Pursuant to section 1006 of the Oil Pollution Act (“OPA”), 33 U.S.C. §§ 2701, *et seq.*, federal and state trustees for natural resources are authorized to (1) assess natural resource injuries resulting from a discharge of oil or the substantial threat of a discharge and response activities, and (2) develop and implement a plan for restoration of such injured resources. The federal trustees are designated pursuant to the National Contingency Plan, 40 C.F.R. Section 300.600 and Executive Order 12777. State trustees for California are designated pursuant to the National Contingency Plan, 40 C.F.R. Section 300.605 and the *Governor’s Designation of State*

Natural Resource Trustees under the Comprehensive Environmental Response, Compensation and Liability Act of 1980, the Oil Pollution Act of 1990, and California Health and Safety Code section 25352(c), dated October 5, 2007. The natural resources trustees (“Trustees”) under OPA for this Incident are the United States Department of Commerce, acting through the National Oceanic and Atmospheric Administration (“NOAA”); the United States Department of the Interior (“DOI”), acting through the U.S. Fish and Wildlife Service (“FWS”); the California Department of Fish and Wildlife (“CDFW”); and the California Department of Parks and Recreation (“CDPR”). The California State Lands Commission (“CSLC”) is participating as a Trustee for the Incident pursuant to its jurisdiction under California state law over all state sovereign lands, including un-granted tidelands and submerged lands. The Regents of the University of California (“UC”) is participating as a Trustee for the Incident pursuant to its jurisdiction under California state law over lands within the Natural Land and Water Reserves System.

Plains is the Responsible Party (“RP”) for this Incident. The Trustees have coordinated with representatives of the RP on Natural Resource Damage Assessment (“NRDA”) activities.

The Trustees began the Preassessment Phase of the NRDA in accordance with 15 C.F.R. § 990.40, to determine if they had jurisdiction to pursue restoration under OPA, and, if so, whether it was appropriate to do so. During the Preassessment Phase, the Trustees collected and analyzed the following: (1) data reasonably expected to be necessary to make a determination of jurisdiction or a determination to conduct restoration planning, (2) ephemeral data (i.e., environmental data collected in the immediate aftermath of the spill), and/or (3) information needed to design or implement anticipated emergency restoration and/or assessment activities as

part of the Restoration Planning Phase.

The NRDA Regulations under OPA, 15 C.F.R. Part 990 (“NRDA regulations”), provide that the Trustees are to prepare a Notice of Intent to Conduct Restoration Planning (Notice) if they determine certain conditions have been met, and if they decide to quantify the injuries to natural resources and to develop a restoration plan.

This Notice is to announce, pursuant to 15 C.F.R. § 990.44, that the Trustees, having collected and analyzed data, intend to proceed with restoration planning actions to address injuries to natural resources resulting from the Incident. The purpose of this restoration planning effort is to further evaluate injuries to natural resources and services and to use that information to determine the need for, type of, and scale of restoration actions.

OPPORTUNITY TO COMMENT: Pursuant to 15 C.F.R. § 990.14(d), the Trustees seek public involvement in restoration planning for this Incident through public review of, and comment on, documents contained in the Record. The Trustees also intend to seek public comment on a draft Damage Assessment and Restoration Plan.

Comments should be sent to the following email address: refugio restoration@fws.gov

SUPPLEMENTARY INFORMATION:

Determination of Jurisdiction

The Trustees have made the following findings pursuant to 15 C.F.R. § 990.41:

1. The rupture of Line 901 on May 19, 2015, resulted in a discharge of oil into and upon navigable waters of the United States, including the Pacific Ocean, as well as adjoining shorelines. Such occurrence constitutes an “Incident” within the meaning of 15 C.F.R. § 930.30.

2. The Incident was not permitted pursuant to federal, state, or local law; was not from a public vessel; and was not from an onshore facility subject to the Trans-Alaska Pipeline Authority Act, 43 U.S.C. §§ 1651 *et seq.*

3. Natural resources under the trusteeship of the Trustees have been injured as a result of the Incident. The crude oil discharged from Line 901 is harmful to certain aquatic organisms, birds, wildlife, and vegetation that were exposed to the oil. Accordingly, the discharged oil and the response activities to address the discharge have had an adverse effect on the natural resources of the Pacific Ocean and its adjoining shorelines and impaired the services which those resources provide. Documents in the Administrative Record contain more information regarding the specific studies, observations, etc., by which the Trustees reached this determination.

As a result of the foregoing determinations, the Trustees have jurisdiction to pursue restoration under the OPA.

Determination to Conduct Restoration Planning

The Trustees have determined, pursuant to 15 C.F.R. § 990.42(a), that:

1. Observations and data collected pursuant to 15 C.F.R. § 990.43 (including dead and live oiled birds and marine mammals; dead and live fish and invertebrates exposed to oil; information regarding beaches, seagrass beds, rocky intertidal habitats, subtidal habitats and other habitats affected by oil or response activities) demonstrate that injuries to natural resources have resulted from the Incident. Immediately following the Incident, the Trustees, in cooperation with the RPs identified several categories of impacted and potentially impacted resources, including birds, marine mammals, fish, and shoreline and subtidal habitats, as well as effects to human

use/recreation resulting from impacts on these natural resources. The Trustees then began conducting activities, in cooperation with the RPs, to evaluate injuries and potential injuries within these categories. More information on these resource categories is available in the Administrative Record, including information gathered during the preassessment.

2. Spill response actions did not address all injuries resulting from the Incident to the extent that restoration would not be necessary. Although response actions were initiated soon after the spill, the nature and location of the discharge prevented recovery of all of the oil and precluded prevention of injuries to some natural resources. In addition, certain response efforts, such as the removal of wrack from beaches, caused additional injuries to natural resources. It is anticipated that injured natural resources will eventually return to baseline levels (the condition they would have been in had it not been for the Incident), but interim losses have occurred or have likely occurred and will continue until a return to baseline is achieved. In addition, there were lost and diminished human uses of the resources resulting from the impacts to the natural resources and from spill response actions.

3. Feasible primary and compensatory restoration actions exist to address injuries and lost human uses resulting from the Incident. To conduct restoration planning, the Trustees have compiled a list of restoration projects that could potentially be implemented to compensate for interim losses resulting from the incident. The Trustees have also sought suggestions from the public on potential restoration projects to compensate for the services and functions provided by natural resources. In addition, assessment procedures such as Habitat Equivalency Analysis and Resource Equivalency Analysis are available to scale the appropriate amount of compensatory restoration required to offset ecological service losses resulting from this Incident. To quantify

lost human uses resulting from the Incident, the Trustees, in cooperation with the RP, have gathered data regarding visitor use of impacted sites and associated activities. To value those lost uses the Trustees are using a value to cost approach, employing a Travel Cost Model, along with Benefits Transfer, for certain human use losses. The Trustees will work cooperatively with local governmental agencies and non-governmental organizations to identify a suite of potential restoration projects according to the relative magnitude of the spill. It is the goal of the Trustees to select projects spanning the geographic area of the spill and to address the various types of activities that were impacted by the spill.

During restoration planning, the Trustees evaluate potential projects, determine the scale of restoration actions needed to make the environment and the public whole, and release a draft Damage Assessment and Restoration Plan for public review and comment.

Based upon information in the Administrative Record and the foregoing determinations, the Trustees intend to proceed with restoration planning for this Incident.

Administrative Record

The Trustees have opened an Administrative Record (“Record”) in compliance with 15 C.F.R. § 990.45. The Record will include documents considered by the Trustees during the preassessment, assessment, and restoration planning phases of the NRDA performed in connection with the Incident. The Record will be augmented with additional information over the course of the NRDA process.

The Administrative Record may be viewed at the following website:

<https://www.diver.orr.noaa.gov/web/guest/diver-admin-record?diverWorkspaceSiteId=6104>

Dated: March 1, 2019.

Paul M. Scholz,
Chief Financial Officer/Chief Administrative Officer,
National Ocean Service,
National Oceanic and Atmospheric Administration.
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