

Statement of  
**W.F. “Zeke” Grader, Jr., Executive Director**  
**Pacific Coast Federation of Fishermen’s Associations**

991 Marine Drive, The Presidio  
P.O. Box 29370  
San Francisco, CA 94129-0370  
Tel: (415) 561-5080

To the

**U.S. House of Representatives**  
**Subcommittee on Coast Guard & Marine Transportation**

**Regarding the Cosco Busan Oil Spill**  
**Causes and Responses**

San Francisco, California  
19 November 2007

Good Morning. Chairman Cummings and members of the Subcommittee, my name is Zeke Grader and I am the Executive Director of the Pacific Coast Federation of Fishermen’s Associations (PCFFA). This is a position I have held since 1976. Through its 14 member organizations, PCFFA represents working men and women in the U.S. West Coast commercial fishing fleet. I wish to thank the Subcommittee for the opportunity to provide brief comments today on what the fishing fleet has observed regarding the 7 November fuel oil spill by the container ship *Cosco Busan* in San Francisco Bay - the response and the impacts to date.

**The Importance of San Francisco Bay and the Gulf of the Farallones**

Before discussing the observations and concerns that have been raised by fishermen regarding this latest oil spill, for context it’s critical to recognize the biological and economic importance of San Francisco Bay and the waters out into the Gulf of the Farallones. The importance of the Bay and the waters offshore the Golden Gate goes far beyond their use for merchant shipping

San Francisco Bay is the single most important estuary along the West Coast of North and South America. This estuary is fed by the freshwater inflow from the snowpack and watershed of the Sierra mixing with the ocean waters of the Pacific in the Bay and Delta creating a biologically rich null zone. It flows into the Gulf of the Farallones where the waters, north to Point Arena, are nourished by one of the strongest upwellings in North America.

San Francisco Bay provides one of the largest nursery grounds for Dungeness crab along the Pacific Coast. It is the juvenile crab utilizing this Bay as a nursery that are harvested as adults in the Gulf of the Farallones. And, it is the Dungeness crab that is the symbol of San Francisco's Fisherman's Wharf and whose season opening we would have been celebrating Thursday had it not been for this recent spill.

San Francisco Bay supports a large run of Pacific herring which begin spawning in the Bay about this time, continuing until March. This run, in turn, supports the largest herring fishery south of British Columbia. Indeed, the San Francisco Bay herring fishery is the nation's last urban commercial fishery - following the closure of much of the shad fishery of the Hudson River because of PCB pollution.

San Francisco Bay and the Sacramento-San Joaquin Delta is the passage way from the Pacific to the Sierra streams for the second largest chinook salmon run in the lower 48 states. The Central Valley fall-run chinook, in recent years, have accounted for more than 90 percent of California's salmon catch and upwards of 60 percent of the chinook salmon harvested offshore Oregon and Washington. The Delta and Bay are where young salmon grow and build strength before heading to sea. The health of the Delta and Bay have a direct bearing on salmon populations.

San Francisco Bay is home to important recreational fisheries for native sturgeon and non-native Striped Bass. It provides habitat for such marine species as California halibut and English sole, and before World War II and industrialization supported large oyster and shrimp fisheries as well. Moreover, the fish of the Bay support subsistence fishing, which provides an important food source for low income ethnic and communities of color.

It is because of its regional importance for fish and wildlife that special care is needed for San Francisco Bay's protection. This is why prevention of oil spills coupled with prompt response and quick and effective clean-up, when spills do occur, is critical. You have seen from the newspaper reports the huge public outpouring of offers to help responding to this spill. The local community has a strong sense of stewardship for the Bay and Gulf of the Farallones. Fishermen, too, share that sense of stewardship, depending as they do on the productivity of this Bay and the waters off the Golden Gate for their livelihood. That is why our coastwide organization has focused so much of its attention for the past 30 years on the protection of San Francisco Bay - whether it has been fighting for better water quality, fighting for the freshwater inflows critical for maintaining estuarine function and fighting against further upstream diversion of the essential inflow, or working to prevent the introduction of, as well as control and eradicate, invasive species.

### **Fishermen and Oil Spills**

Our members, however, are not alone among fishermen in their sense of stewardship for the waters that support their livelihoods. In 1989 we witnessed the tremendous outpouring of fishermen responding to the *Exxon Valdez* spill in Alaska's Prince William Sound. The commercial fishing community there played a crucial role in the effort to clean-up that massive oil spill.

Following the Exxon Valdez spill and the subsequent passage of the Oil Pollution Act of 1990 (“OPA 90”) and California’s passage of its Lempert-Keene-Seastrand Oil Spill Prevention & Response Act, the private clean-up cooperatives, established by the shipping companies and oil industry, began contacting members of the fishing fleet along the coast to train and certify the captains and their vessels as a kind of auxiliary to the companies own personnel and equipment for oil spill containment and clean-up. Fishermen had, without training, already demonstrated their competence in this work in Prince William Sound. The reasoning was, why not provide them formal training, certify them, and place oil spill containment and clean-up equipment in strategic locations for their use in the event of a spill.

This made a lot of sense, at least at the time to the private clean-up companies and seemed to enjoy the support as well of the responsible federal (i.e., Coast Guard) and, here in California, state (i.e., California Department of Fish & Game’s Oil Spill Prevention & Response unit) agencies. Utilizing commercial fishermen and their vessels would cut down on the number of response vessels and personnel the private companies would require on a permanent basis – that would remain largely idle until there was a spill. The fishermen possess expertise of local waters and their vessels were workboats, mostly with large decks that could handle and deploy oil spill equipment. There was, after all, a wide range in size of vessels, including large trawl and seine vessels that could be utilized in open ocean waters to the smaller, high speed, shallow draft craft, such as herring “bowpickers” that could be used near shore in coves and small openings to boom or retrieve oil. Lines of communication would be established with the fleet to contact and deploy them in the event of any major spill.

During the 1990’s fishermen along the Pacific Coast were contracted by the private oil response firms. They were trained, including in the deployment of booms and clean-up equipment, they were certified, they participated in drills and, we assumed were listed in contingency plans for containment and clean-up. Contacts between the companies and the fleet were established for responding quickly to a spill.

I don’t have a number or even an estimate of the actual number of fishermen who were trained. However, it may, with a little research be possible to ascertain an accurate figure. My estimate, based on the information I was receiving from my members at the time, is that between one-third and, perhaps, as high as half of the fleet went through training and certification. From all of the information I had received the companies and the responsible agencies were satisfied with the capabilities of the fishing fleet and considered them a part of any clean-up operation.

I was surprised then that by 1999 and 2000, fishermen were reporting to me that the training, and consequently the certification and participation in drills, had stopped. I asked whether it was because the companies or agencies were not satisfied. All the fishermen knew is they were told there was no more money. Thus, for this decade there has been no training I am aware of, much less certification or participation in oil spill drills by members of our fleet.

I raised this issue verbally at various times with Coast Guard, California Fish & Game and NOAA personnel and was told either this was an issue between the fishermen and the private companies or the question was ignored altogether. I raised this question numerous times with NOAA personnel during a major oil spill drill/press event that was held during the summer of

2006 and still did not receive any answer. In retrospect, we should have made a formal written request of the responsible agencies asking why this training of fishermen had ceased and whether fishermen and their vessels were being included in any of the oil spill containment and clean-up contingency plans. That was our failure. But certainly proper oversight of the private clean-up companies by the responsible federal and state agencies should have detected this flaw.

### **Fishermen and the Cosco Busan Spill**

Following the accident and resultant spill from the Cosco Busan's encounter with the San Francisco Bay Bridge on Wednesday, the 7<sup>th</sup>, the president of the Crab Boat Owners Association (representing San Francisco Bay commercial fishermen), who himself had gone through oil spill training in the 1990's, contacted the Coast Guard Thursday morning. He had not heard anything from the Coast Guard, Fish & Game's OSPR or the private clean-up company, following the accident. He told the Coast Guard he had 30 boats in his association that were trained (during the 1990's) and prepared to assist in the clean up. He was then told by the Coast Guard that they had it under control, his boats were not needed and "if any fisherman wanted to help they could volunteer to clean birds." I subsequently called the Coast Guard Thursday telling them who I was and that there were fishing boats available to help with the clean-up. I did not get quite as flip an answer; they took my name and I was contacted the following Sunday by someone in the agency wondering what size boat I had.

On Saturday, the 10<sup>th</sup>, not having gotten any response from the Coast Guard, Fish & Game or the private company, the Port of San Francisco took it upon itself and hired 20 fishing boats from Fisherman's Wharf to engage in the clean-up. Since none of the boats had recent training or up-to-date certificates they were required to each carry two clean-up personnel hired by the private company. During the few days those boats were on the Bay, they contributed significantly to the clean-up effort, often able to get in close to shore where the larger vessels of the private operator could not. It also helped that these fishermen had local knowledge, particularly of San Francisco Bay's treacherous tides and currents.

The Port of San Francisco's funds ran out Wednesday for the fishermen clean-up effort. At no time prior to that was the fleet contacted by either the Coast Guard or OSPR to engage in clean-up, although our Fish & Game Department told us the "fishermen's OSPR contracts would be ending Wednesday because most of the oil had been cleaned-up in the Bay." We found that strange since OSPR did not have any fishing boats under contract, but then there were far more significant foibles and break-downs in communication during this oil spill than that Fish & Game misstatement. Two fishing boats, I should note, were hired after Wednesday by the private company to continue in the clean-up.

In response to what was happening, it became apparent by Friday, the 9<sup>th</sup>, that there was a good chance the oil would be getting out the Gate. We had already learned that some oil picked up from the Bay had contaminated at least one fish processor's live tank at the Wharf. A meeting was called on Saturday, the 10<sup>th</sup> among crab fishermen planning on fishing the 15 November opener to decide what to do. By a unanimous vote they called on the Governor to use his emergency authority to close the crab season, despite the immediate economic impact on these fishermen losing their Thanksgiving market, until the oil was cleaned-up and the crab

could be tested to assure none was contaminated by the oil. The reason for wanting a closure was simple. Fishermen, and processors, felt they could not risk the chance of any oil-contaminated crab reaching the market, whether it made anyone ill, or simply didn't taste good, one bad crab could ruin the market for years.

The Governor subsequently issued an order Tuesday calling for a closure. Unfortunately the boundaries for the area to be closed were botched by our Department of Fish & Game, but that is a state issue not of interest to this Subcommittee. Needless to say there will be direct economic losses to the crab and herring fleets from this oil spill. More ominous, is what long-term affects this oil may have on the survival of juvenile crab in the Bay, herring spawning and migrating salmon. Financial support will be needed for the long-term monitoring of fish and wildlife impacts from this spill. As we learned from Prince William Sound, oil spill impacts can last for decades.

One of the tragedies surrounding this relatively minor spill (compared to Prince William Sound or the Black Sea) becoming a major mishap, is that only a fraction of the boats waiting in the three ports to go crabbing have been used in this containment and clean-up effort. Much more of the oil would have been removed from the water by now had the training and certification of fishermen continued along with their contracts to engage in oil spill clean-up. The private company is at fault here, but so too are the responsible federal and state agencies for failed oversight.

From what has been seen, not only was there a failure to continue the training of the fishing fleet as responders to an oil spill or to engage them when the spill happened, but there seems to have been a real break-down in command as far as utilizing local expertise in this incident.

In previous spills, the personnel from the LOCAL trustees, such as the Gulf of the Farallones National Marine Sanctuary, were always on the inside of the Unified Command with the Coast Guard and Fish & Game, advising and answering questions as an integral partner of the Unified Command. This has been very important to the success of all spill response, for the five significant oil spill in the San Francisco Bay Area, since OPA 90.

This spill, however, saw the personnel of local trustee placed outside the Unified Command; instead, connected to the Unified Command via an agency liaison, assigned by the agencies' headquarters. This arrangement is presently the agency approved format for interaction with the Unified Command. It is clear that the previous configuration used in the San Francisco Bay Area made the Partnership, with the Unified Command more efficient, less bureaucratic, and better served the environment as well as leading to smoother operation than the agency approved arrangement that has been used for this spill.

In the past 25 years, the National Park Service and the National Marine Sanctuary have encouraged the public to become volunteers and citizen stewards of San Francisco Bay's natural resources. Likewise, as an organization, we have encouraged our members to be activists in the efforts to protect the Bay, including participating in training for oil spill clean-up. To believe that these citizens, including fishermen, should not want to be involved with protecting our natural resources, fish and wildlife, during a disaster, like an oil spill, is not realistic. When

thousands of volunteers want to help, the Unified Command can either put them to work – including fishermen in on the water clean-up – in meaningful, safe and productive tasks, or simply cordon off all the beaches and wharves with police. We suggest the former be the preferred course – to fully utilize local knowledge and stewardship.

### **What Happened?**

In the fishing fleet, no one is quite sure why there was the break-down in responding to this *Cosco Busan* spill and its clean-up. There is the perception among our members that agencies became complacent after the last major spill with the impression that everything was in place for the next major event. Oversight became lax. They have noted much less interaction with the Coast Guard and the fishing fleet (e.g., vessel safety liaison) since 9/11 and the agency's new focus with the war on terrorism. Within the state agency – the Department of Fish & Game, there have been a series of budget meltdowns in the last decade. Funds that were designated for oil spill prevention and clean-up had been misappropriated, positions within OSPR have gone unfilled (even though there were funds for those positions) and lately Fish & Game's fixation with establishing Marine Protected Areas – that are nothing more than no-fishing zones – has diverted attention from the more important task of oil spill prevention. Bear in mind, MPAs are totally worthless in protecting against oil spills, or any pollution for that matter, pointing to the need to develop meaningful conservation measures that protect all bay and ocean waters.

### **Some Bright Spots**

While there were many blunders that occurred during this spill, there are some bright spots to report on. As I mentioned, the 20 fishing boats during the short time they were on the water collected a significant amount of oil (unfortunately it's impossible to document the exact amounts because the oil they recovered was mixed with that of other responders).

The Port of San Francisco is to be commended for its efforts in this incident, stepping up and taking leadership when the responsible agencies failed – most notably with their hiring from port funds the fishermen to engage in clean-up. The Gulf of the Farallones Marine Sanctuary and its support organization, the Farallones Marine Sanctuary Association, also should be commended for effectively deploying their Beach Watch volunteers out along the coast to monitor and document the oil and assist with the coordination of some of the volunteer clean-up efforts. They did this smoothly, effectively and with little fanfare.

### **A Few Suggestions**

In their paper “Community Responses to Oil Spills” (from The Selendang Ayu Oil Spill: Lessons Learned, Alaska Sea Grant, 2006), researchers Duane Gill and Liesel Ritchie found (pp.90-91):

The old adage that “an ounce of prevention is worth a pound of cure” underscores its importance in emergency management. In the aftermath of the *Selendang Ayu* incident, several preventive measures have been suggested. ....An understanding of risks provides a foundation for establishing prevention measures. Risks need to be articulated and

recognized before informed and effective prevention measures can be developed and implemented.... A sociological lesson to remember is to encourage civic engagement and invest social capital in this process. Like most leaders in rural Alaska communities similar in size, Dutch Harbor/Unalaska leaders are adept at using social capital and encouraging civic engagement in community affairs. However, it is not uncommon to find disenfranchised groups in these communities . A key component in socially assessing risks is striving to include varying and sometimes competing risk perceptions throughout this process. As Waugh and Hy (1990) not for disaster planning and management, “[there is a] need for strong cooperation and coordination among public, nonprofit, and private sectors:

Preparedness involves activities that enhance community capacity to respond to an emergency, as well as plans to mitigate effects. There is overlap where prevention ends and preparedness begins. One level of preparedness focuses on common hazards and threats experienced by the community. A second level anticipates “worse case scenarios” (Clarke 2005). In either case it is important to prepare for likely social and community effects.....

***Better Utilization of Local Knowledge.*** Our first recommendation is to look at ways to direct the Coast Guard to better utilize local knowledge – whether it be to more fully consult and engage with local agencies, local volunteer groups (such as those organized by marine sanctuary programs), along with fishermen, local mariners and the various non-profit river, bay and coast keeper organizations who constantly monitor many of our waterways and ocean waters.

***Mandate Use of Fishermen/Fishing Vessels in Public and Private Oil Spill Contingency Planning.*** Following the failure for the past seven or eight years to train, certify and utilize our single largest groups of individual and vessels – who incidentally have the most to lose from any oil spill or other insult to the marine environment – the commercial fishing fleet, we believe Congress needs to mandate their participation in all future oil spill prevention, containment and clean-up programs. We should not overlook the valuable contribution fishing men and women can make to keeping our marine environment clean and safe, as happened with this latest spill. They should be given the opportunity to train and participate in helping protect the environment that sustains them.

***Appointment of an Independent Commission to Investigate.*** As you know, following the *Exxon Valdez* spill, an independent commission was established – the Alaska Oil Spill Commission – to investigate what went wrong. Rather than the responsible agencies investigating themselves – investigations that are seldom extensive or critical – we believe a special commission should be established to report back to Congress, and perhaps Governor Schwarzenegger, on what went wrong, why, and what should be done to fix it. While in the grand scheme, *Cosco Busan* was a relatively small spill, the fact that it could not even be successfully dealt with indicates clearly that we need to fix things now, before there is a major spill.

I have attached a copy of the testimony provided by the California Coastkeeper Alliance to the California Assembly’s Committee on Natural Resources on Friday and would also

recommend the Subcommittee review the testimony provided that hearing by the San Francisco Baykeeper. Both testimonies, I believe, provide information that should be useful to state legislators and member of Congress alike.

Thank you again, Mr. Chairman, for this opportunity to provide these brief comments. I'll be happy to answer any questions members may have or provide any follow-up information that I can provide for you, members and staff.