

DEPARTMENT OF THE INTERIOR**Bureau of Land Management****[OR-120-9260PD-241A; 01-0344]****Intent To Conduct Restoration Planning: *M/V New Carissa* Natural Resource Damage Assessment****AGENCY:** Bureau of Land Management, Interior.**ACTION:** Notice of intent.

SUMMARY: The Natural Resource Trustees for the *M/V New Carissa* oil spill have chosen to enter into the restoration planning phase of a Natural Resource Damage Assessment. The purpose of this phase is to prepare a plan for the restoration, rehabilitation, replacement or the acquisition of the natural resources injured, destroyed or lost, or the uses of which were lost, as a result of this spill.

FOR FURTHER INFORMATION CONTACT:

Larry Mangan, Bureau of Land Management, Coos Bay District, 1300 Airport Lane, North Bend, OR 97459. He may be reached by telephone at 541-751-4231.

SUPPLEMENTARY INFORMATION:*Public Notice*

U.S. Department of Interior; U.S. Department of Agriculture; State of Oregon, Departments of Environmental Quality and Fish and Wildlife; Confederated Tribes of the Coos, Lower Umpqua, and Siuslaw Indians; and the Confederated Tribes of the Siletz, Oregon.

*Notice of Intent To Conduct Restoration Planning**M/V New Carissa Oil Spill*

On February 4, 1999, the *M/V New Carissa*, a 194-meter bulk cargo ship in ballast, went aground approximately 5 kilometers north of the north jetty of the entrance to Coos Bay, Oregon. On or about February 8, 1999, the stranded vessel began leaking oil, an *in situ* burn was conducted, the vessel split in two, and additional oil was released. The bow section was refloated and towed offshore, only to break its tow, release some oil and re-ground approximately 110 km to the north at Waldport, Oregon, where additional oil was released. The bow section was again refloated, towed to sea, and sunk. The stern section remains stranded near the entrance to Coos Bay. In all, an estimated 25,000 to 70,000 gallons or more of oil were released into the waters off the coast of Oregon. The oil spill is referred to in this Notice of Intent to Conduct Restoration Planning

("Notice"), issued pursuant to 15 CFR 990.44, as the "Incident."

Pursuant to section 1006(b) of the Oil Pollution Act of 1990 ("OPA"), 33 U.S.C. 2706(b), the following officials have been designated trustees of natural resources for this Incident (Trustees): the Secretary of the U.S. Department of the Interior, represented by the State Director for Oregon/Washington of the Bureau of Land Management, and the Secretary of the U.S. Department of Agriculture, represented by the Regional Director of Recreation, Lands and Minerals, Forest Service Region 6; the Directors of the State of Oregon Departments of Environmental Quality and Fish and Wildlife; and the Tribal Chairmen of the Confederated Tribes of the Coos, Lower Umpqua, and Siuslaw Indians and of the Confederated Tribes of the Siletz, Oregon. The Trustees are responsible for assessing the damages to natural resources under their trusteeship that have resulted from the Incident, developing a plan for the restoration of these resources, and pursuing funding from responsible parties for implementation of this plan or implementation of the plan by the responsible parties themselves. The Trustees are proceeding in accordance with the regulations for natural Resource Damage Assessments at 15 CFR part 990.

One of the goals of OPA is to make the environment and the public whole for injuries to natural resources and services resulting from an incident involving a discharge or substantial threat of a discharge of oil from a vessel into or upon the navigable waters or adjoining shorelines. This goal is achieved through the return of the injured natural resources and services to baseline and the provision of compensation for interim losses of such natural resources and the services they provide, to other natural resources and/or the public, from the date of the incident until recovery.

Among the parties responsible for the Incident ("Responsible Parties" or "RPs") are Green Atlas Shipping, S.A., the owner of the *M/V New Carissa*; TMM Co., Ltd., its operator; and Benjamin Morgado, the master of the *M/V New Carissa* at the time of the Incident. Green Atlas Shipping, S.A., and TMM Co., Ltd., through their agent, Polaris Applied Sciences, have participated with the Trustees in the performance and/or partial funding of the following emergency restoration and preassessment data collection activities: emergency restoration measures for the western snowy plover, a study by a mutually approved contractor (The Nature Conservancy) to ascertain

injuries to the western snowy plover; an analysis by a mutually approved contractor (R. G. Ford Consulting Company) to determine injuries to seabirds and shorebirds; a study to determine lost recreational use; and collection of a variety of natural resource data relevant to the Incident. These RPs, through their agent, Polaris Applied Sciences, also have provided comments to the Trustees on the conduct of and the reports resulting from these activities. The Trustees have invited the Responsible Parties, Green Atlas Shipping, S.A., and TMM Co., Ltd., to participate in the restoration planning phase of the Natural Resource Damage Assessment.

Trustees' Determinations*1. Determination of Jurisdiction*

The Trustees have made the following findings pursuant to 15 CFR 990.41:

(a) The Trustees have jurisdiction to pursue restoration pursuant to the Oil Pollution Act, 33 U.S.C. 2702 and 2706(c). The spill of 25,000 to 70,000 or more gallons of oil from the *M/V New Carissa* beginning on or about February 8, 1999, into the waters of the Pacific Ocean, off the Oregon Coast, approximately 5 kilometers north of the entrance to Coos Bay, was an "incident" as defined at 15 CFR 990.30.

(1) The *M/V New Carissa*, a "vessel" as defined at 33 U.S.C. 2701(37), spilled the entire quantity of oil involved in this Incident.

(2) The *M/V New Carissa* discharged oil into or upon the navigable waters and the adjoining shorelines, including the waters of the United States adjacent to the Oregon coast and within several Oregon estuaries, including Coos Bay.

(b) The Trustees have determined that:

(1) This Incident was not permitted under federal, state or local law;

(2) The *M/V New Carissa* is not a public vessel, as defined at 15 CFR 990.30; and

(3) The discharge of oil did not occur from an onshore facility subject to the Trans-Alaska Pipeline Authority.

(c) Based upon information gathered during the removal phase of the Incident and the preassessment phase of their Natural Resource Damage Assessment, the Trustees have determined that, due to the amount and type of oil spilled, the location of the spill, and the living and non-living natural resources, and uses in the area at the time of the spill (including but not limited to birds, fish, marine biota, sand sediments, water, and public use of those resources), natural resources under their trusteeship have been

injured, destroyed or lost and use of those natural resources has been lost as a result of the Incident.

2. Determination To Conduct Restoration Planning

The Trustees have determined, pursuant to 15 CFR 990.42 (a), that:

- (a) Data collected and analyzed pursuant to 15 CFR 990.43 demonstrate that injuries to natural resources have resulted from the Incident, including but not limited to the following:

- (1) Injury to a wide variety and number of seabirds and shorebirds, among them marbled murrelets and western snowy plovers (species listed as threatened under the Endangered Species Act, 16 U.S.C. 1531–1544), and loss or impairment of reproduction potential for these species. The report entitled “Seabird Mortality Resulting from the *M/V New Carissa* Oil Spill Incident February and March 1999,” included in the preassessment data report and jointly funded by the Trustees and Green Atlas Shipping, S.A., and TMM Co., Ltd., estimates that more than 2,300 seabirds and gulls were killed by the Incident, among them 262 marbled murrelets. In addition, that same report estimated that 460 to 809 shorebirds were oiled as a result of the Incident.

- (2) Lost public recreation use, including lost or diminished opportunities for public camping, wildlife viewing, shellfish harvesting, fishing, off-highway vehicle use, and hiking. The Trustees estimate that between 27,974 and 29,204 public trips were affected by the Incident.

- (b) Response actions during cleanup and emergency restoration measures implemented during early stages of the Incident have not adequately addressed the injuries resulting from the Incident. Response efforts included burning a significant portion of the oil on board the ship and cleaning up oil stranded along the beaches. Nevertheless, a substantial amount of oil was released onto the beaches and into the open ocean, resulting in injury to natural resources. Although response measures included collecting and cleaning oiled birds, only a small percentage of the birds affected by the oil were treated; and many birds perished as a result of the Incident. Emergency restoration measures were designed and implemented for the western snowy plover, a threatened species, but such emergency measures for other injured shorebirds and seabirds were not feasible at the time.

- (c) Potential assessment procedures to be used to evaluate injuries and to design and implement the appropriate

type and scale of restoration for these injured natural resources and services consist of, but are not limited to:

- (1) Field studies to ascertain restoration suitability of various tracts of land;

- (2) Compiling of demographic data for key species;

- (3) Computer modeling of population and mortality data;

- (4) Analysis of habitat information to properly scale restoration needs.

- (d) Feasible primary and compensatory restoration actions exist to address injuries from the Incident. Restoration activities are expected to focus on seabirds, shorebirds, and lost recreation uses. Restoration could include actions to protect and enhance habitat for seabirds and shorebirds. Specific efforts for wildlife could include acquisition and protection of shorebirds and seabird habitats. To address lost public recreation use, restoration could include development of projects to enhance public access and use of resources not accessible during the Incident. Feasible restoration actions relevant to the injuries may include, but are not necessarily limited to:

- (1) Acquisition of seabird and shorebird habitat from willing landowners;

- (2) Enhancement/protection of nesting locations of seabirds along the Oregon Coast;

- (3) Recreation projects on the North Spit of Coos Bay, in the Dunes National Recreation Area and in the Waldport area, to facilitate visitor use.

Data supporting these determinations are contained in the Record including the Preassessment Report.

Based upon the foregoing determinations, the Trustees have chosen to proceed with restoration planning for this Incident.

Opportunity to Comment

Pursuant to 15 CFR 990.14(d), the Trustees will seek public involvement in restoration planning for this spill through public review of, and comment on, the Draft Restoration Plan. When the Draft Restoration Plan is prepared, the public will be notified of the opportunity to comment. Questions regarding this Notice may be directed to Larry Mangan, Case Manager, *M/V New Carissa* Natural Resource Damage Assessment, Bureau of Land Management at 1300 Airport Lane, North Bend, OR 97459, or by telephone at 541-751-4231 or by telefax transmission at 541-751-4303.

Administrative Record

The Trustees have opened an Administrative Record (“Record”) in

compliance with 15 CFR 990.45. The Record will include documents relied upon by the Trustees during the assessment of natural resource damages being performed in connection with the Incident. The Record is on file at the Coos Bay District Office of the Bureau of Land Management, 1300 Airport Lane, North Bend, Oregon. Arrangements can be made to review the Record by contacting Larry Mangan at this address or by calling him at 541-751-4231.

Dated: October 12, 2001.

Elaine Y. Zielinski,

State Director, Oregon/Washington, United States Department of the Interior, Bureau of Land Management, Lead Administrative Trustee, M/V New Carissa, Natural Resource Damage Assessment.

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DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[MT-924-1430-EU; MTM 87193]

Order Providing for Opening of Public Land; Montana

AGENCY: Bureau of Land Management, Interior.

ACTION: Opening order.

SUMMARY: This notice terminates the temporary segregative effect as to 320 acres of public land originally included as part of the proposed Two Crow Exchange.

EFFECTIVE DATE: November 7, 2001.

FOR FURTHER INFORMATION CONTACT:

Sandra Ward, BLM Montana State Office, P. O. Box 36800, Billings, Montana 59101, 406-896-5052.

SUPPLEMENTARY INFORMATION: Pursuant to the regulations contained in 43 CFR 2201.1-2(c)(2), the segregation imposed by notation to the records of the lands described below is hereby terminated and the land is made available, subject to other withdrawals and segregations of record, under the public land and mineral laws of the United States:

Principal Meridian, Montana

T. 22 N., R. 21 E.,

Sec. 4, NE $\frac{1}{4}$ SW $\frac{1}{4}$ and S $\frac{1}{2}$ SW $\frac{1}{4}$;

Sec. 5, S $\frac{1}{2}$ SE $\frac{1}{4}$;

Sec. 9, N $\frac{1}{2}$ NW $\frac{1}{4}$ and SE $\frac{1}{4}$ SE $\frac{1}{4}$.

The areas described aggregate 320 acres in Fergus County.

2. At 9 a.m. on November 7, 2001, the lands shall be opened to the operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals,