

4.3.4 Projects to Compensate for Lost and Diminished Recreational Use of State Parks

Substantial adverse impacts on the recreational use of public, federal, state, and municipal resources and other recreational activities occurred because of the presence of oil on the waters and shorelines of the Texas coast. Recreational use of the state and national parks was interrupted by the oil spill and associated cleanup actions. The Trustees estimated that this beach closure resulted in 7,036 lost or cancelled beach visits. Texas state beaches remained open during response actions, but it was estimated that visitation was reduced by 33,533 visits and the quality of experience was diminished for an additional 33,845 visits from February 15, 1995, when oil first washed onshore, until February 28, 1995, when the cleanup was completed.

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4.3.4.1 New Restroom/Shower Facility (Selected)

Project Description and Background

The New Restroom/Shower Facility project involves the purchase and installation of a new pre-fabricated shower/restroom facility on the leeward side of the dunes to replace the existing restroom located directly on the beach. Moving the restroom will help minimize the coastal effects on the facility and facilitate care and maintenance. Following installation of the new facility, a plan to decommission the old structure would be completed. This decommissioning is not part of this



Figure 15. Existing Comfort Station at MISP

project. This project will occur at MISP. The old comfort station was built between the existing parking lot and the shade shelters in front of the beach. The new restroom/shower station will be located further back from the beach, on the seaward side of the parking lot and the north-south road that connects the parking lot to the beach and Fish Pass (Figure 4).

The existing beach shower/restroom facility was built in the 1970s. This facility has weathered 30 years of storms and of use (Figure 15). The structural integrity of the restroom is suspect, as evidenced by a very noticeable spalling

of the concrete support pillars. Plumbing and associated fixtures are in poor condition, resulting in an overall unwelcoming appearance and lack of aesthetic appeal. During the day, park visitors use the restroom heavily.

Restoration Objectives

The objective of this project is to compensate for the lost and diminished use by the public from the oil spill and subsequent response action by providing a new shower/restroom facility for use by the public. This would improve the quality of park visits by the public by providing a new facility to replace the rapidly aging one, which is heavily used by the visiting public.

Scaling Approach

There are no known studies that estimate the value that would be derived from the installation of restroom/shower facilities. Consequently, without conducting an economic study of a site-specific restoration project, it is not possible to reliably establish a value. The OPA regulations provide that if, in the judgment of the Trustees, valuation of the replacement services cannot be performed within a reasonable time frame or at a reasonable cost, the Trustees may estimate the value of the lost services and then select the scale of compensatory restoration that has a cost equivalent to the lost value. The Trustees propose to fund the project at an amount equivalent to the value of lost recreational use as derived from the use of the benefits transfer methodology.

Probability of Success

Probability of success is very high. The existing restrooms and showers, although near the end of their useful life, are still well used. Additionally, the new location is further back from the beachfront, which would provide some additional protection from the impacts from tide and storm surges. An improvement to the dune ecology, as well as the recreational environment, is also expected based on removal of the existing shower/restroom facility.

Success Criteria and Monitoring

Success would be measured in both improved quality of experience as well as number of users of the new facility. Park visitor counts and user surveys would be the measure of success, but they would not be done outside of regularly planned data collection events. Another measure of success would be site improvement, both ecologically and for recreational use, because the existing shower/restroom facility would be removed.

Project Cost and Schedule

Project costs identified for this project and are presented below.

Category	Item	Cost
Construction	20-ft x 40-ft prefabricated restroom unit	\$160,000
	Site preparation and associated foundation/footings	\$50,000
	Associated parking	\$40,000
Total Cost		\$250,000

These costs include the construction of a new facility; however, there is the potential that funds from another source may be available to assist with the project costs. Therefore, the funding level for this project will be left to the discretion of the Trustee Representatives, but will not exceed \$250,000. Construction of the new facilities would be completed within 4 months of the approval of the RP/EA.

Permitting Requirements

This project may require Section 7 consultation with USFWS because there are concerns regarding habitat disturbance for the piping plover (*C. melanotos*) and brown pelican (*P. occidentalis*).

Review of potential archaeological impacts would be conducted internally within TPWD through the terms of an interagency Memorandum of Understanding with the Texas Historical Commission that allows qualified agency staff to undertake the review of departmental projects.

Environmental Consequences

This project would result in environmental benefits both for the dune ecology and the recreational environment by the removal of the existing dilapidated facility and the installation of a newer, better constructed and sited facility. Although the habitat for the protected piping plover (*C. melanotos*) is located along a section of the Gulf side of Mustang and Padre islands, the Trustees have determined that adverse effects to the bird could be minimized, if not avoided, during the construction phase

and that long-term benefits would greatly outweigh the temporary dislocation of the birds during construction. It should be noted that approximately 80 percent of the plover foraging activity occurs along the Bay flats area and large washover areas, such as Corpus Christi Pass and Newport Pass, not the beach surf zone.

Direct Effects

Shoreline

This project would result in positive environmental effects for the dune ecology because the old facility located on the near the shoreline will be removed. The sensitive areas in the beach and dune ecology will be avoided when siting the new facility. Minor temporary direct effects to the beach would be anticipated from demolition of the existing restroom/shower facility. Placement of the new facility could be detrimental to existing vegetation or wildlife habitat, depending on the location selected. Mitigation measures might be necessary if the areas slated for the new facility were determined to be valuable habitat. However, every attempt will be made to avoid valuable habitat.

Birds

Placement of the new facility could be detrimental to existing vegetation or wildlife habitat, depending on the location selected. The habitat for the protected piping plover (*C. melodus*) is located along a section of the Gulf side of Mustang and Padre Islands. Most of the plover foraging activity, approximately 80 percent, occurs along the Bay flats area and large washover areas (Corpus Christi Pass, Newport Pass), not the beach surf zone. Mitigation measures might be necessary if the areas slated for the new facility were determined to be valuable habitat. However, every attempt will be made to avoid valuable habitat.

Adverse effects to the bird population, such as temporary dislocation, could be minimized or avoided during the construction phase.

Fish, Mammals, and Other Organisms

There may be a slight impact to the beach ecology and during construction of the restroom/shower facility as a result of the noise and equipment in the area. These effects would be limited and temporary. Proper management of the contractor performing the construction activities would minimize the effects on the surrounding area.

Recreation Use

Removing the existing dilapidated facility and installing a higher quality facility would be a positive direct effect on recreation use in the area. The facility would enhance the recreation experience at the park. Minor temporary direct effects to the beach would be anticipated from demolition of the existing restroom/shower facility, which may deter recreation use. Minor construction traffic would take place when the old facility is removed and the new one built.

Indirect Effects

Shoreline

This project would have no indirect effect on the shorelines.

Birds

This project would have no indirect effect on birds.

Fish, Mammals, and Other Organisms

This project would have no indirect effect on fish, mammals, and other organisms.

Recreation Use

This new facility may attract additional visitors to the park.

Cumulative Effects

The cumulative effects of this project include the proposed project and other past, present, and reasonably foreseeable future actions. Cumulative effects to wildlife habitat and to recreational use of facilities could result from simultaneous construction projects on federal and state lands. Once the Trustees and the public have determined which projects will be implemented, construction may be phased to minimize cumulative effects.

Evaluation

Implementation of this project would be a valuable addition to facilities at MISP. After analysis, it was concluded by the Trustees that implementation of this project would provide a practical and cost-effective means to increase the quantity and quality of recreational use at Texas state beaches impacted by the oil spill. This project is not anticipated to have adverse economic impacts. Because many factors affect public use and it is complex to accurately measure the quality of visitor use, precise quantification of increased quality and quantity of use resulting from the new shower/restroom facility will be very difficult to measure.

The Trustees have evaluated this project against all threshold and additional screening criteria developed to select recommended restoration projects and determined that this project is consistent with selection factors. The Trustees determined that this type and scale of project would effectively provide appropriate compensation for lost recreational use that occurred as a result of the oil spill. The current facility is heavily used and is structurally questionable. The evaluation of the project indicated that there are multiple resource benefits and opportunities for collaboration and, therefore, was placed in the highly recommended category.

4.3.4.2 Beach Pavilion at Fish Pass (Selected)

Project Description and Background

The Beach Pavilion at Fish Pass project involves planning and constructing a covered, open-air pavilion with ample seating. The pavilion will be a 900-square-foot facility equipped with picnic tables and other seating to allow for large gatherings. The facility will be constructed with weather-resistant materials that allow for ease in maintenance. This project will be constructed on the beach



Figure 16. Location for Beach Pavilion

at Fish Pass at MISP. Fish Pass is located north of the main entrance and the existing comfort station. The beach pavilion will be located between the old parking lot and the small jetty that protrudes into the water at the site (Figures 4 and 16). Currently, the area around the jetties at Fish Pass is a popular area for fishermen, swimmers, and surfers. At present, there are no facilities or amenities in that immediate area for users to enjoy.

Restoration Objectives

Recreational use of MISP was interrupted by the oil spill and associated cleanup actions. The

objective of this project is to improve the quality of visitor experience at the popular Fish Pass area by providing a public area that allows picnicking, meetings, or other functions to be held out of the coastal elements.

Scaling Approach

There are no known studies that estimate the value that would be derived from the building of a beach pavilion. Consequently, without conducting an economic study of a site-specific restoration project, it is not possible to reliably establish a value. The OPA regulations provide that if, in the judgment of the Trustees, valuation of the replacement services cannot be performed within a reasonable time frame or at a reasonable cost, the Trustees may estimate the value of the lost services and then select the scale of compensatory restoration that has a cost equivalent to the lost value. The Trustees propose to fund the project at an amount equivalent to the value of lost recreational use as derived from the use of the benefits transfer methodology.

Probability of Success

Probability of success would be high. Park visitors currently take advantage of all the existing park facilities. It is likely that this new facility would be utilized by a large number of park visitors, thus improving the quality of the experience. Improvement projects such as this would contribute to an overall pleasant experience at the park and thus potentially result in higher numbers of park visitors.

Success Criteria and Monitoring

Success would be measured in both improved quality of experience as well as number of users of the new facility. Park visitor counts and user surveys would be the measure of success, but they would not be scheduled outside of regularly planned data collection events. The future benefits to the ecological environment by enhancing the educational opportunity for visitors cannot be quantitatively measured.

Project Cost and Schedule

Project costs have been identified for this project and are presented below.

Category	Item	Cost
Construction	900-sq-ft pavilion	\$50,000
	10 picnic tables at \$200 ea	\$2,000
Total Cost		\$52,000

Construction of the new facilities would be completed within 4 months of the approval of the RP/EA.

Permitting Requirements

This project may require Section 7 consultation with USFWS because there are concerns regarding habitat disturbance for the piping plover (*C. melodus*) and brown pelican (*P. occidentalis*).

Review of potential archaeological impacts would be conducted internally within TPWD through the terms of an interagency Memorandum of Understanding with the Texas Historical Commission that allows qualified agency staff to undertake the review of departmental projects.

Environmental Consequences

This project would result in environmental benefits by increasing the total value of recreational use of the area most heavily affected by the spill by potentially increasing the number of visitors and by enhancing the quality of each visit. There may be a slight impact to ecological value during construction of the pavilion, but once construction was completed, the lost habitat would be insignificant. Proper management of the contractor performing the construction activities would minimize the effects on the surrounding area. Additionally, there could be short-term interruption to wildlife in the area because of increased noise during the construction activities, but the long-term benefits of the project outweigh the temporary impacts.

Direct Effects

Shoreline

Direct effects to the beach would be anticipated from construction of the beach pavilion at Fish Pass, which might include limited degradation of shoreline vegetation surrounding the site as construction equipment accesses the site and is staged nearby. These effects would be limited and temporary.

Birds

There may be a slight impact to the beach ecology and birds during construction of the pavilion, as a result of the noise and equipment in the area. These effects would be limited and temporary. Proper management of the contractor performing the construction activities would minimize the effects on the surrounding area.

Adverse effects to the bird population, such as temporary dislocation, could be minimized or avoided during the construction phase. Temporary construction traffic on and around dunes would take place to complete the dune restoration. Mitigation measures might be necessary if the location for the pavilion were determined to be valuable habitat. However, every attempt will be made to avoid valuable habitat.

Fish, Mammals, and Other Organisms

There may be a slight impact to the beach ecology and during construction of the pavilion, as a result of the noise and equipment in the area. These effects would be limited and temporary. Proper management of the contractor performing the construction activities would minimize the effects on the surrounding area.

Recreation Use

The major long-term direct effect of this project on recreation would be the enhancement of a popular recreation site for fishing, swimming and surfing. This preservation project would allow for an additional recreation opportunity in the Fish Pass area, picnicking, and provide visitors an opportunity to get out of the sun. This facility would accommodate the recreation uses at Fish Pass.

Other direct effects on recreation use are related to the construction traffic that would take place while the new facility is being built. The construction would create noise, dust, and visual obstructions to the natural environment, which could deter visitors from the area. One mitigation technique for this impact to recreation use would be to schedule the facility construction during off-peak seasons for recreation use.

Indirect Effects

Shoreline

This project would have no indirect effect on the shorelines.

Birds

This project would have no indirect effect on birds.

Fish, Mammals, and Other Organisms

This project would have no indirect effect on fish, mammals, and other organisms.

Recreation Use

This new facility may attract additional visitors to the park.

Cumulative Effects

The cumulative effects of this project include the proposed project and other past, present, and reasonably foreseeable future actions. Cumulative effects to wildlife habitat and to recreational use

of facilities could result from simultaneous construction projects on federal and state lands. Once the Trustees and the public have determined the location of this project and which projects will be implemented, the construction may be phased to minimize cumulative effects.

Evaluation

After analysis, it was concluded by the Trustees that the installation of a pavilion would be a practical and cost-effective means to increase the quantity and quality of recreational use at Texas State beaches impacted by the oil spill. It is likely that this new facility would be utilized by a large number of park visitors, thus improving the quality of the experience. Improvement projects such as this would contribute to an overall pleasant experience at the park and thus potentially result in higher numbers of park visitors. This project is not anticipated to have adverse economic impacts. Because many factors affect public use and it is complex to accurately measure the quality of visitor use, precise quantification of increased quality and quantity of use resulting from the new pavilion will be very difficult to measure. Prior to implementation, this project would be further evaluated as part of the master planning process.

The Trustees have evaluated this project against all threshold and additional screening criteria developed to select recommended restoration projects and determined that this project is consistent with selection factors. The Trustees determined that this type and scale of project would provide appropriate compensation for lost recreational use that occurred as a result of the oil spill. Because this project adds facilities to a popular area of the park and potential environmental impacts are minimal or avoidable, this project was placed in the highly recommended category.

4.3.4.3 Master Plan for Mustang Island Infrastructure (Selected)

Project Description and Background

The Master Plan for Mustang Island Infrastructure project provides park officials with the resources necessary for planning future enhancements and improvements to MISP, thus ensuring that they are compatible with overall goals for the site and agency. Park officials will engage in an intensive strategic planning effort to utilize existing data and accumulate missing information that will provide for a comprehensive plan to determine future management of MISP.

A team made up of TPWD staff and outside consultants would undertake the overall Master Plan. An interpretive Master Plan would be developed as part of the Master Plan for the Park.

Several documents relating to MISP's resources and future development are currently stored in the agency's archives. These documents describe information regarding natural and cultural resource issues associated with vegetation, sand management, endangered and threatened species, and known archeological sites located on MISP. The original Master Plan that outlined onsite development is also stored in the archives. This new Master Plan would allow for update of the original plan to consider current conditions at the park, experience gained by park managers, and provide the tools for long-term park management.

It will be necessary to review existing data, conduct further research as necessary, and consolidate this information into a more current, user-friendly document that might help to define where future development could occur and what it might involve. Also included in this planning and consolidating effort is a Master Plan for interpretive areas within MISP.

Restoration Objectives

Recreational use of MISP was interrupted by the oil spill and associated cleanup actions. This loss will be addressed and offset by providing the park and public with a document that will assist park officials in their future management of MISP, which will improve the park experience for all visitors.

Scaling Approach

This project would result in both environmental benefits and improved visitor services by increasing the total value of recreational use in the area most heavily affected by the spill. The original Master Plan may reflect neither the current conditions nor the currently anticipated service needs and goals. Updating the Master Plan so that it reflects those needs would allow MISP to accommodate an increased number of visitors while enhancing the quality of each visit. In addition, it is expected that by providing appropriately located destinations within the park for the more intensive recreational uses, its ecological resources would be better preserved through more efficient and integrated management. For example, some existing facilities were constructed in areas where it is now known that dunes will naturally form. New facilities would be placed outside these zones, or replacement facilities for deteriorating infrastructure would be relocated to areas that minimize any adverse effects, while providing comparable or improved visitor amenities.

Project Cost and Schedule

Project costs identified for this project are provided below.

Category	Item	Cost
Planning	Review and consolidate existing data and documents	\$20,000
	Develop an Interpretive Master Plan to become part of the consolidated management information	\$20,000
Total Cost		\$40,000

Construction of the Master Plan would be completed within 6 months to 1 year of the approval of the RP/EA.

Environmental Consequences

This project would result in environmental benefits by increasing the total value of recreational use of the area most heavily affected by the spill by increasing the number of visitors and by enhancing the quality of each visit. It is also expected that by engaging in a comprehensive planning process, threatened and endangered species and their habitat will be better protected as would all other natural resources in the park.

Direct Effects

Shoreline

During the comprehensive planning process, protection or enhancement of the shoreline ecosystem would be addressed.

Birds

The comprehensive planning process would address the protection of bird populations, including threatened or endangered species, as well as the enhancement of important bird habitat.

Fish, Mammals, and Other Organisms

The comprehensive planning process would address the protection of fish, mammals, and other organisms, including threatened or endangered species. The preservation or enhancement of important habitats would also be addressed.

Recreation Use

This project would affect recreation use by increasing the total value of environmental resources and recreational uses of the area most heavily affected by the spill. Planning for the highest and best use of the park would most likely enhance the quality of each visit, thereby increasing the number of visitors.

Indirect Effects

Shoreline

Indirect effects to the state park shoreline would occur as a result of any specified Master Plan goals, objectives or project specific actions related to this resource.

Birds

Indirect effects to birds would be come as a result of any specified Master Plan goals, objectives, or project-specific actions related to this resource.

Fish, Mammals, and Other Organisms

Indirect effects to fish, mammals, and other organisms would occur as a result of any specified Master Plan goals, objectives, or project specific actions related to these resources.

Recreation Use

Visitor use may increase because the project would enhance the quality of each visit. Other indirect effects to recreation use would come as a result of any specified Master Plan goals, objectives or project specific actions related to this resource.

Cumulative Effects

No cumulative effects are anticipated from implementing a master planning process.

Evaluation

A comprehensive project such as this would contribute to a positive overall experience at the park and thus potentially result in an increased number of park visitors. The direct effects of any project specific actions recommended in the Master Plan would need to be evaluated for environmental effects.

The Trustees determined that this type and scale of project would effectively provide appropriate compensation for lost recreational use that occurred as a result of the oil spill. The Trustees have evaluated this project against all threshold and additional screening criteria developed to select recommended restoration projects and determined that this project is consistent with selection factors and it was therefore placed in the highly recommended category.

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4.3.4.4 Shade Shelters and Picnic Tables (Selected)

Project Description and Background

The Shade Shelters and Picnic Tables project involves purchasing and installing 100 wooden shade shelters along the beach on MISP. Each shade shelter will include a picnic table (Figure 17). The shade shelters will be placed near the beach at the park in areas that can be maintained by park personnel (Figure 4). Park personnel will identify the exact locations during project implementation.

Currently, there are limited facilities on the beach for day visitors at MISP. Installing additional shade shelters and picnic tables will allow more visitors the opportunity to use the beach and afford these visitors protection from direct coastal elements.



Figure 17. Typical Shade Shelters and Picnic Tables

Restoration Objectives

Recreational use of the state and national parks was interrupted by the oil spill and associated cleanup actions. This project will address those injuries by providing the public and park with more shade shelters and picnic tables, which will improve the outdoor experience for park visitors.

Scaling Approach

There are no known studies that estimate the value that would be derived from the building of shade shelters and

picnic tables. Consequently, without conducting an economic study of a site-specific restoration project, it is not possible to reliably establish a value. The OPA regulations provide that if, in the judgment of the Trustees, valuation of the replacement services cannot be performed within a reasonable time frame or at a reasonable cost, the Trustees may estimate the value of the lost services and then select the scale of compensatory restoration that has a cost equivalent to the lost value. The Trustees propose to fund the project at an amount equivalent to the value of lost recreational use as derived from the use of the benefits transfer methodology.

Probability of Success

Visitors to the park currently take advantage of the existing facilities. It is likely that these new facilities would be utilized by a large number of park visitors, thus improving the quality of the experience. Improvement projects such as this would contribute to an overall pleasant experience at the park and thus potentially result in higher numbers of park visitors.

Success Criteria and Monitoring

Success would be measured in both improved quality of experience as well as an increased number of users of the new facilities. Park visitor counts and user surveys would be the measure of success

but would not be scheduled outside of regularly planned data collection events. Prior to implementation, this project would be further evaluated as part of the master planning process.

Project Cost and Schedule

Project costs identified for this project are presented below.

Category	Item	Cost
Construction	100 wooden shade shelters at \$1,000 ea	\$100,000
	100 picnic tables at \$200 ea	\$20,000
Total Cost		\$120,000

Construction of the new facilities would be completed within 6 months of the approval of the RP/EA.

Permitting Requirements

This project may require Section 7 consultation with USFWS because there are concerns regarding habitat disturbance for the piping plover (*C. melodus*), brown pelican (*P. occidentalis*) and sea turtles between March and September. Review of potential archaeological impacts would be conducted internally within TPWD through the terms of an interagency Memorandum of Understanding with the Texas Historical Commission that allows qualified agency staff to undertake the review of departmental projects.

Environmental Consequences

This project would result in environmental benefits by increasing the total value of recreational use of the area most heavily affected by the spill by increasing the number of visitors and by enhancing the quality of each visit. Ecologically it is expected that by providing destinations within the park, ecological resources would be better preserved. Old facilities have been located in areas where it is now known that dunes will naturally form. New facilities would be placed so as to be outside of this zone. Additionally, there could be short-term interruption to wildlife use of the area because of the increased noise during the construction activities, but the long-term benefits of the project outweighs the temporary impacts.

Direct Effects

Shoreline

Direct effects to the beach would result from installation of the shade shelters and picnic tables. These effects might include limited degradation of shoreline vegetation surrounding the site as construction equipment accesses the site and of vegetation surrounding a nearby staging area. These effects would be limited and temporary. Older facilities have been located in areas where it is now known that dunes will naturally form. These facilities would be placed so as to be outside of this zone.

Birds

There could be short-term interruption to bird and wildlife use of the area because of the increased noise during the construction activities. The footprint and construction staging area for the new

facilities could be detrimental to existing vegetation or wildlife habitat, depending on the location selected. These effects would be limited and temporary. Mitigation measures might be necessary if the specific areas slated for the new facility were determined to be valuable habitat. However, every attempt will be made to avoid valuable habitat.

Fish, Mammals, and Other Organisms

The footprint and construction staging area for the new facilities could be detrimental to existing vegetation or wildlife habitat, depending on the specific location selected. Mitigation measures might be necessary if the specific areas slated for the new facility were determined to be valuable habitat. However, every attempt will be made to avoid valuable habitat.

Recreation Use

This recreation enhancement project would directly affect recreation use by increasing the total value of recreational use in an area most heavily affected from the oil spill. This facility would certainly accommodate existing recreation opportunities along the beach.

Other direct effects on recreation use are related to the construction traffic that would take place while the new facilities are being built. The construction would create noise, dust and visual obstructions to the natural environment, which could deter visitors from the area. One mitigation technique for this impact to recreation use would be to schedule the facility construction during off-peak seasons for recreation use.

Indirect Effects

Shoreline

This project would have no indirect effect on the shorelines.

Birds

This project would have no indirect effect on birds.

Fish, Mammals, and Other Organisms

This project would have no indirect effect on fish, mammals, and other organisms.

Recreation Use

By enhancing a popular recreation site, these new facilities may attract additional visitors to the park. If the shade shelters and picnic areas are located within natural dune areas, sand will eventually cover up the facilities.

Cumulative Effects

The cumulative effects of this project include the proposed project and other past, present and reasonably foreseeable future actions. Cumulative effects to wildlife habitat and to recreational use of facilities could result from simultaneous construction projects on federal and state lands. Once the Trustees and the public have determined the locations of these facilities and which projects will be implemented, the construction may be phased to minimize cumulative effects.

Evaluation

Trustee analysis indicated that the installation of shade shelters as currently scoped is a feasible, practical, and cost-effective means to increase the quantity and quality of recreational use at Texas state beaches impacted by the oil spill. Many of the current shade shelters have become covered with sand caused by the dynamic nature of the beachfront environment. It is likely that these new facilities would be utilized by a large number of park visitors, thus improving the quality of the experience. Improvement projects such as this would contribute to an overall positive experience at the park and potentially result in higher numbers of park visitors. This project is not anticipated to have adverse economic impacts. Because many factors affect public use and it is complex to accurately measure the quality of visitor use, precise quantification of increased quality and quantity of use resulting from the new shade shelters will be very difficult to measure. Prior to implementation, this project would be further evaluated as part of the master planning process.

The Trustees have evaluated this project against all threshold and additional screening criteria developed to select recommended restoration projects and determined that this project is consistent with selection factors and it was therefore placed in the highly recommended category. The Trustees determined that this type and scale of project does provide appropriate compensation for lost recreational use that occurred as a result of the oil spill.

4.3.4.5 Interpretive Pavilion and Marsh Boardwalk

Project Description and Background

The Interpretive Pavilion and Marsh Boardwalk project involves planning and constructing an interpretive pavilion and adjacent elevated boardwalk at MISP. The pavilion will be a covered, open-air facility that will serve as a gateway to an adjacent boardwalk trail system. The pavilion will provide 900 square feet of shade and will have ample seating and relevant interpretive displays and signage. The displays will educate visitors about the parks' natural and cultural resources and wildlife that might be viewed in this area. The associated boardwalk will be approximately 200 feet long and



Figure 18. Location for Interpretive Pavilion and Boardwalk

constructed of a durable wood or plastic-wood product. This elevated boardwalk and viewing area will be built to the standards of the Americans with Disabilities Act and will allow visitors to walk above the marsh area to view birds and other wildlife.

The pavilion will be located on the west side of Highway 361, across the road from the Gulf coast. The pavilion will be constructed just off the highway and next to the current available parking (Figures 4 and 18).

The Bay side of Highway 361 currently does not have any developed facilities or amenities. However, this area does offer

excellent bird watching and fishing opportunities. This pavilion will serve as a gathering point for guided tours and lectures, as well as provide an area to retreat from the harsh south Texas sun.

Restoration Objectives

Recreational use of the state and national parks was interrupted by the oil spill and associated cleanup actions. The objective of this project is to improve the park's quality and the visitor experience by installing a new facility on the bayside of Mustang Island that will provide an opportunity for visitors to get out of the sun and provide educational opportunities.

Scaling Approach

There are no known studies that estimate the value that would be derived from the building of a pavilion and marsh boardwalk. Consequently, without conducting an economic study of a site-specific restoration project, it is not possible to reliably establish a value. The OPA regulations provide that if, in the judgment of the Trustees, valuation of the replacement services cannot be performed within a reasonable time frame or at a reasonable cost, the Trustees may estimate the value of the lost services and then select the scale of compensatory restoration that has a cost equivalent to the lost value. The Trustees propose to fund the project at an amount equivalent to the value of lost recreational use as derived from the use of the benefits transfer methodology.

Probability of Success

Probability of success would be high. Visitors to the park currently take advantage of the existing facilities. It is likely that this new facility would be utilized by a large number of park visitors, thus improving the quality of the experience. Improvement projects such as this would contribute to an overall pleasant experience at the park and potentially result in higher numbers of park visitors.

Success Criteria and Monitoring

Success would be measured in both improved quality of experience as well as number of users of the new facility. Park visitor counts and user surveys would be the measure of success, but they would not be scheduled outside of regularly planned data collection events. The future benefits to the ecological environment by enhancing the educational opportunity for visitors cannot be measured. Prior to implementation, this project would be further evaluated as part of the master planning process.

Project Cost and Schedule

Project costs are identified below.

Category	Item	Cost
Construction	900-sq-ft pavilion	\$50,000
	Interpretive signage and displays	\$15,000
	200 ft of 8-ft-wide boardwalk at approx. \$42 per sq ft	\$67,200
Total Cost		\$132,200

Construction of the new facilities would be completed within four months of the approval of the RP/EA.

Permitting Requirements

This project will need a Request for determination from the U.S. Army Corps of Engineers (USACE) regarding the presence of jurisdictional wetlands within the project footprint required. It may require Section 10/404 of the Rivers and Harbors Act General Permit for the construction of the boardwalk.

The project may require a Section 7 consultation with USFWS given the concerns regarding habitat disturbance for the piping plover (*C. melodus*), brown pelican (*P. occidentalis*), Northern aplomado falcon (*F. f. septentrionalis*), ferruginous hawk (*B. regalis*), and loggerhead shrike (*Lanius ludovicianus*).

Review of potential archaeological impacts would be conducted internally within TPWD through the terms of an interagency Memorandum of Understanding with the Texas Historical Commission that allows qualified agency staff to undertake the review of departmental projects.

Environmental Consequences

This project will make every effort to establish a location for the pavilion footprint outside of jurisdictional wetlands; however, if wetlands were to be impacted, those with the lowest functional value would be selected. Additionally, there could be short-term interruption to wildlife in the area

because of the increased noise during the construction activities, but the long-term wildlife viewing opportunities of the project outweigh the temporary impacts.

This project would provide benefits by increasing the total value of recreational use of the area most dramatically affected by the spill by increasing the number of visitors and by enhancing the quality of each visit. It is expected that the educational opportunities this project will have will impact value the users of the park place on natural resources, resulting in improved stewardship of those resources.

Direct Effects

Shoreline

Direct effects to park lands would be anticipated from construction of the pavilion and boardwalk. These effects might include limited degradation of shoreline vegetation surrounding the site as construction equipment access the site and in a nearby staging area. These effects would be limited and temporary. Every effort will be made to establish a location for the pavilion footprint that is outside jurisdictional wetlands; however, if wetlands were to be impacted, those with the lowest functional value would be selected.

Birds

There could be direct short-term interruption to bird and wildlife use of the area because of the increased noise during the construction activities. The footprint and construction staging area for the new facilities could be detrimental to existing vegetation or wildlife habitat, depending on the location selected. These effects would be limited and temporary. Valuable bird habitat would be avoided when siting the pavilions so that the ecological attraction for visitors would remain intact.

Fish, Mammals, and Other Organisms

The footprint and construction staging area for the new facilities could be detrimental to existing vegetation or wildlife habitat, depending on the specific location selected. Mitigation measures might be necessary if the specific areas slated for the new facility were determined to be valuable habitat. However, every attempt will be made to avoid valuable habitat.

Recreation Use

This recreation enhancement project would directly affect recreation use by increasing the total value of recreational use in an area most heavily affected from the oil spill. This facility would accommodate existing recreation opportunities along the shoreline.

Other direct effects on recreation use are related to the construction traffic that would take place while the new pavilion and boardwalk is being built. The construction would create noise, dust and visual obstructions to the natural environment, which could deter visitors from the area. One mitigation technique for this impact to recreation use would be to schedule the construction during off-peak seasons for recreation use.

Indirect Effects

Shoreline

This project would have no indirect effect on the shorelines.

Birds

This project would have no indirect effect on birds.

Fish, Mammals, and Other Organisms

This project would have no indirect effect on fish, mammals, and other organisms.

Recreation Use

By enhancing a popular recreation site, this new facility may attract additional visitors to the park. It is expected that, based on the educational opportunities it would provide, this project would increase the value users of the park place on natural resources and result in improved stewardship of those resources.

Cumulative Effects

The cumulative effects of this project include the proposed project and other past, present and reasonably foreseeable future actions. Cumulative effects to wildlife habitat and to recreational use of facilities could result from simultaneous construction projects on federal and state lands. Once the Trustees and the public have determined the location of this project and which projects will be implemented, the construction may be phased to minimize cumulative effects.

Evaluation

Although this project may potentially impact jurisdictional wetlands, the additional wildlife viewing and educational opportunities that this project would provide makes this project a feasible, practical and cost-effective method to improve the quality of visitor experience. Improvement projects such as this would enhance the recreation experience and opportunities at the park and thus potentially result in higher numbers of park visitors. This project is not anticipated to have adverse economic impacts. Because many factors affect public use and it is complex to accurately measure the quality of visitor use, precise quantification of increased quality and quantity of use resulting from the new boardwalk and displays will be very difficult to measure. Prior to implementation, this project would be further evaluated as part of the master planning process.

The Trustees have evaluated this project against all threshold and additional screening criteria developed to select recommended restoration projects and determined that this project is generally consistent with selection factors and it was therefore placed in the moderately recommended category. The Trustees determined that this type and scale of project would provide appropriate compensation for lost recreational use that occurred as a result of the oil spill.

4.3.4.6 Two Birding Pavilions Beside Park Office

Project Description and Background

The Two Birding Pavilions Beside Park Office project involves the construction of two wildlife-viewing areas and a boardwalk adjacent to the wetland ponds near the park headquarters at MISP (Figures 4 and 19). The boardwalk will stretch approximately 100 feet around the wetland ponds and be constructed of wood and low-maintenance plastic wood. The boardwalk will be built to the standards of the Americans with Disabilities Act and incorporate viewing stations for wildlife

viewing. Presently, there are no established viewing areas and enhanced trails at MISP.



Figure 19. Location for Birding Pavilion and Boardwalk

Restoration Objectives

Recreational use of the state and national parks was interrupted by the oil spill and associated cleanup actions. This project will compensate the public by establishing wildlife-viewing areas that will improve this outdoor experience for all users and provide protection from nature's elements. This enhancement will allow the visitor to walk above the wetland ponds and experience the entire natural environment.

Scaling Approach

There are no known studies that estimate the value that would be derived from the building of birding pavilions. Consequently, without conducting an economic study of a site-specific restoration project, it is not possible to reliably establish a value. The OPA regulations provide that if, in the judgment of the Trustees, valuation of the replacement services cannot be performed within a reasonable time frame or at a reasonable cost, the Trustees may estimate the value of the lost services and then select the scale of compensatory restoration that has a cost equivalent to the lost value. The Trustees propose to fund the project at an amount equivalent to the lost recreational use value derived from the use of the benefits transfer methodology.

Probability of Success

Probability of success is high. If the general public utilized the two pavilions, success would be considered high. Other birding pavilions in the area are well used and provide an inviting place for the general public as well as birders.

Success Criteria and Monitoring

Success would be measured in both improved quality of experience as well as number of users of the new facility. Park visitor counts and user surveys would be the measure of success, but they would not be scheduled outside of regularly planned data collection events. The future benefits to

the ecological environment by enhancing the educational opportunity for visitors cannot be quantitatively measured.

Project Cost and Schedule

Project costs have been identified for this project and are presented below.

Category	Item	Cost
Construction	Two viewing areas approximately 100 sq ft ea at \$42/sq ft	\$8,400
	100 ft of 8-ft-wide boardwalk at approximately \$42/sq ft	\$33,600
Total Cost		\$42,000

Construction of the new facilities would be completed within 4 months of the approval of the RP/EA.

Permitting Requirements

A request for determination from USACE regarding the presence of jurisdictional wetlands within the project footprint will be required. The project may require a Section 10/404 of the Rivers and Harbors Act General Permit for the construction of the boardwalk as well as Section 7 consultation with USFWS because there are concerns regarding habitat disturbance for the piping plover (*C. melodus*) and brown pelican (*P. occidentalis*).

Review of potential archaeological impacts would be conducted internally within TPWD through the terms of an interagency Memorandum of Understanding with the Texas Historical Commission that allows qualified agency staff to undertake the review of departmental projects.

Environmental Consequences

This project would result in environmental benefits by increasing the total value of recreational use of the area most heavily affected by the spill by increasing the number of visitors and by enhancing the quality of each visit. It is also expected that the ecological educational aspect of this project will have an impact on the value the users of the park place on natural resources, resulting in improved stewardship of those resources. Additionally, there could be short-term interruption to wildlife use of the area because of the increased noise during the construction activities, but the long-term wildlife viewing opportunities of the project outweigh the temporary impacts.

Direct Effects

Shoreline

Direct effects to park lands would be anticipated from construction of the two birding pavilions. These effects might include limited degradation of vegetation surrounding the site as construction equipment accesses the site and of vegetation surrounding a nearby staging area. These effects would be limited and temporary. This project will make every effort to establish a location for the pavilions footprints outside of jurisdictional wetlands; however, if wetlands were to be impacted, those with the lowest functional value would be selected.

Birds

There could be short-term direct interruption to bird and wildlife use of the area because of the increased noise during the construction activities. The footprint and construction staging area for the new facilities could be detrimental to existing vegetation or wildlife habitat, depending on the location selected. These effects would be limited and temporary. Valuable bird habitat would be avoided when siting the pavilions so that the ecological attraction for visitors would remain intact.

Fish, Mammals, and Other Organisms

The footprint and construction staging area for the new facilities could be detrimental to existing vegetation or wildlife habitat, depending on the specific location selected. Mitigation measures might be necessary if the specific areas slated for the new facility were determined to be valuable habitat. However, every attempt will be made to avoid valuable habitat.

Recreation Use

This recreation enhancement project would directly effect recreation use by increasing the total value of recreational use in an area most heavily affected by the oil spill. These facilities would certainly accommodate existing recreation opportunities at the site.

Other direct effects on recreation use are related to the construction traffic that would take place while the new facilities are being built. The construction would create noise, dust and visual obstructions to the natural environment, which could deter visitors from the area. One mitigation technique for this impact to recreation use would be to schedule the facility construction during off-peak seasons for recreation use.

Indirect Effects

Shoreline

This project would have no indirect effect on the shorelines.

Birds

This project would have no indirect effect on birds.

Fish, Mammals, and Other Organisms

This project would have no indirect effect on fish, mammals, and other organisms.

Recreation Use

By enhancing a popular recreation site, these new facilities may attract additional visitors to the park.

Cumulative Effects

The cumulative effects of this project include the proposed project and other past, present and reasonably foreseeable future actions. Cumulative effects to wildlife habitat and to recreational use of facilities could result from simultaneous construction projects on federal and state lands. Once the Trustees and the public have determined the location of this project and which projects will be implemented, the construction may be phased to minimize cumulative effects.

Evaluation

Trustee analysis indicated that the installation of birding pavilions would be a feasible, practical and cost-effective means to increase the quantity and quality of recreational use at Texas state beaches, which were impacted by the oil spill. It is likely that these new facilities would be utilized by a large number of park visitors, thus improving the quality of the experience. Improvement projects such as this would contribute to an overall pleasant experience at the park and thus potentially result in an increased number of park visitors. This project is not anticipated to have adverse economic impacts. Because many factors affect public use and it is complex to accurately measure the quality of visitor use, precise quantification of increased quality and quantity of use resulting from the new birding pavilions will be very difficult to measure. Prior to implementation, this project would be further evaluated as part of the master planning process.

The Trustees have evaluated this project against all threshold and additional screening criteria developed to select recommended restoration projects and determined that this project is generally consistent with selection factors. The project was therefore placed in the moderately recommended category. The Trustees determined that this type and scale of project would provide appropriate compensation for lost recreational use that occurred as a result of the oil spill.

4.3.4.7 Equipment Purchase

Project Description and Background

The Equipment Purchase project involves purchasing a 3-yard front-end loader, an 8-yard dump truck, a skid-steer loader, and an associated trailer for purposes of sand management at MISP. In addition, a pole barn will be designed, constructed, and used for storage and care of the newly purchased equipment. The equipment will primarily be used near the beach and foredunes at MISP (Figure 4).

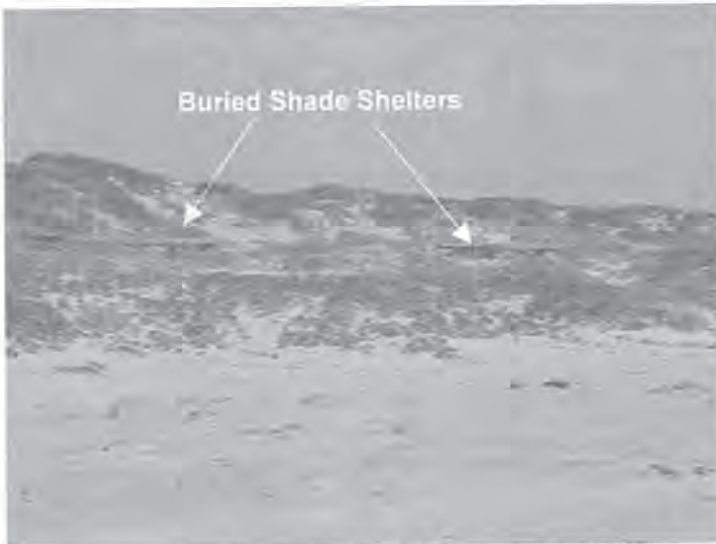


Figure 20. Buried Shade Shelters at MISP

Tidal movements, wind, and other weather conditions create a continual need to address sand movement at MISP with respect to visitor amenities that are currently located in active erosion and depositional areas. Sand accumulates in parking lots and around facilities and creates a constant need for maintenance from park staff (Figure 20). Currently, because there is a lack of heavy equipment, park staff are dependent upon occasional assistance from other agencies to address this

overwhelming situation. Site ownership of heavy equipment will allow for regular sand management and better cleaning and maintenance of some available park facilities and associated amenities. Regular management will also prevent the need for larger-scale sand management activities.

Restoration Objectives

The objective of this project is to compensate for the lost and diminished use of the park by the public by providing the ability to routinely remove sand from existing park facilities. By implementing this project, a variety of benefits could be realized, including improving the park by ensuring that all of the current park facilities will be accessible and free of sand mounding. The increased frequency of maintenance and sand transfer will enhance the use of current visitor facilities during beach visits by the public.

Scaling Approach

There are no known studies that estimate the value that would be derived from the purchase of sand-moving equipment. Consequently, without conducting an economic study of a site-specific restoration project, it is not possible to reliably establish a value. The OPA regulations provide that if, in the judgment of the Trustees, valuation of the replacement services cannot be performed within a reasonable time frame or at a reasonable cost, Trustees may estimate the value of the lost services and then select the scale of compensatory restoration that has a cost equivalent to the lost value. The Trustees propose to fund the project at an amount equivalent to the value of lost recreational use as derived from the use of the benefits transfer methodology.

Probability of Success

Equipment purchased to continually move sand may or may not be successful. The dunes are a dynamic system, moving with changes in seasons, tides, and storms. Existing facilities were placed in areas now known to be active erosional and depositional areas. Moving sand out of these areas would be a continual short-term solution that would not address longer-term or ecologically based options such as moving or building facilities so that they are not in a location requiring a large-scale sand management approach. If a future storm event deposits large amounts of sand in the vicinity of existing facilities, it may not be practical to move the sand even if the equipment is purchased.

Success Criteria and Monitoring

Success would be measured by the accessibility of the public to reach existing facilities, some of which are currently buried in sand. Monitoring would be informal based on visual assessment of the location of sand by park staff. The second measure of success would be to monitor plants and wildlife in the vicinity of sand movement operations and to track listed species.

Project Cost and Schedule

The following costs have been identified for this project:

Category	Item	Cost
Equipment Purchase	3-yard front-end loader	\$85,000
	8-yard dump truck	\$52,000
	Skid-steer loader w/ 6-ft blade and tracks	\$27,000
	Trailer	\$17,000
Construction	20-ft x 50-ft pole barn	\$25,000
Total Cost		\$206,000

Procurement of equipment would be completed within 3 months of approval of the final RP/EA. The pole barn construction would take place within 3 months.

Permitting Requirements

There are no permit requirements associated with this project.

Environmental Consequences

This project would result in benefits to the public by making existing facilities, such as picnic shelters, parking, and beachfront and water, easily accessible. The distance from parking to the water would remain as it is currently. Environmental consequences include inhibition of dune processes. Fragile vegetation and wildlife that rely on the dune system as habitat to survive would be threatened in the areas where sand is continually moved around by heavy equipment. Vegetation acts as a stabilizing force for the dunes and in turn attracts wildlife. A sand management approach represents a lost opportunity to support this natural cycle.

Direct Effects

Shoreline

Using the purchased equipment for the purpose of moving sand would cause direct impacts to the shoreline. There would be depressions created by the equipment tires/tracks and an unnatural surface of sand in the areas where sand management occurred. These effects would be limited and temporary. These temporary effects would occur regularly as sand management activities were performed on a routine basis.

It is not necessary for the pole barn to be located near the shoreline; therefore the barn construction should not impact the shoreline.

Birds

There could be direct short-term interruption to bird and wildlife use of the area because of the increased noise during the sand management activities. If the pole barn is located near bird habitat, there could be short-term direct interruption to bird and wildlife use of the area because of the increased noise during the construction activities. The footprint and construction staging area for the barn construction could be detrimental to existing vegetation or wildlife habitat depending on the location selected. These effects would be limited and temporary. Mitigation measures might be necessary if the areas slated for the new facility were determined to be valuable habitat.

Fish, Mammals, and Other Organisms

Purchasing equipment for the purpose of moving sand dunes would not cause any direct impacts to fish, mammals, or other organisms. The pole barn would not be located near the habitat for fish, mammals or other organisms; therefore the barn construction would not impact these resources.

Recreation Use

The use of the purchased equipment would create noise, dust and visual obstructions to the natural environment, which could deter visitors from the area. There would be direct effects to recreation use if the pole barn was constructed near specific recreation areas. One mitigation technique for this impact to recreation use would be to schedule the facility construction during off-peak seasons for recreation use.

Indirect Effects

Shoreline

Indirect environmental effects include inhibiting the natural dune processes. Fragile vegetation and wildlife that rely on the dune system as habitat to survive would be threatened in the areas where sand is continually moved around by heavy equipment. Vegetation acts as a stabilizing force for the dunes and in turn attracts wildlife. A sand management approach represents a lost opportunity to support this natural cycle.

Birds

There would be anticipated indirect environmental effects on birds with this proposed project. Wildlife that rely on the dune system as habitat to survive would be threatened in the areas where sand is continually moved around by heavy equipment. Vegetation acts as a stabilizing force for the dunes and in turn attracts wildlife. A sand management approach represents a lost opportunity to support this natural cycle.

Fish, Mammals, and Other Organisms

There would be possible indirect environmental effects on mammals with this proposed project. Wildlife that rely on the dune system as habitat to survive would be threatened in the areas where sand is continually moved around by heavy equipment. Vegetation acts as a stabilizing force for the dunes and in turn attracts wildlife. A sand management approach represents a lost opportunity to support this natural cycle.

Recreation Use

This project would result in indirect effects to the public by making existing facilities, such as picnic shelters, parking, and beachfront and water, easily accessible. The distance from parking to the water would remain as it is currently.

Cumulative Effects

The cumulative effects of this project include the proposed pole barn project and other past, present and reasonably foreseeable future actions. Cumulative effects to wildlife habitat and to recreational use of facilities could result from simultaneous sand management and construction projects on federal and state lands. Once the Trustees and the public have determined the location of this project and which projects will be implemented, the construction may be phased to minimize cumulative effects.

Evaluation

The technical feasibility of this alternative is questionable based on the fact that it may not be successful. Trustee analysis of this project concluded that implementation of this project is not consistent with the Trustees' intent to restore, rehabilitate, replace, enhance, or acquire the equivalent injured natural resources or services. While one goal of providing facility and waterfront access would be met, ecological goals would be neglected. This project has been considered in conjunction with the proposed addition of one staff member, an equipment operator.

The Trustees have evaluated this project against all threshold and additional screening criteria developed to select recommended restoration projects and determined that this project is not consistent with selection factors. The Trustees determined that this type and scale of project would not effectively provide appropriate compensation for lost recreational use that occurred as a result of the oil spill and was therefore placed in the non-recommended category.

4.3.4.8 Park Ranger III Position—Equipment Operator

Project Description and Background

The Park Range III Position project involves hiring a Park Ranger III (Equipment Operator). The selected individual would be hired on a temporary basis that will not exceed 5 years. During this time, park officials will document their efforts to justify a need for this position to become permanent at MISP.

The Park Ranger III would be responsible for carrying out the sand management plan and ultimately serve as the heavy equipment operator. In addition, this person will assist other maintenance staff with daily and routine cleaning and maintenance needs.

It is expected that with improvements to the park that are proposed as part of the other projects, visitation of the park will increase and ultimately result in additional workload. This projected workload increase justifies additional park personnel to maintain a baseline level of service.

Restoration Objectives

Recreational use of the state and national parks was interrupted by the oil spill and associated cleanup actions. The objective of this project is to provide park personnel for sand management activities to improve the quality of visits to the park by increasing the access to park facilities that lie in sand deposition areas.

Scaling Approach

There are no known studies that estimate the value that would be derived from the hiring of an equipment operator. Consequently, without conducting an economic study of a site-specific restoration project, it is not possible to reliably establish a value. The OPA regulations provide that if, in the judgment of the Trustees, valuation of the replacement services cannot be performed within a reasonable time frame or at a reasonable cost, the Trustees may estimate the value of the lost services and then select the scale of compensatory restoration that has a cost equivalent to the lost value. The Trustees propose to fund the project at an amount equivalent to the value of lost recreational use as derived from the use of the benefits transfer methodology.

Probability of Success

A staff member hired to continually move sand may or may not be successful. The dunes are a dynamic system that moves as a result of seasons, tides, and weather. Existing facilities were placed in areas now known to be active depositional zones where sand accretes. Moving sand out of these areas would be a continual short-term solution that would not address longer-term or ecologically based options such as moving or building facilities so that they are not in a location requiring a large-scale sand management approach. If a future storm event deposits large amounts of sand in the vicinity of existing facilities, it may not be practical to move the sand even if the operator is hired.

Success Criteria and Monitoring

Success would be measured by the accessibility of the public to reach existing facilities, some of which are currently buried in sand. Monitoring would be informal based on visual assessment of the

location of sand by park staff. The second measure of success would be monitoring of plants and wildlife in the vicinity of sand movement operations and to track listed species.

Project Cost and Schedule

Project costs are identified below.

Category	Item	Cost
Personnel	One Park Ranger III at \$1,812/mo + 28% fringe benefits (\$27,832 per year for 5 years)	\$139,160
Total Cost		\$139,160

The hiring process would take approximately 3 months. This would be a 5-year position.

Permitting Requirements

There are no permitting requirements for this project.

Environmental Consequences

This project would result in benefits to the public by making existing facilities, such as picnic shelters, parking, and beachfront and water, easily accessible. The distance from parking to the water would remain as it currently is. Environmental consequences include inhibition of dune processes. Fragile vegetation and wildlife that rely on the dune system for habitat to survive would be threatened in the areas where sand is continually moved around. Vegetation acts as a stabilizing force for the dunes and in turn attracts wildlife. A sand management approach represents a lost opportunity to support this natural cycle.

Direct Effects

Shoreline

Since the purpose of this position would be to implement a sand-management plan in conjunction with equipment purchase, direct impacts to the shoreline would occur. There would be depressions created by the equipment tires/tracks and an unnatural surface of sand in the areas where sand management occurred. These effects would be limited and temporary. These effects would occur regularly as sand management activities were performed on a routine basis.

Birds

Since the purpose of this position would be to implement a sand-management plan in conjunction with equipment purchase, there could be direct short-term interruption to bird and wildlife use of the area because of the increased noise during the sand management activities.

Fish, Mammals, and Other Organisms

Hiring a Park Ranger would not cause any direct impacts to fish, mammals, or other organisms.

Recreation Use

Hiring a Park Ranger would not cause any direct impacts to recreation use. However, performing the sand management activities would create noise, dust, and visual obstructions to the natural environment, which could deter visitors from the area.

Indirect Effects

Shoreline

Since the purpose of this position would be to implement a sand-management plan in conjunction with equipment purchase, indirect effects would occur. Indirect environmental effects include the inhibition of natural dune processes. Fragile vegetation and wildlife that rely on the dune system for habitat to survive would be threatened in the areas where sand is continually moved around by heavy equipment. Vegetation acts as a stabilizing force for the dunes and in turn attracts wildlife. A sand management approach represents a lost opportunity to support this natural cycle.

Birds

Since the purpose of this position would be to implement a sand-management plan in conjunction with equipment purchase, indirect effects on birds would occur. Wildlife that rely on the dune system as habitat to survive would be threatened in the areas where sand is continually moved around by heavy equipment. Vegetation acts as a stabilizing force for the dunes and in turn attracts wildlife. A sand management approach represents a lost opportunity to support this natural cycle.

Fish, Mammals, and Other Organisms

Since the purpose of this position would be to implement a sand-management plan in conjunction with equipment purchase, there would be possible indirect environmental effects on mammals and other organisms. Wildlife that rely on the dune system as habitat to survive would be threatened in the areas where sand is continually moved around by heavy equipment. Vegetation acts as a stabilizing force for the dunes and in turn attracts wildlife. A sand management approach represents a lost opportunity to support this natural cycle.

Recreation Use

This project would result in indirect effects to the public by making existing facilities, such as picnic shelters, parking, and beachfront and water, easily accessible. The distance from parking to the water would remain as it is currently.

Cumulative Effects

No cumulative effects are expected from the hiring of a Park Ranger.

Evaluation

This project would require that equipment be purchased and so has been considered in conjunction with the proposed equipment purchasing project. The technical feasibility of this alternative is questionable based on the fact that it may not be successful. After analysis, it was determined that the scope of the project is not consistent with the Trustees' intent to restore, rehabilitate, replace, enhance or acquire the equivalent of the injured natural resources or services. While one goal of providing facility and water front access would be met, ecological goals would be neglected.

The Trustees have evaluated this project against all threshold and additional screening criteria developed to select recommended restoration projects and determined that this project is not consistent with selection factors and it was therefore placed in the non-recommended category. The Trustees determined that this type and scale of project would not provide appropriate compensation for lost recreational use that occurred as a result of the oil spill.

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4.3.4.9 Park Exhibit Technician II Position—Interpreter

Project Description and Background

Under this project, park officials would advertise for an Exhibit Technician position and hire someone at the park on a temporary basis that will not exceed 5 years. During this time, park officials will document their efforts to justify a need for this position to become permanent.

The Exhibit Technician would serve as the park's interpreter and be responsible for developing and providing educational and interpretive programs. With the addition of viewing areas and boardwalks, extensive programming could take place to enhance use and appreciation for these identified areas. This person would also work very closely with youth groups, area schools, and other individuals interested in outdoor education.

It is expected that with improvements to the park, visitation of the park will increase and ultimately result in additional workload. This workload justifies additional park personnel.

Restoration Objectives

Recreational use of the state and national parks was interrupted by the oil spill and associated cleanup actions. The objective of this project is to provide park personnel for development of educational and interpretive opportunities, which would improve the quality of visits to the park by improving the outdoor experience with additional educational information provided to the visitors.

Scaling Approach

There are no known studies that estimate the value that would be derived from the hiring of park staff. Consequently, without conducting an economic study of a site-specific restoration project, it is not possible to reliably establish a value. The OPA regulations provide that if, in the judgment of the Trustees, valuation of the replacement services cannot be performed within a reasonable time frame or at a reasonable cost, the Trustees may estimate the value of the lost services and then select the scale of compensatory restoration that has a cost equivalent to the lost value. The Trustees propose to fund the project at an amount equivalent to the value of lost recreational use as derived from the use of the benefits transfer methodology.

Probability of Success

The probability of success would be high, especially if this position would be created in conjunction with other interpretive projects.

Success Criteria and Monitoring

Success of this project would be based on the performance of the individual hired. Performance measures would include quality of exhibits developed, coordination with groups, and presentations to groups. The future benefits to the ecological environment by enhancing the educational opportunity for visitors cannot be measured.

Project Cost and Schedule

Project costs identified for this project are presented below.

Category	Item	Cost
Personnel	One Exhibit Technician II at \$2,036/mo + 28% fringe benefits (\$31,273 per year for 5 years)	\$156,365
Total Cost		\$156,365

The hiring process would take approximately 3 months. This would be a 5-year position.

Permitting Requirements

There are no permitting requirements for this project.

Environmental Consequences

This project would result in environmental benefits by increasing the number of visitors and enhancing the quality of each visit. It is expected that the educational aspect of this project will have an impact on the value the users of the park place on natural resources, resulting in improved stewardship of those resources.

Direct Effects

Shoreline

Hiring a Park Exhibit Technician would not cause any direct impacts to the shoreline.

Birds

Hiring a Park Exhibit Technician would not cause any direct impacts to birds.

Fish, Mammals, and Other Organisms

Hiring a Park Exhibit Technician would not cause any direct impacts to fish, mammals, or other organisms.

Recreation Use

Hiring a Park Exhibit Technician would not cause any direct impacts to recreation use.

Indirect Effects

Shoreline

Hiring a Park Exhibit Technician would not cause any indirect impacts to the shoreline.

Birds

Hiring a Park Exhibit Technician would not cause any indirect impacts to birds.

Fish, Mammals, and Other Organisms

Hiring a Park Exhibit Technician would not cause any indirect impacts to fish, mammals, or other organisms.

Recreation Use

Enhancing the quality of recreation experiences would be an indirect effect of hiring a Park Exhibit Technician on recreation use. Enhancing recreation experiences could result in increasing number of visitors to the park. It is expected that from the potential educational opportunities, this project

would increase the value users of the park place on natural resources, resulting in improved stewardship of those resources.

Cumulative Effects

No cumulative effects are expected from the hiring of a Park Exhibit Technician.

Evaluation

As a stand-alone effort, this project does not meet several of the evaluation criteria and, therefore, has been placed in the non-recommended category. Although an educational benefit and increased quality of experience would be created by this project, it would not be as directly linked to the injury as providing facilities for public use. The benefit would last only so long as the position would be funded, and no guarantee can be made that funding would last beyond the 5-year period.

The Trustees have evaluated this project against all threshold and additional screening criteria developed to select recommended restoration projects and determined that this project as a stand-alone project is not consistent with selection factors. The Trustees determined that this type and scale of project alone would not provide appropriate compensation for lost recreational use that occurred as a result of the oil spill. However, if this project is considered in conjunction with the proposed interpretive display projects, this technician is required, and the project better meets the evaluation criteria. Nevertheless, it was still placed in the non-recommended category. This project would allow for the development of the interpretive displays to occur in a timely fashion and would provide additional educational opportunities for the public. When evaluated against all threshold and additional screening criteria, the Trustees determined that combined project is not consistent with selection factors. The Trustees determined that this type and scale of project would not provide appropriate compensation for lost recreational use that occurred as a result of the oil spill.

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4.3.5 Projects to Compensate for Lost and Diminished Recreational Use of National Parks

Substantial adverse impacts on the recreational use of public federal, state, and municipal resources and other recreational activities occurred because of the presence of oil on the waters and shorelines of the Texas coast. Recreational use of the state and national parks was interrupted by the oil spill and associated cleanup actions. PAIS beaches were closed from March 1 through March 20, 1995, to accommodate spill response actions. The Trustees estimated that this beach closure resulted in 7,036 lost or cancelled beach visits.

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4.3.5.1 Auditorium and First Aid Station Expansion (Selected)

Project Description and Background

The Auditorium and First Aid Station Expansion project involves the relocation of the current auditorium to a new facility on the north side of Visitor Center deck platform. The current auditorium is small, only providing 450 square feet of space, or approximately 30 seats. It does not have seating capacity, audiovisual space, or equipment to adequately conduct the daily educational programs provided to the increasing numbers of visitors, currently about 500,000 per year, and school groups that often reach 100 in number. A 968-square-foot room (22 feet by 44 feet) will be built for visitor education and interpretive programs. This will replace the outdated, smaller



Figure 21. Current MBVC Auditorium

auditorium (Figure 21). The new auditorium will be constructed as an addition to the existing MBVC, will seat 100, and will include a projector booth, sound system, energy-efficient heating and air conditioning, and a lighting system. The look of the new facility will follow the design scheme already established at the MBVC (Figure 22).

The other major component of the project will involve rehabilitation of the current first aid station at the MBVC. The existing facility, which is heavily used to treat jellyfish and stingray stings and other injuries and illnesses, will remain at its present location within the Visitor Center. Most rehabilitation work will occur inside of the 484-square-foot facility. Plumbing and medical treatment facilities will be upgraded by replacing sinks and the water delivery system and expanding the available medical equipment storage space and seating space.

Restoration Objectives

Recreational use of the state park and National Park was interrupted by the oil spill and associated cleanup actions. Response actions involved front-end loaders, graders, dump trucks, and



Figure 22. Proposed Site of New Auditorium

several hundred workers. The objective of this project is to provide better facilities for educational programs and easier access to medical attention at the first aid station to compensate the visitors that could not use the park because of the spill and cleanup actions.

Scaling Approach

This project would result in environmental benefits by increasing the total value of recreational use of the area most heavily affected by the spill by increasing the number of visitors and by enhancing the quality of each visit. It is expected that the educational aspect of this project will have an impact on the value the users of the park place on natural resources, resulting in improved stewardship of those resources.

Project Cost and Schedule

Project costs that have been proposed for the components discussed above are presented below.

Category	Cost
Auditorium (22 ft x 44 ft = 968 sq ft at \$155 per sq ft)	\$150,040
Auditorium Furnishings and Audiovisual Equipment	\$35,000
First Aid Station Rehabilitation and Facility Upgrade	\$15,360
Total Cost	\$200,400

No schedule information is available at this time

Permitting Requirements

This project has no permitting requirements.

Environmental Consequences

Since the areas to be developed are improvements to an existing facility and expansion into a parking lot, there are minimal environmental impacts. There could be short-term interruption to wildlife use of the area because of the increased noise during the construction activities, but the long-term benefits of the project outweigh the temporary impacts.

Direct Effects

Shoreline

The development planned for this project are improvements to an existing facility and expansion into a parking lot, so there would be no environmental impacts to the shoreline.

Birds

There could be direct impacts on birds, including short-term interruption to wildlife use of the area because of the increased noise during the construction activities. This effect would be limited and temporary.

Fish, Mammals, and Other Organisms

This project would have no direct effect on fish, mammals, and other organisms.

Recreation Use

The auditorium and first aid station would bring added value to the recreation and visitor experience at PAIS. The development planned for this project are improvements to an existing facility and

expansion into a parking lot, so there would be no removal or interference of recreation opportunities in the area.

Other direct effects on recreation use are related to the construction traffic that would take place while the new facility is being built. The construction would create noise, dust, and visual obstructions to the natural environment, which could deter visitors from the area. One mitigation technique for this impact to recreation use would be to schedule the facility construction during off-peak seasons for recreation use.

Indirect Effects

Shoreline

This project would have no indirect effect on the shorelines.

Birds

This project would have no indirect effect on birds.

Fish, Mammals, and Other Organisms

This project would have no indirect effect on fish, mammals, and other organisms.

Recreation Use

This new facility may attract additional visitors to the park. It is expected that the educational opportunities this project will have will impact the value the users of the park place on natural resources, resulting in improved stewardship of those resources.

Cumulative Effects

The cumulative effects of this project include the proposed project and other past, present and reasonably foreseeable future actions. Cumulative effects to wildlife habitat and to recreational use of facilities could result from simultaneous construction projects on federal and state lands. One proposed project at PAIS is the BNP drilling and production of the Lemon and Lemon Seed wells in south PAIS, which will have significant environmental consequences. Once the Trustees and the public have determined which projects will be implemented, construction may be phased to minimize any cumulative effects.

Evaluation

Trustee analysis indicated that expansion of the Visitor Center to include a larger, better-equipped auditorium and improvements to the first aid station is a feasible, practical, and cost-effective means to increase the quantity and quality of recreational use at PAIS, which was impacted by the oil spill. It is expected that the educational aspect of this project will have an impact on the value the users of the park place on natural resources, resulting in improved stewardship of those resources. The project is not expected to have adverse economic impacts. Because many factors affect recreational use, the accurate measurement of the number of visits and the quality of visitor use is very difficult to quantify. However, the existing auditorium facility is inadequate for the number of park visitors who currently attend functions at the auditorium, and a larger facility would enhance the quality of the visits.

The Trustees have evaluated this project against all threshold and additional screening criteria developed to select recommended restoration projects and determined that this project is consistent with the selection factors and it was therefore placed in the highly recommended category. The Trustees determined that this type and scale of project would effectively provide appropriate compensation for lost recreational use that occurred as a result of the oil spill.

The project ranking shown in Table 8 indicates that this project and the Interpretive Educational Opportunities projects both ranked as highly recommended. However, the Trustee Representatives recommend this project for PAIS compensation since the expansion would provide an opportunity for multiple uses. These multiple uses include providing better facilities for treating the injuries and illnesses of park visitors, equipping a larger auditorium with better audio/visual equipment for presentations, and providing interpretive educational opportunities within the expanded facility. The funding available for this resource category is \$205,766, and the costs estimated for this project are \$200,400. The remaining funds allocated for this resource category could be used for these interpretive educational opportunities within the expanded facility.

4.3.5.2 Interpretive Education Opportunities

Project Description and Background

One of the main components of the Interpretive Education Opportunities project is the construction of an interpretive trail and the provision of related education programs to visitors and school groups adjacent to the MBVC. The boardwalk will be located west of the Visitor Center and extend up to one-half mile towards the Laguna Madre (Figures 23 and 24). Interpretive programs

and self-guided displays will be developed to explain the barrier island ecosystems and show how climate, geologic processes, soils, and vegetation influence barrier island dynamics and wildlife.

The boardwalk will be constructed using recycled plastic lumber and treated lumber for pilings. It is yet to be designed, but the size of the boardwalk could be up to one-half mile in length, with a width of up to 8 feet. The boardwalk will be built to the standards of the Americans with Disabilities Act, incorporate viewing stations for interpretation and wildlife viewing, and provide overviews of noteworthy landscape components that will graphically represent a cross-section of the barrier island and key ecosystem features.

This project also includes development of interpretive and educational displays and programs that discuss the park's natural resources, geologic processes, and other



Figure 23. Proposed Boardwalk Site Location Map

programs and scientific studies. Displays, signs, and interpretive programs will be developed and presented to visitors and school groups to educate them on the barrier island processes and unique features found at PAIS. These programs could be presented on the boardwalk, beach, or at MBVC. In addition, much needed audiovisual equipment will be purchased to facilitate these educational and interpretive programs and help improve overall visitor programs.

Restoration Objectives

NPS was established to conserve the scenery, natural and historic objects, and wildlife within its parks and to protect these natural and cultural resources for the public. Part of the mission of NPS is to educate the public to natural resources in the park system. Implementation of this project will meet the objective of providing wildlife-viewing opportunities and a variety of educational and interpretive exhibits and displays to further the educational experience and enjoyment of the park by visitors.



Figure 24. Proposed Boardwalk Site

Scaling Approach

Recreational use of the national park was interrupted by the oil spill and associated cleanup actions. The Trustees have not quantified the extent of potential benefits that would result from this boardwalk and interpretive exhibit project. Although it is proven that public educational programs are an effective means of protecting natural resources, it is very difficult to quantify the benefits. Based on the results of similar projects and best professional judgment of the Trustees, this scale of increased wildlife viewing opportunities, along with the public educational

opportunities, is expected to compensate for lost and diminished recreational use of PAIS as a result of the oil spill.

Project Cost and Schedule

Project costs that have been proposed for the components discussed above are presented below.

Category	Cost
Boardwalk	\$151,000
Interpretive Signs and Displays (up to 10 pieces)	\$25,000
Audiovisual Equipment	\$25,000
Total Cost	\$201,000

No schedule information is available at this time.

Permitting

This project will need a Request For Determination from USACE regarding the presence of jurisdictional wetlands within the project footprint required. It may require Section 10/404 of the Rivers and Harbors Act General Permit for the construction of the boardwalk. This project may require a Section 7 consultation with USFWS regarding a concern for habitat disturbance for Northern aplomado falcon (*F. f. septentrionalis*), ferruginous hawk (*B. regalis*), and loggerhead shrike (*L. ludovicianus*) if they forage where the boardwalk will be located.

Environmental Consequences

This boardwalk portion of this project would be constructed over wetlands; however, the actual footprint of the boardwalk would be placed over those with the lowest functional value. Additionally, there could be short-term interruption to wildlife use of the area because of the increased noise during the construction activities, but the long-term educational benefits of the project outweigh the temporary impacts.

This project would result in environmental benefits by increasing the total value of recreational use of the area most heavily affected by the spill by increasing the number of visitors and by enhancing the quality of each visit. Ecologically it is expected that the educational aspect of this project will have an impact on the value users of the park place on natural resources, resulting in improved stewardship of those resources.

Direct Effects

Shoreline

Direct effects to park lands would be anticipated from construction of the boardwalk. These effects might include limited degradation of vegetation surrounding the site as construction equipment accesses the site. These effects would be limited and temporary. This project will make every effort to establish a location for the boardwalk outside of wetlands; however, if wetlands were to be impacted, those with the lowest functional value would be selected.

Birds

There could be direct short-term interruption to bird and wildlife use of the area because of the increased noise during the construction activities. The footprint for the new facilities could be detrimental to existing vegetation or wildlife habitat, depending on the location selected. These effects would be limited and temporary. Valuable bird habitat would be avoided when siting the boardwalk so that the ecological attraction for visitors would remain intact.

Fish, Mammals, and Other Organisms

The footprint for the interpretive facilities could be detrimental to existing vegetation and wildlife habitat, depending on the location selected. Mitigation measures might be necessary if the areas slated for the new facility were determined to be valuable habitat.

Recreation Use

This recreation enhancement project would directly affect recreation use by increasing the total value of recreational use in an area most heavily affected from the oil spill. This facility would accommodate existing recreation opportunities in the area.

Other direct effects on recreation use are related to the construction traffic that would take place while the new facility is being built. The construction would create noise, dust and visual obstructions to the natural environment, which could deter visitors from the area. One mitigation technique for this impact to recreation use would be to schedule the facility construction during off-peak seasons for recreation use.

Indirect Effects

Shoreline

This project would have no indirect effect on the shorelines.

Birds

This project would have no indirect effect on birds.

Fish, Mammals, and Other Organisms

This project would have no indirect effect on fish, mammals, and other organisms.

Recreation Use

This new facility may attract additional visitors to the park. It is expected that from the provided educational opportunities, this project would increase the value users of the park place on natural resources, resulting in improved stewardship of those resources.

Cumulative Effects

The cumulative effects of this project include the proposed project and other past, present and reasonably foreseeable future actions. Cumulative effects to wildlife habitat and to recreational use of facilities could result from simultaneous construction projects on federal and state lands. One proposed project at PAIS is the BNP drilling and production of the Lemon and Lemon Seed wells in south PAIS, which will have significant environmental consequences. Once the Trustees and the public have determined which projects will be implemented, construction may be phased to minimize cumulative effects.

Evaluation

Trustee analysis indicated that the installation of a boardwalk and the development of interpretive and educational displays would be a feasible, practical, and cost-effective means to increase the quantity and quality of recreational use at PAIS, which was impacted by the oil spill. It is likely that this new facility would be utilized by a large number of park visitors, thus improving the quality of the experience. Improvement projects such as this would contribute to an overall pleasant experience at the park and thus potentially result in higher numbers of park visitors. This project is not anticipated to have adverse economic impacts. Because many factors affect public use and it is complex to accurately measure the quality of visitor use, precise quantification of increased quality and quantity of use resulting from the new boardwalk and displays will be very difficult to measure.

The Trustees have evaluated this project against all threshold and additional screening criteria developed to select recommended restoration projects and determined that this project is generally consistent with selection factors. It was therefore been placed in the highly recommended category. The Trustees determined that this type and scale of project would effectively provide appropriate compensation for lost recreational use that occurred as a result of the oil spill.

4.3.6 Environmentally Preferred/Selected Project Summary

Four categories of projects were identified in the process of awarding damages from the Skaubay/Berge Banker oil spill, Bird Restoration, Dune Vegetation Injury, Lost and Diminished Recreational Use (Texas state beaches) and Lost and Diminished Recreational Use (PAIS). The Trustees, in their process of evaluating the potential projects in each category, have identified their selected projects as presented in Table 10.

Table 10. Summary of Selected Projects and Estimated Funding Allocations for the Skaubay/Berge Banker Oil Spill

Project No.	Resource Category and Project Name	Estimated Cost	Estimated Funding Allocation
Bird Restoration			\$122,082
2	Mustang Island Acquisition/Preservation—Francine Cohn Nature Preserve	\$122,082	\$122,082
Dune/Vegetation Injury			\$115,000
4	Dune Restoration and Preservation—Gulf Side ¹	\$115,000	\$115,000
Lost and Diminished Recreational Use Services (TX)			\$890,893
8	New Restroom/Shower Facility	\$250,000	\$250,000
9	Beach Pavilion at Fish Pass	\$52,000	\$52,000
14	Shade Shelters and Picnic Tables	\$120,000	\$120,000
15	Master Plan for Mustang Island Infrastructure	\$40,000	\$40,000
Lost and Diminished Recreational Use Services (PAIS)			\$205,766
17	Auditorium and First Aid Station Expansion	\$200,400	\$200,400

¹ Only one site has been currently identified. Another location may be identified later.

The rationale for the selection of projects within a category is as follows:

- **Selected Bird Restoration Project:** Because more acreage could be purchased or preserved via conservation easement, a more contiguous sanctuary created, and ensures protection of unique ecological resources, the Mustang Island Acquisition/Preservation—Francine Cohn Nature Preserve was selected for implementation.
- **Selected Dune/Vegetation Injury Project:** The selected project is the Dune Restoration and Preservation—Gulf Side project. This project was selected because the project is located directly in the impacted area and the technical feasibility was the greatest of the Gulf-side projects. Once specific project locations are selected, the environmental consequences will be evaluated further.
- **Selected Lost and Diminished Recreational Use Projects:** Selected for Texas State Beaches are the Restroom/Shower Facility, Beach Pavilion at Fish Pass, the Shade Shelters and Picnic Tables, and the Master Plan for Mustang Island Infrastructure projects. The latter planning effort would identify how the remaining funds would be allocated for this category. For PAIS, the Auditorium Expansion and First Aid Station is the selected project because it offers the opportunity for multiple uses, including interpretive education, and would have the least environmental consequences.

Environmental Consequences

Implementing all the selected projects is not expected to result in any significant negative environmental impacts and would result in environmental benefits by ensuring protection of unique ecological resources; reducing the level of human-related disturbance to waterfowl, wading birds, and shorebirds on a portion of Mustang Island; and enhancing dune ecology. The recreational environment would be enhanced by constructing additional facilities for visitors to use for their enjoyment of the parks, increasing the total value of recreational use of the areas most heavily affected by the spill, and making improvements to a heavily used facility that provides health and educational services. Ecologically, it is expected that by providing specific destinations within the park for recreational use, ecological resources would be better preserved. It is also expected that by engaging in a comprehensive planning process, threatened, and endangered species and their habitats would be better protected, as would all other natural resources in the park.

Although the habitat for the protected piping plover (*C. melodus*) is located along a section of the Gulf side of Mustang and Padre islands, it was determined that adverse effects to the bird could be minimized, if not avoided, during the construction activities, and that long-term benefits would greatly outweigh the temporary dislocation of the birds during construction. It should be noted that approximately 80 percent of the plover foraging activity occurs along the Bay flats area and large washover areas, such as Corpus Christi Pass and Newport Pass, not the areas where construction would take place. There may be a minor, short-term impact to ecological values during construction activities; once construction is completed, however, the lost habitat would rapidly recover to preconstruction conditions. Proper management of the contractor performing the construction activities would minimize the effects on the surrounding area.

Cumulative Effects

Cumulative effects to wildlife habitat and to recreational use of facilities could result from simultaneous construction projects on federal and state lands. If all the selected projects were implemented simultaneously, there would be short-term interruption to wildlife and recreational use because of increased noise during the construction activities, but the long-term benefits of the projects greatly outweigh the temporary impacts. Additionally, construction could be phased to minimize any short-term effects.

There would be several positive cumulative effects to the recreational use from implementing all the selected projects. These positive cumulative effects include providing additional recreational facilities for a visitor's use, expanding existing facilities so that a better and an enhanced visitor experience could be offered, providing for better long-term management of the infrastructure on Mustang Island, and providing additional educational opportunities for visitors. By implementing the projects, the federal and state parks would be better equipped to provide recreational services to an increased number of park visitors and provide an enhanced visitor experience compared to the current situation.

4.3.7 Projects Received from Public Scoping Meeting

During the Public Scoping meeting, several comments were received that were considered by the Trustees. These comments included the following:

- Consider the purchase of conservation easements as another alternative to fee title acquisition to ensure that no development would take place on the lands considered for the bird restoration projects.
- Add a project to replicate the existing oak mottes at Packery Channel on federal or state lands as an alternative to acquiring the parcels with existing oak mottes. The comment included information stating that man introduced the oak habitat in that area in the 1930s.
- Install facilities at the Bird Island basin for park visitors.

The results of the Trustee evaluation of the public comments in conjunction with development or modifying the proposed projects for evaluation is as follows:

- The Trustees added the potential to purchase conservation easements for the bird restoration/enhancement projects.
- The addition of a project to replicate the existing oak mottes at Packery Channel was investigated and the Trustees were unable to find any direct evidence that the oak mottes had been planted in the vicinity of Packery Channel. Furthermore, the issue regarding the uniqueness of the soils in this area seems to have no basis. After discussion with several experts, it was also determined that this project would more than likely be a difficult and challenging task. Ultimately, it was decided that the project would return very little, given the amount of time, effort, and money that would have to be expended before results were achieved.
- The Trustees stated that as part of the Management Plan, installation of campground spaces, and vault toilets were already planned for the Bird Island location.

4.3.8 Additional Non-Recommended Restoration Alternatives

Twenty-seven projects were considered but dropped from further study by the Trustees because they were deemed inadequate when the evaluation criteria were applied or they were redundant with other proposed projects. A large number of potential restoration projects were identified during all phases of the restoration planning process, including the injury assessment, public scoping, and restoration selection phases. The proposed restoration projects originated from the Trustees, other government agencies, and public, and the Trustees considered and evaluated all of the proposed projects.

Projects evaluated early in the restoration planning process were reviewed using an informal screening approach that included criteria such as a connection to the natural resources impacted by the oil spill, feasibility of the project, location of the project, and cost of implementing the project. Some of the projects were eliminated because they represented a duplication of other, more pertinent projects. The Trustees also used their best professional judgment in regards to these criteria and decision to accept or withdraw projects from further consideration in the early stages of restoration planning. Later in the restoration planning process, formal screening criteria were established and used to determine whether to retain or withdraw projects from further consideration. Some proposed restoration projects were withdrawn because funding from other sources was identified. Table 11 lists the restoration projects withdrawn from consideration.

Table 11. Restoration Projects withdrawn from Consideration

Texas Parks and Wildlife, Mustang Island State Park	National Park Service, Padre Island National Seashore
<ul style="list-style-type: none"> ▪ Purchase Two John Deere Front Loaders ▪ Purchase Two Dump Trucks ▪ Rebuild Park Lift Station/Sewage Removal System ▪ Replace Beach Bath House ▪ Replace Ten Chemical Toilets ▪ Replace Three John Deere Riding Mowers ▪ Replace Three Law Enforcement Patrol Vehicles ▪ Construct a Boardwalk from the RV Camp Area to the Gulf Beach ▪ Construct Three Wildlife Viewing Platforms ▪ Contract Clearance of Sand from the Shade Shelters and Convenience Slabs ▪ Construct Two Large Pavilions ▪ Construct a Second Beach Bath House (Approximately 1 Mile from the Current Location) 	<ul style="list-style-type: none"> ▪ Interpretive Amphitheater ▪ Replace Down Island Visitor Contact Station ▪ Construct Nature Trail ▪ Portable/Traveling Exhibit ▪ Historic Sea Turtle Program ▪ Relocate Administrative Office ▪ Visitor Center Exhibit ▪ Visitor Computer Interactive Video ▪ Interpretive Beach Signs ▪ Rookery Islands Interpretive Signing ▪ Replace ATVs ▪ Construct Diorama ▪ Purchase Two John Deere Gators

5. APPLICABLE LAWS AND REGULATIONS

The three major environmental statutes that guide the restoration of the injured resources and lost services for the Skaubay/Berge Banker oil spill are OPA, NEPA, and OSPRA. These statutes set forth a specific process of environmental impact analysis and public review. Additionally, the Trustees must comply with several additional federal, state, and local applicable statutes, regulations and policies. Relevant, and potentially relevant, statutes, regulations, and policies are discussed below.

In addition to compliance with these statutes and regulations, the Trustees should consider relevant environmental or economic programs or plans that are ongoing or planned in or near the affected environment, and they should ensure that restoration projects neither impede nor duplicate such programs or plans. By coordinating restoration projects identified in this document with other relevant restoration programs and plans, the Trustees can enhance the overall effort to restore and improve the environment and resources affected by the oil spill.

Several of the restoration actions identified in this RP/EA involve activities conducted in wetlands and waters of the United States. Therefore, these activities are subject to review and approval by the appropriate regulatory agencies.

5.1 Federal Statutes

5.1.1 Oil Pollution Act of 1990 (OPA), 33 USC 2701, et seq.; 15 CFR Part 990

OPA establishes a liability regime for oil spills that injure or are likely to injure natural resources and/or the services that those resources provide to the ecosystem or humans. Federal and state agencies and Indian tribes act as trustees on behalf of the public to assess the injuries, scale restoration to compensate for those injuries and implement restoration. Section 1006(e)(1) of OPA [33 USC 2706 (e)(1)] requires the President, acting through the Under Secretary of Commerce for NOAA, to promulgate regulations for the assessment of natural resource damages resulting from a discharge or substantial threat of a discharge of oil. Assessments are intended to provide the basis for restoring, replacing, rehabilitating, and acquiring the equivalent of injured natural resources and services.

This rule provides a framework for conducting sound natural resource damage RP/EAs that achieve restoration. The process emphasizes both public involvement and participation by the Responsible Party or Parties. The Trustees have followed the regulations in this assessment.

5.1.2 National Environmental Policy Act (NEPA), as amended, 42 USC 4321, et seq., 40 CFR Parts 1500–1508

NEPA requires an assessment of any federal action that may impact the environment. NEPA applies to restoration actions undertaken by federal trustees, except where a categorical exclusion or other exception to NEPA applies. Congress enacted NEPA in 1969 to establish a national policy for the protection of the environment. NEPA established the Council on Environmental Quality (CEQ) to advise the President and to carry out certain other responsibilities relating to implementation of NEPA by federal agencies. Pursuant to presidential executive order, federal agencies are obligated to

comply with the NEPA regulations adopted by the CEQ. These regulations outline the responsibilities of federal agencies under NEPA and provide specific procedures for preparing environmental documentation to comply with NEPA. NEPA requires that an EA be prepared in order to determine whether a proposed restoration action would have a significant effect on the quality of the human environment.

Generally, when it is uncertain whether an action would have a significant effect, federal agencies would begin the NEPA planning process by preparing an EA. The EA may undergo a public review and comment period. Federal agencies may then review the comments and make a determination. Depending on whether an impact is considered significant, an EIS or a FONSI would be issued.

5.1.3 Clean Water Act (CWA) (Federal Water Pollution Control Act), 33 USC Section 1251, et seq.

The objective of the CWA (Federal Water Pollution Control Act, 33 USC §1251 et seq.) is to restore and maintain the chemical, physical, and biological integrity of the nation's water. The CWA is the principal statute governing pollution control and water quality of the nation's waterways. To this end, Section 404 of the CWA requires a permit from USACE for the discharge of dredge or fill material into waters of the United States, including most wetlands. Section 401 of the CWA requires states to certify that any federally permitted or licensed activity that might result in a discharge to waters of the United States, including issuance of a Section 404 permit, would not violate applicable water quality standards established by the states. Together, the statutory authority of NEPA and CWA regulate most types of work conducted in wetlands.

5.1.4 National Park System Resource Protection Act, 16 USC 19jj

Public Law 101-337, the National Park System Resource Protection Act (16 USC 19jj), requires the Secretary of the Interior to assess and monitor injuries to NPS resources. The act specifically allows the Secretary of the Interior to recover response costs and damages from the Responsible Party or Parties causing the destruction, loss of, or injury to park system resources. Any monies recovered by the NPS may be used to reimburse the costs of response and damage assessment and to restore, replace, or acquire the equivalent of the injured resources.

5.1.5 Coastal Zone Management Act (CZMA), 16 USC 1451, et seq., 15 CFR Part 923

The goal of the federal CZMA is to preserve, develop, and, where possible, restore and enhance the nation's coastal resources. The federal government provides grants to states with federally approved coastal management programs. Section 1456 of the CZMA requires that any federal action inside or outside of the coastal zone that affects any land or water use or natural resources of the coastal zone shall be consistent, to the maximum extent practicable, with the enforceable policies of approved state management programs. It states that no federal license or permit may be granted without giving the state the opportunity to concur that the project is consistent with the state's coastal policies. The regulations outline the consistency procedures. The Coastal Zone Management Commission in Texas is chaired by GLO.

The Trustees do not believe that any of the restoration projects would adversely affect the state's coastal zone. However, to comply with the CZMA, the Trustees intend to seek the concurrence of the Coastal Zone Management Commission through the GLO representative on the Trustees that

their selected projects are consistent to the maximum extent practicable with the enforceable policies of the state coastal program.

5.1.6 Endangered Species Act (ESA), 16 USC 1531, et seq., 50 CFR Parts 17, 222, 224

The federal ESA directs all federal agencies to conserve endangered and threatened species and their habitats and encourages such agencies to utilize their authorities to further these purposes. Under the act the National Marine Fisheries Service (NMFS) and USFWS publish lists of endangered and threatened species. Section 7 of the act requires that federal agencies consult with these two agencies to minimize the effects of federal actions on endangered and threatened species. Prior to implementation of these projects, the Trustees would conduct Section 7 consultations.

As noted in the RP/EA, several federal and state-listed species frequent the areas impacted by the oil spill. They also frequent areas where the Trustees are considering restoration projects. Some listed species, such as the brown pelican (*P. occidentalis*), least tern, and piping plover (*C. melodus*), would benefit from some of the restoration projects. Should it be determined that any of the projects would adversely affect a threatened or endangered species, the Trustees would either redesign the project or substitute another project.

5.1.7 Executive Order (EO) 11988—Construction in Flood Plains

This 1977 EO directs federal agencies to avoid, to the extent possible, the long- and short-term adverse impacts associated with the occupancy and modification of flood plains and to avoid direct or indirect support of development in flood plains wherever there is a practicable alternative. Each agency is responsible for evaluating the potential effects of any action it may take in a flood plain. Before taking an action, the federal agency should determine whether the proposed action would occur in a flood plain. For any major federal action significantly affecting the quality of the human environment, the evaluation would be included in the agency's NEPA compliance document(s). The agency should consider alternatives to avoid adverse effects and incompatible development in flood plains. If the only practicable alternative requires siting in a flood plain, the agency should (1) design or modify the action to minimize potential harm and (2) prepare and circulate a notice containing an explanation of why the action is proposed to be located in the flood plain.

5.1.8 Executive Order 11990—Protection of Wetlands (42 Fed. Reg. 26961)

EO 11990 applies to all federal agencies whose actions involve activities involving wetlands. The EO requires that each agency provide leadership and take action to minimize the destruction, loss, or degradation of wetlands and to preserve and enhance the natural and beneficial values of wetlands in carrying out the agency's responsibilities. EO 11990 was issued to avoid to the extent possible the long- and short-term adverse impacts associated with the destruction or modification of wetlands and to avoid direct or indirect support of new construction in wetlands wherever there is a practicable alternative.

5.1.9 Director's Order (DO) #77-1—Wetland Protection

DO#77-1 is one of a series of DOs pertaining to natural resources and science. DO#77-1 establishes the policies, requirements, and standards under which the NPS implements EO11990 and meets its responsibilities to protect and preserve wetlands.

5.1.10 Executive Order 12777

EO 12777, issued in 1991 and found at 56 Federal Regulation 54757, implements Section 311 of the Water Pollution Control Act of 1972 and OPA. It is the delegating authority for the 1990 OPA. In it, President George Bush authorized the Coast Guard to control the Oil Spill Liability Trust Fund, and he delegated implementing responsibilities to the Departments of the Interior, Justice, and Transportation and EPA among other agencies. EO 12777 is used when the liability for oil contamination needs to be determined.

5.1.11 Executive Order 13112—Invasive Species

EO 13112 applies to all federal agencies whose actions may affect the status of invasive species and requires agencies to identify such actions and to the extent practicable and permitted by law (1) take actions specified in the EO to address the problem consistent with their authorities and budgetary resources and (2) not authorize, fund, or carry out actions that they believe are likely to cause or promote the introduction or spread of invasive species in the United States or elsewhere unless, “pursuant to guidelines that it has prescribed, the agency has determined and made public its determination that the benefits of such actions clearly outweigh the potential harm caused by invasive species; and that all feasible and prudent measures to minimize risk of harm will be taken in conjunction with the actions.” The Trustees are committed to ensuring that alternatives are conducted in a cost-effective and environmentally sound manner that will not result in the introduction or spread of invasive species.

5.1.12 National Oil and Hazardous Substances Pollution Contingency Plan (NCP), 40 CFR 300.600

The National Oil and Hazardous Substances Pollution Contingency Plan, more commonly called the National Contingency Plan or NCP, is the federal government's blueprint for responding to both oil spills and hazardous substance releases. The NCP is the result of the federal government's efforts to develop a national response capability and promote overall coordination among the hierarchy of responders and contingency plans.

Congress has broadened the scope of the National Contingency Plan over the years. As required by the Clean Water Act of 1972, the NCP was revised the following year to include a framework for responding to hazardous substance spills as well as oil discharges. Following the passage of Superfund legislation in 1980, the NCP was broadened to cover releases at hazardous waste sites requiring emergency removal actions. Over the years, additional revisions have been made to the NCP to keep pace with the enactment of legislation. The latest revisions to the NCP were finalized in 1994 to reflect the oil spill provisions of the OPA.

5.2 State Statutes

5.2.1 Texas Oil Spill Prevention and Response Act (OSPRA) at 40.00 et seq. of the Texas Natural Resource Code

The Oil Spill Prevention and Response Act of 1991 (OSPRA) designated the Texas General Land Office as the lead state agency for preventing and responding to oil spills in the marine environment. This law authorizes the state to assess damages to natural resources, recover costs, and effect the restoration of those resources. In a typical year, the agency's Oil Spill Prevention and Response (OSPR) Program responds to between 850 and 1,000 reported oil spills. A fee of two cents per

barrel on crude oil loaded or off-loaded in Texas ports funds the OSPR Program, which deposits fee proceeds in the Coastal Protection Fund Account. The program maintains six offices: one in the state capitol, Austin, and five along the Texas coast. The field offices are located in Nederland, La Porte, Corpus Christi, Port Lavaca and Brownsville.

5.2.2 State of Texas Natural Resource Damage Assessment Rules at 31 TAC 20.00 et seq.

Natural Resource Damage Assessment (NRDA) refers to the legal and technical process used to pursue restoration for injuries to natural resources caused by discharges of oil and releases of hazardous materials into the environment. Federal and state agencies and Native-American Tribal and foreign governments are designated as NRDA Trustees to act on behalf of the public to restore injured natural resources under the following statutory authorities:

- Federal
 - Comprehensive Environmental Response, Compensation and Liability Act (CERCLA)
 - Oil Pollution Act of 1990 (OPA)
 - Federal Water Pollution Control Act (FWPCA)
 - Superfund Amendments and Reauthorization Act (SARA)
 - National Oil and Hazardous Substances Pollution Contingency Plan (NCP)
 - Title 43, Code of Federal Regulations, part 11
 - Title 15, Code of Federal Regulations, part 990
 - Executive Orders 12580 and 12777
- State
 - Oil Spill Prevention and Response Act of 1991 (OSPRA) (Texas Natural Resource Code, Chapter 40.107)

This law authorizes the state to assess damages to natural resources, recover costs, and affect the restoration of those resources. The commissioner of the Texas GLO adopted these rules pursuant to the OSPRA, Texas Natural Resources Code, §40.107(c)(4). OSPRA also requires the TCEQ and TPWD to adopt these rules. TCEQ and TPWD incorporated these rules, after the rules were adopted by GLO. These rules are applicable in the event that an unauthorized discharge of oil to coastal waters results in injury to natural resources. These rules are intended to be consistent with the NCP, the Area Contingency Plan, and the State Coastal Discharge Contingency Plan, all three of which are defined in §20.10 of this title (relating to Definitions). These rules are also intended to achieve consistency, to the extent allowed by OSPRA, §40.107, with existing and proposed federal rules for assessing damages to injured natural resources. Thus, the state natural resource trustees are encouraged to cooperate and coordinate their actions with the federal trustees.

5.3 Other Potentially Applicable Statutes and Regulations

Additional statutes may be applicable to NRDA restoration planning activities. The statutes listed below, or their implementing regulations, may require permits from federal or state permitting authorities:

- Marine Mammal Protection Act, 16 USC 361 et seq.
- Migratory Bird Treaty Act, 16 USC 703 et seq.
- National Park Act of August 19, 1916 (Organic Act) 16 USC 1 et seq.
- Archaeological Resources Protection Act, 16 USC 460 et seq.
- National Historic Preservation Act of 1966 as amended (16 USC 470–470t, 110)
- Clean Air Act, 42 USC 7401 et seq.

6. REFERENCES AND PERSONS CONSULTED

6.1 Documents and Persons Referenced

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Evaluation.

6.2 Agencies, Organizations, and the Individuals Contacted

- National Park Service Tamara Whittington, U.S. Department of the Interior, National Park Service, Environmental Response, Damage Assessment and Restoration Branch, Lakewood, Colorado.
- Mark VanMouwerik, U.S. Department of the Interior, National Park Service, Environmental Response, Damage Assessment and Restoration Branch, Fort Collins, Colorado.
- Ken McMullen, National Park Service, Padre Island National Seashore, Corpus Christi, Texas.
- Arlene Wimer, National Park Service, Padre Island National Seashore, Corpus Christi, Texas.

U.S. Fish and Wildlife Service

- Kenneth Rice, U.S. Fish & Wildlife, Corpus Christ, Texas

Texas Commission on Environmental Quality

- Richard Seiler, Texas Commission on Environmental Quality, Austin, Texas

Texas General Land Office

- Dennis Rocha, Texas General Land Office, Austin, Texas

Texas Parks & Wildlife Department

- Don Pitts, Texas Parks & Wildlife Department, Austin, Texas
- Andy Tirpak, Texas Parks & Wildlife Department, Dickinson, Texas

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7. LIST OF PREPARERS

7.1 Trustee Representatives

This report has been prepared for the Skaubay/Berge Banker Natural Resources Trustee Restoration Council. The Natural Resources Trustee Restoration Council Representatives may be reached at the following addresses:

Arlene Wimer, Primary

National Park Service
Padre Island National Seashore
P.O. Box 181300
Corpus Christi, TX 78480
361-949-8173, ext. 227
Arlene_Wimer@nps.gov

Don Pitts, Primary

Texas Parks & Wildlife Department
4200 Smith School Road
Austin, TX 78744
512-912-7154
don.pitts@tpwd.state.tx.us

Ken Rice, Primary

U.S. Fish & Wildlife Service
6300 Ocean Drive
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Corpus Christi, TX 78412
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Richard Seiler, Primary

Texas Commission on Environmental Quality
P.O. Box 13087
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Dennis Rocha, Primary

Texas General Land Office
1700 North Congress Avenue
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7.2 Technical Assistance

**Mark Griswold—Project Manager,
Registered Professional Geologist**

Foster Wheeler Environmental Corporation
143 Union Boulevard, Suite 1010
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Credentials:

M.S. Geology, Colorado State University,
1980
B.A. Geology, State University of New York
at Binghamton, 1974
Twenty-seven years of experience

Kim Olsen—Task Manager, Biologist

Foster Wheeler Environmental Corporation
759 S. Federal Hwy
Stuart, FL 34994

Credentials:

B.S. Oceanographic Technology, Florida
Institute of Technology, 1983
Nineteen years of experience

**Jeff Zhao—Coastal Engineer, Registered
Professional Engineer in Texas, Florida,
Missouri, and Mississippi**

Foster Wheeler Environmental Corporation
1001 S. Dairy Ashford, Suite 210
Houston, TX 77077

Credentials:

M.S. in Engineering Management, University
of Kansas (2002)
M.S. in Coastal & Oceanographic
Engineering, University of Florida (1996)
B.E. in Civil Engineering, Hohai University,
Nanjing, China (1984)
Fourteen years of experience

Iris Mayes—Natural Resources Planner

Foster Wheeler Environmental Corporation
One World Center
121 SW Salmon, Suite 1100
Portland, OR 97204

Credentials:

B.L.A. Landscape Architecture, University of
Idaho, in progress
M.A. Public Affairs, University of Oregon,
1993
B.A. English, University of Oregon, 1989
Seven years of experience

Jeff Bamer—Environmental Engineer

Foster Wheeler Environmental Corporation
143 Union Boulevard, Suite 1010
Lakewood, CO 80228

Credentials:

M.S. Environmental Engineering, University
of California at Berkeley, 2001
B.S. Engineering, Harvey Mudd College, 2000
Two years of experience

**Summer Adamietz—Environmental
Planner**

Foster Wheeler Environmental Corporation
143 Union Boulevard, Suite 1010
Lakewood, CO 80228

Credentials:

M.U.P. Land Use Planning, University of
Washington, 2001
B.S. Geography and Planning/Biology,
Southwest Texas State University, 1999
Two years of experience

Appendix A

Responsiveness Summary

Responsiveness Summary

The availability of the Draft Skaubay/Berge Banker Restoration Plan/Environmental Assessment (RP/EA) for the public comment was noticed in the Texas Register on June 13, 2003, and in the Corpus Christi Caller Times on June 15, 2003. The public notices opened the 30-day public comment period for the Draft RP/EA. The Draft RP/EA was made available from June 16, 2003, through July 14, 2003. Copies of the notices follow this Responsiveness Summary. During this comment period, no comments were received. Therefore, the recommended projects identified in the draft RP/EA have been selected for implementation in this final RP/EA.

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F6/Corpus Christi Caller-Times, Sunday, June 15, 2003

REQUEST FOR
COMMENTS ON A
PROPOSED
RESTORATION PLAN/
ENVIRONMENTAL
ASSESSMENT and
FEDERAL
CONSISTENCY
DETERMINATION

Notice is hereby given that the Natural Resource Trustees (Texas Parks and Wildlife Department, Texas Commission on Environmental Quality, Texas General Land Office and the National Parks Service (NPS) and United States Fish and Wildlife Service (USFWS) on behalf of the Department of the Interior (DOI)) have completed a Draft Restoration Plan/Environmental Assessment for injuries to natural resources due to the February 5, 1995 oil spill resulting from the collision of the T/T Berge Banker and M/T Skaubay in the Gulf of Mexico off

caller.com

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LEGAL
NOTICES

Galveston, Texas. The Draft Restoration Plan describes injuries resulting from the spill, evaluates restoration options and identifies recommended restoration alternatives.

The NPA and USFWS on behalf of the DOI have completed a Federal Consistency Determination that outlines the basis for the determination that the restoration actions described in the Draft Restoration Plan/Environmental Assessment are consistent to the maximum extent possible with the applicable policies of the Texas Coastal Management Plan.

Interested members of the public are invited to request a copy of the Draft Restoration Plan and Consistency Determination from Don Pitts of the Texas Parks and Wildlife Department, Resource Protection Division, 4200 Smith School Road, Austin, Texas 78744, (512) 912-7156. Comments must be submitted in writing on or before July 14, 2003. The Natural Resource Trustees will consider all written comments prior to making a decision on the Federal Consistency Determination and finalizing the Draft Restoration Plan/Environmental Assessment.

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(512) 834-6688, Monday-Friday, 8:00 a.m. to 5:00 p.m. (except holidays).

TRD-200303382
Susan K. Steeg
General Counsel
Texas Department of Health
Filed: June 4, 2003

◆ ◆ ◆

Notice of Public Hearing on Proposed Human Immunodeficiency Virus (HIV) Medication Program Rules

The Texas Department of Health (department) will hold a public hearing to accept public comments on proposed rules at 25 Texas Administrative Code, Chapter 98, concerning the Texas HIV Medication Program (THMP). These proposed rules were published in the May 23, 2003, issue of the *Texas Register* (28 TexReg 4041).

The hearing will be held on June 16, 2003, at the Texas Department of Health, 1100 West 49th Street, Austin, Texas, in Room M-739 of the Moreton Building, from 12:00 p.m. until 3:00 p.m. The department reserves the right to limit time for public comments.

If you wish to submit written comments, please direct them to: Janet D. Lawson, M.D. Acting Chief, Bureau of HIV and STD Prevention, 1100 West 49th Street, Austin, Texas 78756-3199.

TRD-200303348
Susan K. Steeg
General Counsel
Texas Department of Health
Filed: June 2, 2003

◆ ◆ ◆

Texas Health and Human Services Commission

Request for Proposals

The Health and Human Services Commission (HHSC) announces Request for Proposals (RFP) 529-03-296 for "Automated Information System for Diagnostic Related Group (DRG) Validation and Recoupment". This RFP is issued to invite potential contractors to submit proposals to assist HHSC and other state Medicaid agency staff in controlling Medicaid costs by implementing a system that identifies and recoups DRG overpayments and patterns and trends of DRG coding errors.

Because HHSC seeks QISV services, the contractor will be selected on the basis of "best value for purchases of automated information systems" (see RFP §1.03 and Chapter 2157, Texas Government Code). HHSC will negotiate a contingency fee arrangement, with payment tied directly to the percentage of recovered federal and state program dollars. This fee will be a percentage of the cost savings that are directly attributable to and result from the implementation of the contractor's system.

The RFP was posted on the Texas Marketplace and on HHSC's website on May 20, 2003. Interested parties may view the RFP on HHSC's website at: <http://www.hhsc.state.tx.us>, under the "Texas Medicaid Program" link.

HHSC will provide printed copies of the RFP or further information concerning the RFP only to those specifically requesting it.

The HHSC Project Manager for the project is:

Charlotte Dokes, HHSC Office of Investigations and Enforcement, 206 East 9th Street, Austin, Texas 78701, Telephone: (512) 482-3286, Charlotte.dokes@hhsc.state.tx.us

To be considered, all proposals must be received at the foregoing address on or before 5:00 p.m., local time, on June 20, 2003. Proposals received after this time will not be considered.

The selected contractor will be expected to begin performance of the contract on or about August 1, 2003.

Evaluation and Award Procedure: All proposals will be subject to evaluation based on the evaluation criteria and procedures set forth in the RFP. HHSC reserves the right to accept or reject any or all proposals submitted. HHSC is under no legal or other obligation to execute any contracts on the basis of this notice, and the award of a contract is conditioned upon the receipt of a finding of fact from the Governor's Office. HHSC shall pay for no costs incurred by any entity in responding to this RFP.

The anticipated schedule of events is as follows:

- (1) Issuance of RFP - May 20, 2003;
- (2) Deadline for submitting questions concerning the RFP - 5:00 p.m., May 30, 2003;
- (3) Deadline for submitting proposals -- 5:00 p.m., June 20, 2003;
- (4) Contract execution - on or before August 1, 2003;
- (5) Commencement of Project activities - August 1, 2003, or as soon thereafter as practical.

TRD-200303379
Steve Aragon
General Counsel
Texas Health and Human Services Commission
Filed: June 4, 2003

◆ ◆ ◆

North Central Texas Council of Governments

Notice of Consultant Contract Award

Pursuant to the provisions of Government Code, Chapter 2254, the North Central Texas Council of Governments publishes this notice of consultant contract award. The consultant proposal request appeared in the August 2, 2002 issue of the *Texas Register* (27 TexReg 6899). The selected consultant will perform technical and professional work for rail planning and public participation.

One of the consultants selected for this project is URS Corporation, 1225 17th Street, Denver, Colorado. The maximum amount of this contract is \$400,000.

Issued in Arlington, Texas on May 30, 2003.

TRD-200303331
R. Michael Eastland
Executive Director
North Central Texas Council of Governments
Filed: May 30, 2003

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Texas Parks and Wildlife Department

Public Notice

NOTICE OF AVAILABILITY AND REQUEST FOR COMMENTS
ON A DRAFT RESTORATION PLAN/ENVIRONMENTAL ASSESSMENT AND TEXAS COASTAL MANAGEMENT PLAN

Skaubay/Berge Banker Oil Spill Restoration Plan and Environmental Assessment

CONSISTENCY DETERMINATION RELATED TO THE T/T BERGE BANKER AND M/T SKAU BAY OIL SPILL

AGENCIES: Texas Parks and Wildlife Department (TPWD), Texas Commission on Environmental Quality (TCEQ), Texas General Land Office (GLO) and the National Parks Service (NPS) and U.S Fish and Wildlife Service (USFWS) on behalf of the Department of the Interior (DOI), collectively, the Natural Resource Trustees.

ACTION: Notice of availability of a proposed Draft Restoration Plan and Environmental Assessment, the Federal Consistency Determination for this Plan under the Texas Coastal Management Program (TCMP), and a thirty (30) day period for public comment on the Plan and the Federal Consistency Determination beginning the date of publication of this notice.

SUMMARY: Notice is hereby given that a document entitled "SKAUBAY / BERGE BANKER Oil Spill- Draft Restoration Plan/Environmental Assessment" (Draft RP/EA) is available for public review and comment. This document presents restoration actions which the Natural Resource Trustees propose to implement to restore or enhance natural resources and the services that they provided that were injured or lost due to the February 5, 1995 oil spill resulting from the collision of the T/T Berge Banker and M/T Skaubay in the Gulf of Mexico off Galveston, Texas. The document also describes the process followed by the Trustees to evaluate appropriate restoration alternatives and select the recommended alternatives identified in the plan. These recommended alternatives are proposed for implementation using funds recovered by the Trustees as part of a December 1999 settlement of natural resource damages claims associated with the oil spill. The funds are required by law to be spent to benefit natural resources and associated resource services injured, destroyed or lost as a result of the spill.

The opportunity for public review and comment on the proposed Restoration Plan announced in this notice is required under the Oil Pollution Act 33 U.S.C. 2706(c)(5), and parallels provisions of 15 CFR 990.14 (d) and 990.55 of the federal Natural Resource Damage Assessment regulations.

The Federal Consistency Determination for this Draft RP/EA outlines the basis for DOI's determinations that the restoration actions described in the Draft RP/EA are consistent to the maximum extent possible, and will be undertaken in a manner consistent with, the applicable policies of the Texas Coastal Management Plan (TCMP). Under federal law, federal agency activities and actions affecting the Texas coastal zone must be consistent with the goals and policies of the TCMP identified in 31 Texas Administrative Code (TAC) Chapter 501. Under 31 TAC Section 506.2(c), a determination of consistency with the TCMP must be made by the federal trustees for natural resource damage assessment and restoration plans that are the product of a joint cooperative natural resource damage assessment by state and federal trustees. Review of the Federal Consistency Determination is delegated to the State Trustee agencies (TPWD, TCEQ and the GLO). The State Trustees will consider all comments received during the public comment period in their evaluation of the Federal Consistency Determination for the Draft RP/EA and will, depending on the comments received, submit a letter of concurrence to the Federal Trustees.

Interested members of the public are invited to request a copy of the Draft RP/EA from: Don Pitts, Resource Protection Division, Texas Parks & Wildlife Department, 4200 Smith School Road, Austin Texas 78744, (512) 912-7156, Fax (512) 912-7160.

DATES: Comments must be submitted in writing within 30 days of publication of this notice to Don Pitts of the Texas Parks and

Wildlife Department at the address listed in the previous paragraph. The Trustees will consider all written comments received during the 30-day comment period prior to finalizing the Draft RP/EA.

SUPPLEMENTAL INFORMATION: On February 5, 1995, two Norwegian tankers, the T/T Berge Banker and the M/T Skaubay, owned and operated by Bulk Transport LTD of Bermuda ("Bulk Transport") and SPT Marine Inc. (SPT Marine"), respectively, collided in the Gulf of Mexico while preparing to transfer fuel oil, causing a discharge of approximately 845 barrels (35,490 gallons) of Bunker C fuel oil. Wind, ocean and tidal currents caused the oil to be deposited as tar balls and tar mats on the publicly owned beaches of Matagorda Island, Mustang Island, and Padre Island, which are part of the Matagorda Island National Wildlife Refuge, Mustang Island State Park, Matagorda Island State Park, and Padre Island National Seashore, respectively. The oil spill occurred in a biologically diverse barrier island system in the Gulf of Mexico. Resources found in this system include saltwater fish; crustaceans, including crabs and shrimp; mammals; amphibians; reptiles; migratory birds, including gulls, herons, egrets, and terns and other water fowl; and shorebirds; lands, including beaches, dunes, grasslands, and intertidal flats; wild shore plants, including sea oats; and coastal waters and air. Services provided by these resources to the public include habitat for the variety of plant and animal species in the area, sport fisheries, and recreational uses (including fishing, swimming, hiking, camping, and nature observation). Based on investigations of the impacted coastal areas, the Trustees found that natural resources and park system resources and services they provide were lost, injured, or harmed as a result of the unauthorized discharge and clean-up actions.

The Trustees conducted a natural resource damage assessment to address those losses. The assessment focused on losses to migratory birds, beach and dune habitats, and public recreational opportunities at Matagorda Island State Park, Mustang Island State Park and Padre Island National Seashore.

A joint settlement of all claims of the Trustees associated with this oil spill was achieved with the responsible parties in December 1999. The settlement included funds to compensate the public for natural resource injuries resulting from the spill. These funds, which were jointly recovered by all the Trustees, were placed into an account established with the Registry of the Federal District Court, Southern District of Texas, pending joint planning and decisions by the Trustees as to the appropriate use of the funds to implement actions to restore, replace, rehabilitate or acquire the equivalent of natural resources injured by the spill. As part of the initial restoration planning efforts, the trustees prepared a Public Scoping Document describing injuries associated with the spill and potential restoration projects that was presented at a Corpus Christi, Texas public meeting in September 2002. Input received as a result of that effort was incorporated in the Draft RP/EA.

The Draft RP/EA announced today presents the restoration actions which the Trustees propose to implement using these funds to effect restoration, rehabilitation, replacement, or acquisition of resources or resource services that were injured by the spill. The Restoration Plan is in the form of an Environmental Assessment and, as such, is used as a planning document for the Federal Trustees to use to decide on a final restoration plan (as required by the National Environmental Policy Act 42 U.S.C. 4321, et seq.).

For further information, contact Don Pitts at Texas Parks and Wildlife Department (512) 912-7156, fax: (512) 912-7154, email: don.pitts@tpwd.state.tx.us.

TRD-200303381

IN ADDITION June 13, 2003 28 TexReg 4597

Appendix B
List of Documents Included
in the Administrative Record

Administrative Record for the Skaubay/Berge Banker RP/EA

May 19, 2003

Proposed Projects

“Public Scoping Document—Potential Restoration Projects for Natural Resources Impacted by the Skaubay/Berge Banker Oil Spill” by the Skaubay/Berge Banker Natural Resources Trustee Committee, dated 9/2002

Draft/After Settlement document, “Potential Restoration Projects for Natural Resources Affected by the Skaubay/Berge PAIS & related areas, TEXAS,” dated 7/26/2002.

Draft Natural Resources Damage Assessment Proposal: Mustang Island Acquisition and Wetland Enhancement, Prepared by the Nature Conservancy of Texas, 2000.

Restoration Planning

Statement of Work for the Restoration Plan/Environmental Assessment for Skaubay/Berge Banker Oil Spill, dated 2/04/02.

Document entitled “Skaubay/Berge Banker Oil Spill—Draft Restoration Plan/Environmental Assessment,” prepared by Foster Wheeler Environmental Corporation for The Skaubay/Berge Banker Natural Resources Trustee Council, dated February, 2003.

Document entitled “Skaubay/Berge Banker Oil Spill—Final Restoration Plan/Environmental Assessment,” prepared by Foster Wheeler Environmental Corporation for The Skaubay/Berge Banker Natural Resources Trustee Council, dated February, 2003.

Meeting Notes/Minutes

Handout for the Skaubay/Berge Banker Trustee Meeting, entitled “Roles/Responsibilities,” dated 8/29/2000.

Meeting Minutes for Trustee Meeting with Foster Wheeler Environmental Corp., dated 3/22/2001.

Kick-off agenda and attendance sheet, Restoration Plan/Environmental Assessment for Skaubay/Berge Banker Oil Spill, dated 7/30/2002.

Memo entitled “Submittal of the PAIS Kick-off Meeting Summary,” by Kim Olsen, dated 8/5/2002.

* Attendance Sheet & Blank comment form entitled “Public Scoping Meeting for Development of Restoration Plan for Berge Banker/Skaubay Oil Spill,” author unknown, dated 9/10/2002.

Handout entitled “Berge Banker/Skaubay Oil Spill Restoration Plan and EA Public Meeting,” by the Natural Resources Trustee Restoration Council, dated 9/10/02.

Fund Management

Letter entitled "Request to transfer funds from Berge-Banker/Skaubay Court Registry Account," from Don Pitts, Texas Parks and Wildlife Dept., to Albert Bronson, Esq. State of Texas, Asst. Attorney General, dated 3/25/2002

Letter entitled "Request to transfer funds from Berge-Banker/Skaubay Court Registry Account," from Don Pitts, Texas Parks and Wildlife Dept., to Albert Bronson, Esq. State of Texas, Asst. Attorney General, dated 4/18/2001.

Memorandum entitled "Request to transfer funds from Berge Banker/Skaubay Court Registry Account—Requesting disbursement of funds," from Ken McMullen to Bruce Nesslage, dated 3/20/2001.

Memorandum entitled "Request to transfer funds from Berge Banker/Skaubay USDOJ NRDAR Account (Project # 0213)," from Ken McMullen to Bruce Nesslage, dated 8/14/2001.

Fax entitled "Copy of Nonexpenditure Transfer Authorization Funds," dated 5/14/2002, from Bruce Nesslage to Becky Hutt and Tammy Whittington.

Fax entitled "Copy of Nonexpenditure Transfer Authorization," re. Late Sept. 2001 transfer of funds for Berge Banker/Skaubay Restoration Activities," from Bruce Nesslage to Tammy Whittington, dated 4/8/2002.

Memorandum entitled "Request to transfer funds from Berge Banker/Skaubay Court Registry into USDOJ (NRDAR) Account—Requesting disbursement of funds," from Ken McMullen, Chairperson, Trustee Council through John Carlucci, Office of the Solicitor, USDOJ, to US Assistant Attorney General Senior Attorney, Arnold S. Rosenthal, Envir. Enforcement Section, Envir. and Natural Resources Div., dated 2/19/2002.

Memorandum entitled "Request to transfer funds from Berge Banker/Skaubay USDOJ NRDAR Account (14X5198) Requesting disbursement of funds," from Ken McMullen, Chairperson, Trustee Council to Bruce Nesslage, dated 5/6/2002.

Legal and Claim Settlement Documents

"Preliminary Natural Resources Damage Claim Report for the Feb. 5, 1995 M/T Skaubay Oil Spill South West Texas Coast", author unknown, dated 8/03/99.

Court Document entitled "Agreed Order to Disburse Funds—Filed in US Courts Southern Dist. of Texas", dated 10/30/2002, and Docket Proceedings Entry.

Consent Decree, 1999.

Restoration MOA for Skaubay/Berge Banker Oil Spill, Including cover letter from John Carlucci of the Department of the Interior January 21, 2000.