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GUILTY PLEA IN CASE OF COSCO BUSAN SHIP PILOT

WASHINGTON— John Joseph Cota, a California ship pilot, pleaded guilty today to negligently causing the discharge of approximately 53,000 gallons of oil into San Francisco Bay in violation of the Oil Pollution Act of 1990, a law enacted in the wake of the Exxon Valdez disaster. Cota, who piloted the M/V Cosco Busan when it hit the San Francisco Bay Bridge on Nov. 7, 2007, also pleaded guilty today to violation of the Migratory Bird Treaty Act for the death of protected migratory birds.

If the plea terms are accepted by U.S. District Court Judge Susan Illston, Cota will be sentenced to serve between two and ten months in prison and be fined between \$3,000 to \$30,000. The exact sentence will be determined by the court with the government reserving the right to argue for the highest sentence within this range. The plea also requires Cota to serve the maximum one year of supervised release during which he will not serve as a ship pilot or ship Captain (Master). Sentencing has been scheduled for June 19, 2009.

“John Cota was an experienced ship pilot that was handsomely compensated for his special knowledge of ships and expertise in local waters. His failure to act prudently under the circumstances caused a major environmental disaster that could have been far worse,” said Joseph Russoniello, U.S. Attorney for the Northern District of California. “This case should sound an alert to those in the maritime industry that safety rules and procedures are meant to be followed, safety equipment is expected to be used, and that those who act otherwise and despoil our natural wonders will be prosecuted to the full extent of the law.”

“Today’s guilty plea is a reminder that the Cosco Busan crash was not just an accident, but a criminal act,” said John C. Cruden, Acting Assistant Attorney General for the Justice Department’s Environment and Natural Resources Division. “This is not a case involving a mere mistake. The lesson here is that environmental stewards, who abandon ship, act negligently and cause major environmental damage will be vigorously prosecuted.”

The plea agreement contains factual admissions by Cota including: “I acknowledge that my negligence was a proximate cause of the discharge of approximately 53,000 gallons of heavy fuel oil into San Francisco Bay.” During the voyage in less than a half mile of visibility, Cota gave the helm commands that crashed the Cosco Busan into the fendering system at the base of the Delta tower of the San Francisco Bay Bridge. In the plea agreement, Cota admitted that he:

- Failed to adequately discuss the intended route through San Francisco Bay with the Master or crew as is required;
- Failed to use the ship’s radar in the final approach to San Francisco Bay Bridge;
- Failed to recognize two red triangles on the ship’s electronic chart system that actually are the buoys marking the Delta bridge tower;
- Failed to verify the meaning of the red triangles by using the ship’s paper chart or radar.

- Failed to inform the crew of his method of navigation that he relied on using a particular radar setting; and
- Failed to advise the crew of a radar beacon that marked the center of the Delta-Echo span.

The allision caused a gash measuring approximately 150 feet long by 12 feet high on the port side of the ship, puncturing two of the ship's fuel tanks and damaging the fendering system on the Delta tower of the bridge, and resulting in a significant environmental clean-up. At least 2,000 migratory birds died, including Brown Pelicans, Marbled Murrelets and Western Grebes. The Brown Pelican is a federally endangered species and the Marbled Murrelet is a federally threatened species and an endangered species under California law.

At the hearing today, Judge Illston set trial for the remaining defendant in the case, the ship's manager, Fleet Management Ltd. (Hong Kong), for September 14, 2009. Fleet is also charged with acting negligently and being a proximate cause of the pollution and killing protected migratory birds. In addition to the environmental crime charges, Fleet is charged with obstructing justice and making false statements by falsifying ship records after the incident. An indictment is merely an accusation. All defendants are presumed innocent until proven guilty at trial beyond a reasonable doubt.

As part of the plea agreement with Cota, the government agreed to dismiss pending false statement charges relating to allegations that Cota failed to disclose his medications on required Coast Guard forms in 2006 and 2007 necessary to maintain his license, and which the court ruled would be tried separately from the case involving the Cosco Busan incident. Cota admits in the plea papers filed today that his 2006 physical exam form failed to disclose some of the medications he was prescribed including Provigil (a medication prescribed to treat sleep apnea), Lorazepam (an anti-anxiety medication that had been prescribed as a sleeping aid), Vicodin (a pain medication), Tylenol 4 (a pain medication), Darvon 65 (a pain medication), Zoloft (an anti-depressant prescribed for an off-brand purpose) and Ambien (a sleeping aid). Regarding the form he signed in 2007, Cota admits that three medications, Vicodin, Zoloft and Tylenol 4 were not disclosed to the Coast Guard. According to the plea papers, while Cota reported taking various other drugs "occasionally" on the 2007 form, he now admits that he "refilled many of these prescriptions regularly."

The investigation is being conducted by the Coast Guard Investigative Service, the EPA Criminal Investigation Division, the Federal Bureau of Investigation, the U.S. Fish and Wildlife Service and the California Department of Fish and Game, Office of Spill Prevention and Response.

The case is being prosecuted by Assistant U.S. Attorneys Jonathan Schmidt, and Stacey Geis, Special Assistant U.S. Attorney Christopher Tribolet of the U.S. Attorney's Office for the Northern District of California and Richard A. Udell, Senior Trial Attorney with the Justice Department's Environmental Crimes Section.

Under the Crime Victims' Rights Act, crime victims are afforded certain statutory rights including the opportunity to attend all public hearings and provide input to the prosecution. Those adversely impacted by the oil spill are encouraged to visit <http://www.usdoj.gov/usao/can/community/notifications> to learn more about the case and the Crime Victims' Rights Act.

Further Information:

Case # 08-0160 SI

A copy of this press release may be found on the U.S. Attorney's Office's website at www.usdoj.gov/usao/can.

Electronic court filings and further procedural and docket information are available at <https://ecf.cand.uscourts.gov/cgi-bin/login.pl>.

Judges' calendars with schedules for upcoming court hearings can be viewed on the court's website at www.cand.uscourts.gov.

All press inquiries to the U.S. Attorney's Office should be directed to Jack Gillund at (415) 436-6599 or by email at Jack.Gillund@usdoj.gov.

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