

Draft Proposed Amendment
to the Final Damage Assessment and Restoration Plan & Environmental
Assessment for the T/V Bow Mariner Oil Spill
September 2019

Introduction and Background

The U.S. Department of the Interior (DOI), acting through the Fish and Wildlife Service (Service), is the natural resource trustee for the Natural Resource Damage Assessment and Restoration (NRDAR) activities related to the February 28, 2004 T/V Bow Mariner oil spill off the Virginia coast. The Responsible Parties and DOI executed a Settlement Agreement on February 3, 2009 that required payment of \$563,925.41 for planning, implementing, and monitoring of projects to restore, rehabilitate, replace or acquire natural resources equivalent to those injured from the incident. In February 2010, the Service released a final [Damage Assessment and Restoration Plan and Environmental Assessment \(DARP/EA\)](#) that set forth the preferred plan to restore natural resources impacted by the spill.

The T/V Bow Mariner DARP/EA addressed natural resource impacts resulting from the oil spill, focusing on impacted pelagic seabirds. Because of the foraging behavior of razorbills and northern gannets, these species were identified as higher risk from oil exposure and were the focus of the injury assessment. Razorbills have the highest conservation need within the United States, so they were the focus of the selected restoration project. Northern gannets nest in Canada, have stable populations (at the time of the assessment), and a lower overall conservation need. Conversely, in the United States, razorbills only nest within the confines of the Service's Maine Coastal Islands National Wildlife Refuge (MCINWR) and receive some level of active management within the Northeast.

The selected project – **Seabird Management on Eastern Brothers Island (EBI)** – was determined to be the best option for successful razorbill restoration efforts and would have ancillary benefits to other seabirds, such as black guillemots and common terns. The goal of this project was to establish a new breeding colony of razorbills on EBI, owned and managed by MCINWR, and thus to increase the number of protected islands occupied by breeding razorbills within the United States. The project involved gull control, habitat manipulation, social attraction, and monitoring components. Other breeding seabirds, such as black guillemots, common eider, and common tern would also benefit from these restoration efforts. This project presented the greatest potential to meet the Service's objective of replacing the lost seabirds, focusing on restoring razorbills specifically.

Virginia Ecological Services (VAES) staff worked with MCINWR staff to implement a multi-year plan to establish a new breeding colony of razorbills on EBI. Since 2007, MCINWR implemented seabird restoration efforts on EBI, and in 2010 initiated activities associated with this project, including intensive predator control and vegetation management, as well as social attraction efforts. The project's 10-year timeframe was

meant to allow necessary time for the social attraction to be effective and for the colony to progressively build. Between 2010 and 2017, efforts associated with this project resulted in partially successful predator control, establishment of common tern nests, and increased observation of razorbills and puffins. MCINWR field staff made recommendations after each field season to improve success the following year, and yearly management activities were adapted accordingly. However no razorbills established a nest within this time period, and other nesting seabirds showed only slight increases. Mink predation proved to be destructive and difficult to control. VAES and MCINWR staff concluded that efforts to attract razorbills to EBI should be terminated and funds directed to a different project.

Proposed Amendment

The DARP/EA also identified **Seabird Nesting Habitat Acquisition** as a possible restoration alternative to pursue in this case. This alternative proposed acquisition of one or more seabird nesting islands that currently lack permanent protection by a conservation agency, as well as enhancement and management of that island. This alternative would have met the objectives of restoring seabird years, but was not selected due to concerns about financial feasibility (*i.e.*, high cost of acquisition would not enable funding of necessary management activities). A total of \$275,000 remains in the T/V Bow Mariner NRDAR fund. The Service proposes to modify the DARP/EA to use the remaining habitat restoration funds to contribute to an available land acquisition within MCINWR acquisition boundary that would benefit nesting seabirds.

Hardhead Island is a 5.25 acre island located in western Penobscot Bay, in the town of Deer Isle, Maine. The island has a long history of supporting a variety of seabirds including: black guillemots, common eiders, common terns, double-crested cormorants, great black-backed gulls, and herring gulls. Over 90 pairs of common terns have nested on the island within the past 10 years. In Maine, common terns nest on less than 20 of the 4,500 islands and ledges along the coast. The Service has identified tern nesting islands as our highest priority for acquisition by conservation agencies. Seabird nesting records for this island go back to the early 1970's, when the island supported 250 pairs of gulls, 475 pairs of cormorants, 200 pairs of common eiders, and about 20 pairs of black guillemot. Recent survey information indicates that the number of seabirds nesting on the island has declined in recent years, but the cause of that decline is not known. The island continues to provide suitable nesting habitat for all six species of seabirds documented to nest on the island. It is possible that simply limiting public access to the island during the nesting season will allow the seabird populations to recover. Seasonal closures are standard management practices for all Service-owned seabird nesting islands.

MCINWR has been working with the Maine Coast Heritage Trust to acquire this island and with the intention to add it to the MCINWR under the Service's management. There is the opportunity for a bargain sale or donation that would significantly reduce the cost to the Service relative to the appraised value, eliminating the concerns about costs associated with acquisitions.

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The acquisition of real property is an activity that qualifies as a categorical exclusion under the National Environmental Policy Act, as provided in the DOI Department Manual Part 516 Chapter 8 (516 DM 8.5), and this project will not have a significant effect on the physical, biological, socio-economic, or cultural environments.

Public Review and Comment

Public participation and review is an integral part of the restoration planning process, and is specifically required in the DOI NRDAR regulations. This Draft Amendment to the DARP/EA is available for public review and comment for a period of 30 days, until November 4, 2019. Written comments or requests for additional information should be sent to: Anne Condon U.S. Fish and Wildlife Service 6669 Short Lane Gloucester, VA 23061 anne_condon@fws.gov. After the comment period, the Service will review and address the comments received, and document response to comments as part of the final Amendment to the DARP/EA

Copies of this document are also available online at: [DOI's NRDAR Case Document Library for the T/V Bow Mariner Oil Spill](#)

U.S. Department of the Interior Approval

*Draft Proposed Amendment to the Final Damage Assessment and Restoration Plan &
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In accordance with U.S. Department of the Interior (Department) policy regarding documentation for natural resource damage assessment and restoration projects (521 DM 3), the Authorized Official for the Department must demonstrate approval of draft and final Restoration Plans and their associated National Environmental Policy Act documentation, with concurrence from the Department's Office of the Solicitor.

The Authorized Official for the T/V Bow Mariner Oil Spill case is the Regional Director for the U.S. Fish and Wildlife Service's North Atlantic-Appalachian Region.

By the signatures below, the Draft Proposed Amendment to the final Restoration Plan & Environmental Assessment is hereby approved.

Approved:

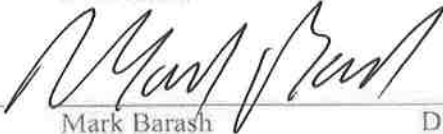
Concurred:



9-27-19

Wendi Weber
Regional Director
North Atlantic-Appalachian Region
U.S. Fish and Wildlife Service

Date



10/11/2019

Mark Barash
Senior Attorney
North Atlantic-Appalachian Region
Office of the Solicitor

Date