

Office of Spill Prevention and Response

It Has Met Many of Its Oversight and Response Duties, but Interaction With Local Government, the Media, and Volunteers Needs Improvement

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Office of Spill Prevention and Response's response as of August 2009

In November 2007 the Cosco Busan, an outbound container ship, hit a support on the San Francisco—Oakland Bay Bridge, releasing about 53,600 gallons of oil into the bay. This event, known as the Cosco Busan oil spill, focused public attention on California's Office of Spill Prevention and Response (spill office), a division of the Department of Fish and Game (Fish and Game). The spill office, created in 1991, is run by an administrator appointed by the governor, who is responsible for preventing, preparing for, and responding to oil spills in California waters.

The spill office, along with the contingency plans it oversees, fits into a national framework for preventing and responding to oil spills, with entities at every level of government handling some aspect of the planning effort. When an oil spill occurs, the response is overseen by a three-part unified command consisting of representatives from the spill office; the party responsible for the spill and its designated representatives; and the federal government, represented by the U.S. Coast Guard (Coast Guard), which retains ultimate authority over the response.

Finding #1: The spill office has fulfilled most of its oversight responsibilities related to contingency planning but coordination with local governments could improve.

The spill office has met most of its oversight responsibilities for contingency planning but could improve several aspects of its oversight role. Specifically, the California Oil Spill Contingency Plan (state plan), which the spill office maintains, has not been updated since 2001 and is missing elements required by state law. The state plan also lacks references to other plans or documents that would better integrate it into the overall planning system. In addition, the spill office has carried out its duties to review and approve local government contingency plans (local plans) and to provide grant funding. However, only six of the 22 local governments participating have revised their plans since 2004, and seven of the 16 remaining local plans have not been revised since 1995 or before. Further, the spill office reported that few local governments in the San Francisco Bay Area have regularly participated in other oil spill response planning activities.

The outdated state plan and local plans and weak participation by local governments in oil spill response planning activities may have led to problems with integrating state and local government activities into the Cosco Busan response.

Audit Highlights . . .

Our review of the Department of Fish and Game's Office of Spill Prevention and Response (spill office) found that:

- » *The spill office has met many of its oversight responsibilities; however, the California Oil Spill Contingency Plan is outdated and missing required elements.*
- » *Only six of 22 local government contingency plans were revised after 2003 and local participation in joint planning efforts has been low.*
- » *The spill office, the Governor's Office of Emergency Services, and private entities responding to the November 2007 Cosco Busan oil spill met their fundamental responsibilities.*
- » *The spill office's shortage of trained liaison officers and experienced public information officers led to communication problems during the Cosco Busan oil spill.*
- » *The spill office's lack of urgency in calculating the spill volume from the Cosco Busan may have delayed the mobilization of additional resources.*
- » *Reserves for the Oil Spill Prevention and Administration Fund (fund) totaled \$17.6 million as of June 30, 2007, but are projected to drop by half over the next two years.*
- » *Payroll testing indicates the need to better assure that only oil spill prevention activities are charged to the fund.*

We recommended that the spill office regularly update the state plan and include references to sections of regional and area contingency plans that cover required elements. We also recommended that the spill office work with local governments to improve participation and should consider whether additional grant funding is needed.

Spill Office's Action: Partial corrective action taken.

The spill office said that it updated the state plan and shared it with external partners and the State Interagency Oil Spill Committee. The spill office indicated that it expects to adopt the plan by the end of 2009, after addressing external comments and revisions. In addition, the spill office said that in fiscal year 2008–09 it awarded 26 equipment and training grants totaling more than \$650,000 to local government agencies. It noted that the contractor providing equipment and training had conducted three training sessions and would complete the remaining training sessions by October 31, 2009. Finally, language allowing for the inclusion of a local government representative in the unified command for spills in or near the San Francisco Bay has been added to the North Coast/San Francisco Bay and Delta/Central Area Contingency Plan.

Finding #2: The spill office is fulfilling most of its review and approval responsibilities for vessel contingency plans (vessel plans) and oil spill response organizations (response organizations).

The spill office has an established system for reviewing vessel plans and has ensured that vessel plans are approved before any vessel enters California waters. In addition, it has generally assured that annual tabletop exercises have been conducted for vessel plans, and has conducted drills to verify the rating and equipment information related to response organizations. However, the spill office has not always ensured that it receives and maintains documentation showing that annual tabletop exercises have been conducted for each vessel plan. In addition, the spill office does not require owners to submit reviews of their vessel plans after oil spills (postspill reviews) when applicable. The spill office's deputy administrator said that he believes the postspill review requirement is worthwhile, but that the spill office needs to consider whether it is reasonable to ask vessel owners to admit problems when the admissions may influence penalties.

We recommended that the spill office obtain and retain documentation related to completion of required tabletop exercises. We also recommended that the spill office determine whether postspill reviews are an effective means for identifying areas for plan improvement and then take steps to either ensure the reviews are submitted or eliminate them from its regulations.

Spill Office's Action: Partial corrective action taken.

The spill office said that it hired an additional drill coordinator who started in January 2009 and that its Drills and Exercises Unit is now fully staffed and trained on the need to retain documentation related to tabletop exercises, including keeping its database updated. The spill office also said that it has determined that its regulations requiring post-spill reviews are not effective. It believes that parties involved in an oil spill rarely share a candid review of their response actions because of pending legal actions. The spill office stated that it will seek to eliminate the requirements for post-spill reviews as part of a regulation package it expects to submit later this year and to be fully implemented during the first quarter of 2010.

Finding #3: State and private entities met their fundamental duties in the Cosco Busan response, but communication breakdowns caused problems.

The spill office, the Governor's Office of Emergency Services, and private contractors responding to the Cosco Busan incident performed the fundamental duties set forth in oil spill contingency plans. However, changes are needed in several areas to improve responses to future oil spills. We found that weaknesses in the spill office's handling of its liaison role during the initial days of the response, including a shortage of communications equipment and trained liaison officers, led to communication

problems with local governments. The counties we spoke with confirmed these problems and expressed dissatisfaction with the spill office's role as a liaison. In addition, the spill office's lack of urgency in reporting its measurement of the spill quantity, as well as the understated spill amounts reported by others, may have delayed the mobilization of additional response resources on the first day of the spill and contributed to the delayed notification of local governments.

We recommended that the spill office collaborate with area committees in California to identify potential command centers that are sized appropriately and possess all necessary communications equipment. Additionally, the spill office should continue with its plans to develop qualification standards for liaison officers and to train more staff for that role and should ensure that staff in its operations center provide all necessary support to liaison officers in the field. Moreover, the spill office should ensure that staff assigned as liaison officers participate in drills to gain experience.

We also recommended that the spill office collaborate with the Coast Guard to establish spill calculation protocols and establish procedures to ensure that staff promptly report spill calculations to the State on scene coordinator. Finally, the spill office should include spill calculations as part of its drills.

Spill Office's Action: Partial corrective action taken.

The area contingency plans for San Francisco and Los Angeles now contain a list of pre-identified incident command post locations, but the area contingency plan for San Diego does not. To improve the capabilities of liaison officers, the spill office also said that during calendar year 2008 it assigned liaison officers to 13 drills. In addition, the spill office stated that it updated its Operations Center Response Manual to reflect that the operation center is required to support liaison officers. Finally, the spill office said that it had established a protocol with the Coast Guard for oil spill quantification.

Finding #4: A lack of information officers with oil spill experience impaired the spill office's ability to assist with media relations and an insufficient number of trained responders may have hindered wildlife rescue efforts.

When the Cosco Busan spill occurred, an information officer experienced in oil spill response was not available to represent the State within the information center. This deficiency during the early days of the response appears to have hindered the dissemination of information about the role of volunteers in spill cleanups. Additional missteps by the Coast Guard, which managed the information center, and the spill office, appear to have contributed to the public's frustration with the clean-up effort and received widespread media attention. In addition, insufficient staffing may have hindered wildlife rescue efforts carried out by the spill office and the Oiled Wildlife Care Network (wildlife network) after the Cosco Busan spill. The number of staff mobilized for recovery and transportation of oiled wildlife remained lower than the general guidelines laid out in the California wildlife response plan for the first three days of the spill. Staffing increased only after the unified command loosened the requirements for hazardous waste training for volunteers participating in the response. The network director noted that the wildlife network has had difficulty maintaining trained personnel capable of serving on recovery teams because of the requirement to have 24 hours of hazardous waste training, supplemented by a yearly eight-hour refresher course.

We recommended that public relations staff in Fish and Game's communications office participate in nonresponsive spill drills, and that the spill office develop protocols to ensure that key information, such as the role of volunteers, is disseminated early in a spill response. We also recommended that the spill office ensure that the wildlife network identifies and trains a sufficient number of staff to carry out recovery activities. Furthermore, the spill office should continue to clarify with California Occupational Safety and Health Administration (Cal/OSHA) whether reduced requirements for hazardous waste training are acceptable for volunteers assisting on recovery teams, and should consider working with the wildlife network to ensure that this training is widely available to potential volunteers before a spill.

Spill Office's Action: Partial corrective action taken.

To improve the access and availability of information for specific spill incidents, the spill office said that it has developed an oil spill Web site that will launch when an incident occurs. The spill office also indicated that its volunteer coordinator and public information officer have created a volunteer outreach plan that includes pre-prepared press releases, fact sheets, improved application and information packages; a streamlined design of the Web page; and an improved brochure. In addition, the spill office noted that Assembly Bill 2911, approved by the governor in September 2008, adds proactive oiled wildlife search and collection rescue efforts as a primary focus of the wildlife network. This bill also requires the spill office administrator to ensure that the State has the ability to identify, collect, rescue, and treat oiled wildlife according to specified requirements, including training volunteers, stocking emergency equipment for rescue, and providing additional staffing. Funding for the wildlife network increased from \$1.5 million for fiscal year 2008–09 to \$2 million for fiscal year 2009–10. The wildlife network says that it has conducted a number of workshops, trainings, and refresher courses, and hired a wildlife field operations assistant to perform readiness activities during non-spill periods and support wildlife rescue efforts during oil spills. Finally, Cal/OSHA responded to the spill office's questions about the level of hazardous waste training necessary for wildlife rescue volunteers. Cal/OSHA indicated that the hazardous waste training could not be reduced from the level currently required, but that untrained volunteers could be used in support roles for wildlife rescue efforts.

Finding #5: The Oil Spill Prevention and Administration Fund (fund) has a high reserve balance and has paid for inappropriate personnel charges.

The amount of reserves in the Oil Spill Prevention and Administration Fund (fund) has increased significantly over the past several years, leading to a reserve of \$17.6 million at June 30, 2007, or six months of budgeted expenditures for the next year. A fee increase without corresponding expenditure increases and failure of the spill office to annually assess the level of the reserve, as required by law, contributed to the high balance. A more reasonable reserve for a fund with a fairly stable level of expenditures would be about one and a half months, according to the spill office's deputy administrator.

Money in the fund can only be used for statutorily defined purposes relating to spill prevention activities. Based on our review of selected transactions and spending trends from fiscal years 2001–02 through 2006–07, we determined that expenditures charged to the fund generally appear to be consistent with the spill office's authorizing statute. However, our review of a sample of 30 employees' labor distribution reports (time sheets), as well as our interviews with spill office managers and employees, disclosed several instances in which employee salaries are being charged to the fund for time spent on general activities. These instances include spill office employees who sometimes perform general activities and, in one instance, an attorney who works for another Fish and Game unit and performs no spill prevention activities.

We recommended that the spill office annually assess the reasonableness of the reserve balance and the per-barrel fee on crude oil and petroleum products. Further, we recommended that the spill office and Fish and Game provide guidelines to employees concerning when to charge activities to the fund, take steps—such as performing a time study—to ensure that spill prevention wardens' time is charged appropriately, and discontinuing charges to the fund for the attorney we identified.

Spill Office's Action: Partial corrective action taken.

In January 2009 the spill office created a report projecting its fund balance through fiscal year 2012–13. At that time, the spill office said that it was making mid-year adjustments to offset decreased revenues from imported oil. Additionally, the spill office updated its time-reporting guidelines in February 2009 and stated that it has provided the guidelines to all employees. Finally, the spill office made adjustments so that the time of the attorney mentioned in the report is properly charged.

Finding #6: Restructuring of positions appears to have caused friction between the spill office and Fish and Game management.

Since 2000 Fish and Game has restructured 45.5 staff positions from the direct control of the spill office to other Fish and Game units. Although it does not appear to have affected the spill office's overall ability to carry out its mission related to the three largest restructured units, the limited problems we did identify, plus serious reservations by both the past administrator of the spill office and the current deputy administrator, suggested the need for a better understanding between Fish and Game management and the spill office on their roles and authority related to these employees.

We recommended that the spill office and other Fish and Game units discuss their respective authorities and better define the role of each in the management of spill prevention staff consistent with the administrator's statutory responsibilities and the other needs of Fish and Game.

Spill Office's Action: Pending.

The spill office said that it and Fish and Game have continued efforts to improve communications and cohesiveness on an internal level but offered no specifics on actions taken.