

# New Carissa Oil Spill Natural Resource Trustees



U.S. Fish and Wildlife Service



Bureau of Land Management



U.S. Forest Service



Oregon Department of Fish and Wildlife



Confederated Tribes of Coos, Lower Umpqua and Siuslaw Indians



Confederated Tribes of Siletz Indians



U.S. Bureau of Indian Affairs

## ***Marbled Murrelet Restoration Q&A:***

### **Q. What's being announced?**

The Confederated Tribes of Siletz Indians have received 3,851 acres of Oregon Coast Range forest. The land was initially acquired through the restoration efforts of the federal and state agencies and Native American tribes that were designated as natural resource trustees for the 1999 oil spill from the cargo ship *New Carissa*. The Siletz will manage the land in perpetuity to restore marbled murrelet seabirds lost to the oil spill.

The natural resource trustees are: the U. S. Department of Interior (represented by the Bureau of Land Management, U. S. Fish and Wildlife Service and the Bureau of Indian Affairs); the U. S. Department of Agriculture (represented by the U. S. Forest Service) the State of Oregon (represented by the Department of Fish and Wildlife) the Confederated Tribes of the Siletz Indians, and the Confederated Tribes of the Coos, Lower Umpqua, and Siuslaw Indians. The Bureau of Land Management is lead federal trustee, selected because it manages the beach and resources where the ship initially ran aground.

### **Q. Why was the Siletz Tribe chosen?**

Public comments received by the natural resource trustees on the first draft restoration plan led to the trustees creating a selection process for a party to manage the land. A non-government party was preferred so that the land manager could continue to pay county property taxes. A number of potential managers were contacted, some turned down the opportunity to compete, and several parties including non-government conservation organizations were interviewed and carefully considered. The trustees selected the Siletz Tribe because it has a long history of forest management and community involvement, a multi-disciplinary staff, and a demonstrated ability in resource restoration and species conservation. Also, the Siletz Tribe was willing and able to commit to pay county property taxes on the land through an existing agreement with Lincoln County, and to enter into a legally binding conservation easement which describes how the property will be managed in perpetuity.

### **Q. How was the location of the land selected?**

Land managers, biologists and marbled murrelet researchers were consulted by the trustees' representatives in a careful process to ensure that the strategy of protecting otherwise vulnerable habitat would be the best way to restore the lost murrelet populations. Also, experts provided guidance to the process of selecting priority areas where protection of habitat would have the greatest positive impact on the species. This

process led to the search for properties in the northern portion of Oregon's Coast Range forests. The parcel is about 35 miles (as the murrelet flies) from Waldport, where the bow drifted after the first failed attempt at towing the wreck, to the acquired murrelet property in Lincoln County. The Waldport phase of the New Carissa incident was where most of the seabirds (including marbled murrelets) were killed or injured by the oil spill.

## **Q. How will the land be managed?**

The natural resource trustees have worked together to carefully craft a detailed, legally binding conservation easement, which spells out the management of the land. Part of this document requires that the Siletz Tribe write a detailed management plan for the area every year, which will be reviewed by the Oregon Department of Fish and Wildlife, the Bureau of Land Management and the Fish and Wildlife Service. The conservation easement may be downloaded from <http://www.fws.gov/oregonfwo/index.asp>

In a very simplified explanation, about one-third of the land is now marbled murrelet nesting habitat. The trustees know this because there are marbled murrelet occupancy surveys going back ten years for this area. The Siletz will maintain this one-third as habitat, and actively manage the remaining forest in an effort to eventually create murrelet nesting habitat on another one-third of the property. The last one-third will be managed for its value as a buffer to the murrelet habitat, as well as for forest products. It is intended that the profit from forest harvest and management on the property will pay for the management, maintenance and taxes on the property over time. The Conservation Easement requires the Siletz Tribe to keep the land open to the public for hunting, fishing and other recreation in areas or ways that do not adversely impact marbled murrelets.

## **Q. How does the conservation easement protect the habitat?**

In discussing management in the parcel's Highest Protection Area (HPA), the conservation easement states: "Where consistent with this primary goal, a very limited amount of tree cutting may occur in the HPA to enhance habitat for other late-seral to mature forest species, and to enhance habitat for native fish and wildlife but no such activity shall be conducted if it results in detriment to the murrelet. Any tree cutting occurring within the HPA must occur outside the marbled murrelet nesting season. Except as allowed by an approved catastrophic event action plan developed in accordance with Section 10, trees cut within the HPA may not be sold and must remain on the Property, unless otherwise approved by the [conservation easement] Grantees. These trees may be used to fulfill down woody debris or fish habitat enhancement needs on the Property."

The Buffer Protection Area (BPA) part of the easement says "Limited management activities (including tree cutting) designed to move the stands in the BPA towards becoming additional suitable Marbled Murrelet Habitat will be allowed if those activities will not cause a long-term degradation of the habitat quality in the HPA. Where consistent with these primary goals, a limited amount of tree cutting may also occur in the BPA to enhance habitat for other late-seral to mature forest species, and to enhance habitat for native fish and wildlife. Any tree cutting occurring within the BPA must be done in such a manner as to minimize or avoid disturbance to marbled murrelets."

## **Q. Why was this valuable forest land for sale, and how much was it?**

As conservation goals were developed, the trustees identified the types of land and habitat most suitable for the restoration efforts. Once identified, The Conservation Fund was engaged to approach conservation-

minded private landowners — such as Forest Capital Partners, Plum Creek Timber Company and others — to seek their participation. A significant portion of Forest Capital's 3,685 acres, as well as most of Plum Creek's acreage, was already being protected as habitat. The remainder was working forestland managed under the sustainable guidelines of the Sustainable Forestry Initiative®. Both companies offered to sell the lands included in the conservation easement for the fair market value of the land as determined through the federal appraisal process, and have worked closely with the trustees and The Conservation Fund to complete the conservation easement and transfer of the land to the Siletz tribe.

The trustees paid \$15,490,000 for the marbled murrelet parcels, which was the appraised value.

## **Q. How did the oil spill happen?**

On February 4, 1999, the New Carissa, an empty 660-foot long cargo ship, went aground just north of the entrance to Coos Bay, Oregon. Pounded in the high surf and strong winds of a Pacific storm, the vessel began breaking up. An attempt was made to burn away some of its hundreds of thousands of gallons of fuel oil before the ship broke apart. The precise amount of oil released from the damaged ship is difficult to determine, but has been estimated by various sources at somewhere between 25,000 gallons and 140,000 gallons. Most of the spilled oil is something called "Bunker C," extremely thick oil used for fuel by large ships.

The bow section was eventually re-floated and towed offshore, only to break its tow in a storm and go aground again near Waldport, Oregon, releasing additional oil. The bow section was again re-floated, towed far out to sea and sunk by the Navy. The heavier stern section remains stranded in the surf near the entrance to Coos Bay.

## **Q. What was damaged by the oil spill?**

In addition to private property, there were many publicly owned natural resources at risk from this oil spill including birds, marine mammals, fish, shellfish, outer beaches and rocky shores, and the estuaries from Coos Bay to Yaquina Bay. Studies determined that:

- Four to eight western snowy plovers (a state- and federally listed threatened species) likely perished;
- 672 other shorebirds were injured or killed;
- 262 marbled murrelets (also a state- and federally listed threatened species) were killed;
- 2,203 other seabirds and gulls were killed;
- About 29,000 recreation trips were lost or diminished by the incident (valued at approximately \$400,000).

## **Q. What is being done about the damage?**

According to the Oil Pollution Act of 1990, the parties responsible for an oil spill are liable for the costs to restore the injured natural resources. Federal agencies, state agencies and Native American tribes are the trustees for these resources, and they have conducted a very long and detailed Natural Resource Damage Assessment to document and quantify injuries to the public's natural resources and services. This assessment was the first step in creating a Restoration Plan to restore all the lost damages. That plan is discussed in another question.

## **Q. Why did it take since 1999 to begin this restoration?**

Several years of research and data analysis were necessary to quantify the resources damaged by the oil spill before the legally required planning process leading to restoration could begin. During this time, the federal trustees also had to deal with a \$95 million lawsuit filed by the responsible parties. The suit was successfully settled in May, 2004. The first steps of restoration planning were taken publicly in 2001, followed by release of a draft restoration plan for public comment in 2005. The final plan was released to the public in 2006, and discussions began toward selecting a manager for the land to be acquired for murrelet restoration. During much of this time, the non-government organization The Conservation Fund was seeking marbled murrelet habitat that might be available from willing sellers, and these parcels were selected. Additional time was needed to apply for, and receive, the money for the purchase from the Coast Guard's Oil Spill Liability Trust Fund.

## **Q. Where exactly did the money come from?**

In May 2004, a settlement agreement approved by a federal judge resolved several lawsuits related to the New Carissa spill. The part of the settlement agreement regarding natural resource damages requires the responsible parties to pay the United States \$4 million for natural resource damages, but the settlement recognizes that is not full compensation for the natural resource damages. Under a separate agreement, the trustees were permitted to submit a claim to the Coast Guard's National Pollution Fund Center for any additional money needed to restore the damages. The National Pollution Fund Center manages the Oil Spill Liability Trust Fund that provides funding for cleanup and natural resource restoration costs for "uncompensated claims" resulting from oil spills in the United States. The money in the fund comes from a tax that shippers pay on oil transported within the United States.

## **Q. How was the restoration planned?**

Planning was done according to regulations under the Oil Pollution Act; first by assessing the injury to natural resources, then by selecting the most appropriate restoration actions. In addition, the trustees were required to:

- identify a reasonable range of restoration alternatives;
- evaluate them;
- select a proposed alternative;
- write a draft plan to present the alternatives to the public;
- get public comments on the draft plan, and
- incorporate comments into a final plan.

The trustees developed a range of alternatives, identified the preferred alternatives, examined the effects on public health and safety, modified the draft plan in response to public comments, and released the final approved plan in January 2006.

## **Q. What is the plan?**

The Damage Assessment Restoration Plan sets forth a number of actions to restore the resources and services lost to the public because of this spill. The plan includes details of the actions to be taken, as well as all the changes made to the draft plan, and should be consulted for details. Some of the activities are still contingent upon receiving funding. In summary form:

- **Marbled Murrelet**

To restore (replace) the 262 marbled murrelets killed by the oil spill, the action being taken is to purchase occupied marbled murrelet nesting habitat from two willing and conservation-minded private sellers, Forest Capital Partners and Plum Creek Timber Company. Now that the land has been purchased, it is being transferred to the Confederated Tribes of Siletz Indians to be managed under a strict conservation easement for the continued benefit of the marbled murrelet.

- **Western snowy plover**

The plan calls for maintenance to be performed on the restored plover habitat area on Coos Bay's North Spit area every year, for the next thirty years, to restore the four to eight snowy plovers lost during the incident. The plan also calls for a multi-agency program to recruit and train volunteers to monitor critical plover breeding areas. This program will be a partnership between the Trustee agencies and not-for-profit organization.

- **Other Shorebirds**

The plan is to acquire, restore and manage key shorebird habitat parcels on the Oregon coast to restore the 672 shorebirds lost due to the spill. The plan also will fund the Sister Shorebird Program, which teaches school teachers about shorebirds through workshop training and a curriculum guide. This project would also sponsor free workshops to educate groups of Oregon teachers.

- **Other Seabirds**

Three separate projects are planned to restore other 2,203 seabirds lost due to the spill. One is to protect a seabird colony by acquiring the parcel of land immediately adjacent to the colony. The development of this parcel could disturb the seabird colony resulting in reduced productivity or abandonment. The parcel would be managed as part of the Oregon Islands National Wildlife Refuge.

A second part of the project for seabirds is to reduce predation on seabird colonies along the south coast of Oregon. Predation on these colonies has increased with the increase in populations of non-native predators like red fox.

The effort to reduce the effects of predators on seabirds and shorebirds will be complimented by providing funds to the Oregon Parks and Recreation Department (OPRD) to fabricate 150 predator-proof garbage cans, through that agency's "Parks and Prisons" program.

The third component of the seabird restoration effort is a public awareness and education project. Signs are planned for all access points leading to seabird colonies and seal or sea lion haulout sites. The signs will inform and educate visitors that the rocks and islands are within the Oregon Islands National Wildlife Refuge and are closed to public access to protect the seabirds and other wildlife.

- **Recreation**

In addition to ensuring that all projects met the overall objective of restoring lost public use resulting from the oil spill, the projects were screened to ensure that they: have multiple resource benefits; are likely to succeed; leverage funding from partnerships and other sources; improve public health and safety; and meet all other legal or regulatory requirements. Some of these recreation projects have already been started.

The projects are:

1. Governor Patterson State Park beach trail and parking lot resurfacing;
2. North Spit and Horsfall area directional sign and 2 entry kiosks;
3. North Spit and Horsfall area state/federal beach sign program;
4. Horsfall Day Use Area expansion;
5. North Spit (interior) trail rehabilitation;
6. Horsfall Campground accessible sites;
7. Fence removal from three locations on the North Spit;
8. Signs and placement of signs on North Spit sand roads;

9. Bluebill Campground restroom replacement;
10. Horsfall Road OHV fencing;
11. BLM North Spit foredune sand road upgrade.

## **Q. Was the plan responsive to public comments on the draft?**

A number of changes were made to the draft restoration plan, some in response to issues raised during the public comment period, and some from refinements made to the supporting data and analyses. These changes included:

- Expanding and clarifying the criteria for selecting the party to manage the acquired lands for marbled murrelet population restoration.
- Additional information was included on economic consequences, monitoring requirements and the plan budget.
- Acreage of marbled murrelet habitat to be acquired and managed were revised from 1,294 to 1,269 after correcting data.
- Other editorial and factual changes were made to the plan based on comments received.

Copies of the plan, its appendixes and the conservation easement are available for download from the U.S. Fish and Wildlife Service's Oregon Fish and Wildlife Office website:

<http://www.fws.gov/oregonfwo/index.asp>

## THE CONSERVATION FUND

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