STATEMENT OF ANNE L. RICHARDS

ASSISTANT INSPECTOR GENERAL FOR AUDITS

OFFICE OF INSPECTOR GENERAL

U.S. DEPARTMENT OF HOMELAND SECURITY

BEFORE THE

COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE

SUBCOMMITTEE ON COAST GUARD AND MARITIME TRANSPORTATION

U.S. HOUSE OF REPRESENTATIVES

April 10, 2008

Good morning, Chairman Cummings and members of the Subcommittee. I am Anne L. Richards, Assistant Inspector General for Audits for the Department of Homeland Security. Thank you for the opportunity to discuss the Coast Guard's response to the November 7, 2007 allision of the M/V COSCO BUSAN with the San Francisco-Oakland Bay Bridge.

I would first like to express our appreciation to the Coast Guard's Eleventh District Command and the Coast Guard's headquarters Office of Budget and Programs for their timely and thorough responses to my staff's innumerable requests for information and documentation over the past 90 days. It is fair to say we would not have completed our review in such a timely manner without their complete cooperation.

My testimony today will address five major questions that have been asked regarding the Coast Guard's actions prior to and during the first 24 hour following the allision. They are:

1. Was there anything the Coast Guard's Vessel Traffic Service could have done to prevent the allision?

2. To what extent was the Coast Guard's post-mishap pollution assessment and marine casualty investigation conducted in a complete and effective manner?

3. To what extent did the delay in notification of the size of the oil spill adversely impact the response of Coast Guard, state and local governments, and responsible party to the mishap?

4. Was the San Francisco Area Contingency Plan adequate to guide the response to an oil spill of this magnitude?

5. To what extent did the San Francisco Area Contingency plan provide for the treatment of marine resources, wildlife and fisheries?

San Francisco Vessel Traffic Service

Was there anything the Coast Guard's Vessel Traffic Service could have done to prevent the allision?

There was nothing the San Francisco Vessel Traffic Service (VTS) could have done to prevent the allision. The VTS watchstanders followed their operating procedures for monitoring the transit of the M/V COSCO BUSAN from the time it left Pier 56, transited the Oakland Bar Channel, and allided with the San Francisco-Oakland Bay Bridge. The watchstanders acknowledged the pilot's intention to get underway, his intended route, and appropriately notified the pilot that visibility was reported to be between one-eighth and one-quarter of a mile between the Bay Bridge and the Golden Gate Bridge. The VTS also provided the M/V COSCO BUSAN with traffic advisories and appropriately queried the vessel when they became concerned about the vessel's heading. Given the current operating procedures and hardware/software capabilities, there were no additional actions the VTS watchstanders could reasonably have taken to prevent the allision. However, we identified the following areas for improvement in the VTS program:

1. **National Standard Operating Procedures.**--The Coast Guard does not have a VTS national standard operating procedure. Currently, the individual VTSs follow guidance provided in the Coast Guard's Marine Safety Manual. The Marine Safety Manual only provides general concepts for VTS operations and not the specific requirements for equipment operation or emergency procedures. For example, the San Francisco VTS watchstanders on duty when the mishap occurred were not tested for drugs and alcohol due to a lack of awareness of drug and alcohol testing policies and the VTS program manager's practice of conducting such tests following a mishap. By not administering the drug and alcohol tests, the Coast Guard is unable to positively rule out impairment of the VTS watchstanders as a contributing factor to the incident. The issuance of a VTS national standard operating procedure would reduce future oversights associated with drug and alcohol testing by standardizing the operations and requirements that apply to all VTS command centers.

2. **VTS Authority to Limit Vessel Movement.**--The San Francisco VTS has the authority to institute and enforce measures to enhance navigation and vessel safety and to protect the marine environment (including the authority to control the movement of vessels) as provided by the Ports and Waterways Safety Act (33 U.S.C. 1221.and Title 33 Code of Federal Regulations Part 161 (Vessel Traffic Management). This authority includes managing vessel entry and movement, or departure to, from, or within a VTS area during extreme weather, sea, and atmospheric conditions, including during periods of high winds and restricted visibility. However, San Francisco VTS' operational procedures currently do not provide watchstanders with the criteria necessary for determining what additional action(s) to take and when to take these actions.

   To their credit, the Coast Guard and the San Francisco Harbor Safety Committee (whose members include the Coast Guard, the San Francisco Bay Pilots, and other state and local stakeholders) are taking a proactive approach to preventing future occurrences of maritime mishaps similar to the M/V COSCO BUSAN's allision with the San Francisco-Oakland Bay Bridge. Specifically, the Harbor Safety Committee has formally adopted new guidelines for vessel operations in and around San Francisco Bay during periods of reduced visibility. Speed restrictions are also under consideration. The Coast Guard has indicated its intention to incorporate the new guidelines into San Francisco VTS standard operating procedures. When fully implemented, the proposed guidelines should improve maritime safety in the San Francisco Bay area.

Pollution and Marine Casualty Investigations

To what extent was the Coast Guard's post-mishap pollution assessment and marine casualty investigation conducted in a complete and effective manner?

There were problems in the initial pollution assessment that did not hinder the response. Shortfalls in the Sector San Francisco's marine casualty investigation of the allision resulted in a lost opportunity to identify, collect, and preserve all potential evidence relevant to this mishap.

Pollution Assessment.--The initial pollution assessment was inaccurate and should not have been made public. The Coast Guard has admitted that it erred in releasing this information. Under the Area Contingency Plan, it was the responsibility of Oil Spill Prevention and Response (OSPR) to estimate the amount of oil discharged in the allision. OSPR personnel were available, but did not have timely transportation to and from the allision site. This further delayed release of the corrected pollution assessment. A more accurate estimate earlier in the day would have been ideal; however, both the Coast Guard and the California State Office of OSPR reported that such an estimate would not have altered the *response* of the Unified Command, which includes the Coast Guard and the State of California.

Marine Casualty Investigation.--The level of training, experience, and qualification of the marine casualty investigators assigned to the M/V COSCO BUSAN investigation was generally inadequate. Five of the six investigators did not meet the Coast Guard's marine casualty investigation standards. This may account for the shortfalls in the marine casualty investigation. Specifically, the investigators did not immediately secure or collect potential evidence, such as the charts used by the bridge team, the vessel's data recorder, or the shipboard navigational systems. While the Voyage Data Recorder information was later recovered and used by investigators to recreate the vessel's trackline before the mishap, the failure to independently test shipboard navigation and collision-avoidance systems as well as the radar beacons affixed to the bay bridge could prevent the Coast Guard and the National Transportation Safety Board from identifying all of the circumstances and conditions that led to the mishap.

Coast Guard marine casualty investigators also did not ensure that all civilian and active duty Coast Guard personnel underwent drug and alcohol testing as authorized by Coast Guard policies and practices. Marine casualty investigators assigned to this incident stated they were unaware of the policy to test VTS personnel on duty at the time of the mishap.

The investigators conducted breathalyzer testing of the M/V COSCO BUSAN's captain and bridge team but, with the exception of the captain, failed to ensure that all persons on duty aboard the M/V COSCO BUSAN were drug and alcohol tested within the required 32-hours following the mishap. To its credit, the Coast Guard immediately acted to ensure the entire M/V COSCO BUSAN's crew was tested as soon as the discrepancy was brought to their attention and all tests were negative. The VTS watchstanders were never drug and alcohol tested. The Coast Guard's omission of such tests, as well as the marine employer's lack of timely testing of the M/V COSCO BUSAN's crewmembers, may prevent authorities from being able to rule out the use of drugs or alcohol as a contributing cause of the mishap.

The lack of trained, experienced, and qualified marine casualty investigators at Sector San Francisco is a major concern given that the Sector's area of responsibility and the volume, type, and size of vessels that transit Bay area each year. Few people realize that Sector San Francisco's area of responsibility covers the coast out to 50 miles offshore from Point Sur north to Point Arena, all of San Francisco Bay, the Sacramento and San Joaquin river deltas, and the states of Nevada and Utah, including Lake Tahoe. During FY 2007, the San Francisco VTS monitored the movement of 124,762 vessels through this area. The training and qualifications of the investigators assigned raise doubts about the quality of marine casualty investigations conducted by Sector San Francisco.

Notification Delays

To what extent did the delay in notification of the size of the oil spill adversely impact the response of Coast Guard, state, and local governments, and responsible party to the casualty?

The delay in notification of the size of the oil spill did not have an impact on the emergency response. In this mishap, the Responsible Party notified the National Response Center, the San Francisco VTS, and the State of California. The Coast Guard was described by the environmental unit leader as having responded quickly with assets (staffing and equipment) based on the "potential" oil spilled and not the "reported" oil spilled.

The Unified Command's response to the mishap was based on tenets of the San Francisco Area Contingency Plan. According to the State of California Oil Spill Response Organization (OSRO) requirements for the San Francisco Area Contingency Plan resources are to be deployed within 6 hours. The first OSRO (National Response Corporation) was on scene and skimming within 1 and 1/2 hours of the mishap, which is well within the 6 hour requirement. The second OSRO (Marine Spill Response Corporation) was on scene and skimming within 2 hours of the mishap.

Adequacy of Response Plan

Was the San Francisco Area Contingency Plan adequate to guide the response to an oil spill of this magnitude?

Adequacy of the San Francisco Area Contingency Plan.— The San Francisco Area Contingency Plan is adequate to guide the response to an oil spill of this magnitude. However, some changes could be made to improve future responses. Specifically, there was limited local participation in area committee meetings to update the plan. Increased and consistent attendance would help ensure better preparedness. Also, a location for the incident command post was not predesignated in the plan. Preparedness would be improved by identification of a predesignated command post location for use in emergency response exercises. According to California OSPR environmental response personnel, the San Francisco Area Contingency Plan was adequate and executed as written by both OSPR and the Coast Guard. The results of the clean up also support this conclusion. For example, an estimated 19,466 gallons of oil were recovered (on water) during the first two weeks of the clean up.

Overall, we believe the success of the San Francisco Area Contingency Plan was largely the result of a number of factors and conditions including: (1) the Coast Guard and State of California's spill response policy of responding to worst-case scenarios; (2) a responsible party that had the knowledge, expertise, and resources to implement its role in the Area Contingency Plan in a timely and effective manner; (3) the knowledge, skills and capabilities that the State of California Office of Spill Response brought to the clean-up effort; and (4) the efforts of the citizens of the San Francisco Bay area who volunteered many hours to their community to mitigate the effects of the spill on marine resources, wildlife, and fisheries.

Adequacy of Response Plan

To what extent did the San Francisco Area Contingency plan provide for the treatment of marine resources, wildlife and fisheries?

The San Francisco Area Contingency Plan incorporates a rapid response plan for the treatment of marine resources, wildlife, and fisheries, per the Oil Pollution Act of 1990. The plan, Wildlife Response Plan For California, details the logistics, resources, operations, and responsibilities of those involved with treatment of oiled wildlife resources. Integral to the wildlife response effort is the Oiled Wildlife care Network (OWLN), which maintains a statewide system of specialized wildlife health centers, set up by California statute. The staff includes paid veterinarians, paid staff, and professionally trained volunteers. The trained volunteers are integrated into the Wildlife Branch of the Unified Command during oil spills and work to retrieve oiled animals, and evaluate their need for treatment. After treatment, the animals are rehabilitated and released into suitable sites and where possible, monitored.

Further, federal agencies conduct drills specifically related to fish and wildlife protection. The Coast Guard participated in the Sulfur Springs Creek Exercise in 2006. This exercise was designated as a full scale, Marine Environmental Protection Exercise designed to validate the information and procedures contained in the Regional Contingency Plan, Area Contingency Plan, California Wildlife Contingency Plan, and Valero Benicia Refinery Oil Spill Contingency Plan. The exercise also identified weaknesses to correct subsequent versions of the contingency plans, identified strengths to share best practices with the response community, and tested command and control processes within an incident command/unified command framework.

The California Code of Regulations outlines state drill and exercise requirements for contingency plans. According to California State Law, it is mandatory that the "entire plan is exercised at least once every 3 years...."[21] The Coast Guard participated in the Safe Seas 2006, Exercise, which tested the San Francisco Area Contingency Plan, the Region IX Regional Response Plan, and the Harley Marine Services Vessel Response Plan. Numerous federal, state and local agencies, including the Coast Guard, National Marine Fisheries Service, National Marine Sanctuaries Fish and Wildlife Service, and OSPR jointly conducted this multipart exercise. One of the objectives and major lessons learned during Safe Seas 2006 was demonstration of the ability to conduct initial environmental assessments and forecasts and development of the appropriate plans for such matters as shoreline protection, wildlife protection, cultural resource protection, dispersant use, and place of refuge.

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Mr. Chairman, members of the Subcommittee, this concludes my prepared statement. We were fortunate that Unified Command, guided by the San Francisco Area Contingency Plan, was successful in retrieving the amount of oil spilled from the M/V COSCO BUSAN that it did. This effort is a credit to those who led the Unified Command including, the Coast Guard, the State of California Oil Spill Prevention and Response division, the Responsible Party, and the myriad of volunteers who were integral to the response effort. However, like any other

[21] 14 CCR § 820.01.

complex activity, there is always room for improvement. This is especially true as it relates to the Coast Guard's initial investigation of the casualty and its failure to conduct post-mishap, drug and alcohol testing.

The Coast Guard faces many challenges to effectively performing its marine safety and maritime homeland security missions. The Commandant, Admiral Salerno, and their staff are well aware of these challenges and are making progress in addressing them. We will continue to focus our oversight in these areas to facilitate solutions to improving the Coast Guard's readiness in performing its missions.

I will be pleased to answer any questions you may have.

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