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APPENDICES

A.1 ACRONYMS

°C	Centigrade (degrees)
CEQ	Council on Environmental Quality
CFR	Code of Federal Regulations
CORPS	U.S. Army Corps of Engineers
CZMA	Coastal Zone Management Act
CWA	Clean Water Act
DLNR	Department of Land and Natural Resources, State of Hawaii
DOH	Department of Health, State of Hawaii
DOI	U.S. Department of the Interior
Draft RP/EA	Draft Restoration Plan and Environmental Assessment
EA	Environmental Assessment
EFH	Essential Fish Habitat (under MSFCMA)
EIS	Environmental Impact Statement
EO	Executive Order
EPA	Environmental Protection Agency
ESA	Endangered Species Act
FONSI	Finding of No Significant Impact
FWCA	Fish and Wildlife Coordination Act
HEA	Habitat Equivalency Analysis
IBRRC	International Bird Rescue Research Center
IFO	Intermediate fuel oil
KM	Kilometers
LAT	Lead Administrative Trustee
MMPA	Marine Mammal Protection Act
MSFCMA	Magnuson-Stevens Fishery Conservation and Management Act
NCP	National Oil and Hazardous Substances Pollution Contingency Plan
NEPA	National Environmental Policy Act
NMFS	National Marine Fisheries Service
NOAA	National Oceanic and Atmospheric Administration
NRDA	Natural Resource Damage Assessment
NWR	National Wildlife Refuges (USFWS)
OPA	Oil Pollution Act of 1990
PAH	Polycyclic aromatic hydrocarbons
PPM	Parts per million
%	Percent
Refuges	USFWS-managed wildlife refuges
REA	Resource equivalency analysis
RP/EA	Restoration Plan and Environmental Assessment
§	Section
SCAT	Shoreline Cleanup Assessment Team
Tesoro	Tesoro Hawaii Corporation
TWG	Technical Working Group
USC	United States Code
USCG	U.S. Coast Guard
USFWS	U.S. Fish and Wildlife Service

A.2 INDEX TO ADMINISTRATIVE RECORD

1.0 STATUTES, REGULATIONS AND AGREEMENTS

1.1 OIL POLLUTION ACT OF 1990

- 33 USC § 2701, *et seq.*
- 15 CFR Part 990
- OPA Guidance documents (NOAA)

1.2 HAWAII ENVIRONMENTAL RESPONSE LAW

- Title 10, Chapter 128D Haw. Rev. Stat.

1.3 NATIONAL ENVIRONMENTAL POLICY ACT AND AGENCY EQUIVALENTS

- 42 USC § 4321, *et seq.*
- 40 CFR Parts 1500-1508
- NOAA Directive 216-6
- Title 19, Chapter 343 Haw. Rev. Stat.

1.4 ENDANGERED SPECIES ACT AND STATE EQUIVALENT

- 16 USC 1531 *et seq.*
- 50 CFR Part 17
- Title 12, Chapter 195D Haw. Rev. Stat
- List of Hawaii's endangered and threatened birds

1.5 COOPERATIVE AGREEMENT

- 11/13/98. Joint Cooperative Natural Resource Damage Assessment Agreement

1.6 AUTHORIZED OFFICIAL DESIGNATION

- 06/29/99. Taylor, W.R., U.S. DOI, to A. Badgley, USFWS. Designation of Authorized Official for Natural Resource Damage Assessment and Restoration Activities associated with Tesoro Hawaii SPM Oil Spill, Pacific Ocean, Kauai and Oahu, HI. 4 pp.

2.0 INJURY ASSESSMENT DETERMINATION AND QUANTIFICATION

2.1 US COAST GUARD POLLUTION REPORTS

- 08/98-12/98 POLREPS One through Fourteen

2.2 BEACH CLOSURE NOTICES

- 09/13/98. USCG - Honolulu Area Unified Command Release No. 2
- 09/14/98. Notice from Outrigger Hotel General Manager to Guests

2.3 NEWS RELEASES AND CLIPPINGS (USCG, MEDIA)

- Honolulu Area Unified Command Press Releases
- *Honolulu Advertiser media reports*
- 09/15/98. Hawaii Department of Health News Release. "Public urged to report effects of recent oil spill," 1p.

- 09/17/98. Cutter Information, Inc. 1998. Heavy Fuel Spill Impacts Hawaiian Islands. Oil Spill Intelligence Report XXI(36):2-3.

2.4 OTHER RESPONSE ACTIVITIES

- 08/98-09/98. USCG Incident Action Plan
- 09/14/98. Brown, J.S., Arthur D. Little, Inc., to Rich Rosen, Tesoro Hawaii Corp. Draft Saturated Hydrocarbon Data, PAH data, and biomarker data. 36 pp.
- 09/15/98. Rogers, S., USCG Marine Safety Laboratory (MSL), to Mr. Le. Oil Sample Analysis Report, MSO Honolulu, Case Number MC98011773, MSL Case Number 98-281/98-282. 23 pp.
- 09/18/98. Ross, W.P., Sea Engineering, Inc. to P. Latham, Tesoro Hawaii Corp., results of diving survey, 2p
- 09/21/98. Brown, J.S., Arthur D. Little, Inc., to Rich Rosen, Tesoro Hawaii Corp. Draft PAH, SHC, and biomarker data for two tarball samples. 14 pp.
- 09/22/98. Moffett, G.E., USCG -MSL, to Commanding Officer, MSO Honolulu. Oil Sample Analysis Report, MSO Honolulu, Case # MC98011773, MSL Case # 98-289. 7 pp.
- 09/25/98. SPEARS Coordinator, USCG, to D. Palawski, USFWS. POLREP One and Final for a 140 gallon spill at Barber's Point. 2 pp.
- 09/28/98. SPEARS Coordinator, USCG, to D. Palawski, USFWS. POLREP 12 for the Kauai tarballs, FPN 148027. 2 pp.
- 10/16/98. Moffett, G.E., USCG-MSL, to Commanding Officer, MSO Honolulu. Oil Sample Analysis Report, MSO Honolulu, Case # MC98011773, MSL Case # 98-301. 10 pp.
- 10/22/98. Moffett, G.E., USCG-MSL, to Commanding Officer, MSO Honolulu. Oil Sample Analysis Report, MSO Honolulu, Case # MC98011773, MSL Case # 99-015). 8 pp.
- 12/11/98. SPEARS Coordinator, USCG, to C. Demarest, U.S. DOI. POLREP 14 and Final for the tarballs on Kauai. FPN 148028. 2 pp.
- 01/13/99. Chu, R., Tesoro Hawaii Corp., to D. Palawski, USFWS, *et al.* Request for Termination of Response Activities Under Authority of the Unified Command. 5 pp.
- 05/12/99. Castle, B., Calif. Dept. Fish and Game, to K. Foster, USFWS. Analysis of two samples submitted for petroleum hydrocarbon fingerprinting. 4 pp.

2.5 JOINT TRUSTEE/TESORO INJURY STUDIES

2.5.1 GENERAL

- 09/25/98. Jansen, C., Tesoro Hawaii Corp., to J. Cubit, NOAA, *et al.* Minutes of the Trustees/RP Coordination Meeting, Sept. 24, 1998. 8 pp.

- 10/06/98. Jansen, C., Tesoro Hawaii Corp., to J. Cubit, NOAA, *et al.* Transmittal of information on the SPM Hose Spill - SCAT data sheets, Incident Action Plans, Media Coverage, and maps. 2 vol.
- 12/28/98. Tesoro and Trustees. Joint Cooperative Natural Resource Damage Assessment Agreement for the Tesoro/Hawaii SPM Hose Oil Spill. 15 pp.
- 01/29/99. Saito, D., Tesoro Hawaii Corp., to C. McKinley, U.S. DOI, *et al.* Cooperative Agreement and Confirmation of Technical Working Groups. 7 pp.
- 03/22/99. Jansen, C., Tesoro Hawaii Corp. to K. Foster, USFWS. Map of Wildlife Locations on the Island of Kauai. 1 p. + map.

2.5.2 THREATENED AND ENDANGERED MARINE SPECIES

- 11/17/98, *Hawaiian Monk Seal* -- Seal Assessment Progress Report and Proposal
- 01/08/99, *Hawaiian Monk Seal* -- Kipu Kai Monk Seal Monitoring Progress report
- 05/07/99, *Hawaiian Monk Seal* -- EMAIL re results of Kauai overflight.

2.5.3 LOST USE SERVICES

- 5/12/99, Lost Recreational Use

2.5.4 INTERTIDAL AND SUBTIDAL BIOTA

- 4/22/99, *Opihi* -- Exposure of Opihi to SPM Hose Spill on Kauai, Hawaii

2.5.5 SEABIRDS

- 09/20/98. Seabird Injury Quantification Plan (Field Data Collection), USFWS. 3 pp.
- 09/30/98. Smith, D., HDLNR, to K. Foster, USFWS, *et al.* Offshore Island Surveys. 1 p.
- 10/01/98. Duffield, J., ENTRIX, Inc., to D. Saito, Tesoro Hawaii Corp. Survey Results of Red-Footed Boobies (*Sula sula*) at Kilauea Point. 1 p.
- 10/02/98. Duffield, J., ENTRIX, Inc., to D. Saito, Tesoro Hawaii Corp. ENTRIX, Inc. 1998. Survey Results of Adult Wedge-tailed Shearwaters (*Puffinus pacificus*) at Kilauea Point, Kauai National Wildlife Refuge. 2 pp.
- 10/02/98. Jansen, C., Tesoro Hawaii Corp., to C. Martin, *et al.* Bird Surveys on Oahu and Surrounding Offshore Islands. 3 pp.
- 10/05/98. Refuge Manager, Maui NWRC, USFWS, to Files. Oiled Bird Rehabilitation. 2 pp.
- 10/06/98. Jansen, C., Tesoro Hawaii Corp., to Trustees. Draft Kilauea Point Oiled Bird Capture Plan. 3 pp.

- 10/07/98. Conry, P., HDLNR, to R.K. Hommon, COMNAVBASE. Request for U.S. Navy Assistance - Helicopter Access to Ka'ula Rock for Seabird Population Assessment and Collection of Live Oiled Birds for Rehabilitation. 3 pp.
- 10/08/98. Duffield, J., ENTRIX, Inc., to D. Saito, Tesoro Hawaii Corp. Survey Results of Adult Wedge-tailed Shearwaters (*Puffinus pacificus*) at Kaena Point, Oahu. 1 p.
- 10/08/98. Duffield, J., ENTRIX, Inc., to D. Saito, Tesoro Hawaii Corp. Survey Results of Red-footed Boobies at Lehua Island. 2 pp.
- 10/16/98. Duffield, J., ENTRIX, Inc., to D. Saito, Tesoro Hawaii Corp. Survey Results of Red-footed boobies (*Sula sula*) at Mokapu Point on the Marine Corps Base Hawaii, Kaneohe Bay, Oahu. 1 p.
- 10/16/98. Duffield, J., ENTRIX, Inc., to D. Saito, Tesoro Hawaii Corp. Survey Results of Seabird Sanctuaries on Oahu. 2 pp.
- 10/23/98. Viernes, Kathleen to Joan Duffield, ENTRIX. Red-footed booby oil bird survey report. 4 pp.
- 10/28/98. Palawski, USFWS, to F.L. Whipple, USCG. Kuala Rock Seabird Colony Response Survey. 1 p.
- undated (approx. 11/98). USFWS Seabird Injury Time Line. 2 pp.
- 11/16/98. Chu, R., Tesoro Hawaii Corp., to K. Foster, USFWS. Bird Status Chart as of Nov. 11, 1998. 12 pp.
- 11/25/98. Telfer, T., HDLNR, to K. Foster, USFWS. Ka'ula Rock Survey Trip Report, Nov. 16-17, 1998. 11 pp.
- 12/15/98. Massey, G. Wildlife Rehabilitation Activities Associated with the Tesoro Single Point Mooring Hose Spill. A Report to HDLNR and HDOH. Maui Veterinary Services Office, Makawao, Hawaii. 12 pp.
- 01/14/99. Jansen, C., Tesoro Hawaii Corp., to D. Palawski, USFWS. Draft Data Analysis from Arthur D. Little, Inc. for feather samples. 33 pp.
- 01/22/99. Ford, R.G. Preliminary Methodology for Estimation of Damages to Seabirds from the 24 August 1998 Tesoro SPM Hose Spill. R. G. Ford Consulting Co. 5 pp.
- 02/03/99. Jansen, C., Tesoro Hawaii Corp., to J. Nedoff, ENTRIX, Inc. Arthur D. Little Report - Feather Samples. 35 pp.
- 02/17/99. Flint, B., K. Foster, D. Palawski, USFWS, to the Seabird Technical Working Group. USFWS comments on the Preliminary Methodology for Estimation of Damages to Seabirds. 2 pp.
- 02/22/99. Jansen, C., Tesoro Hawaii Corp., to G. Ford, R. G. Ford Consulting, Inc. Comments on the Preliminary Methodology for Estimation of Damages to Seabirds. 5 pp.

- 02/22/99. Nishimura, G.P., Sea Life Park Hawaii, to B. Flint, USFWS. Sea Life Park Hawaii 1998 Annual Report of Seabirds Received for Rehabilitation. 19 pp.
- 03/11/99. U.S. Fish and Wildlife Service. Home range or foraging radius of tropical seabirds potentially affected by Tesoro Hawaii SPM Hose Oil Spill - determination of likelihood that birds from any particular breeding colony were exposed to oil in their area of activity. 14 pp.
- 05/14/99. Nishimura, G.P., Sea Life Park Hawaii, to K. Foster and B. Flint, USFWS. Requested information on oiled birds. 4 pp.
- 05/17/99. Laughland, D., USFWS, to K. Foster, USFWS. Calculation of Red-Footed Booby Damage and Credit. 6 pp.
- 05/17/99. Laughland, D., USFWS, to K. Foster, USFWS. Calculation of Shearwater Damage and Credit. 9 pp.
- 05/18/99. Laughland, D., USFWS, to K. Foster, USFWS. Shearwater Estimates, Revised Credit Section. 3 pp.

3.0 RESTORATION PLANNING

3.1 PRELIMINARY RESTORATION PLANNING: DEVELOPMENT OF POTENTIAL PROJECTS

3.1.1 GENERAL

- 04/20/99. Flint, B., USFWS, to T. Telfer, HDLNR. Modified Draft Proposal for Restoration. 1 p.
- 08/06/99. Ogilby, B.R., McCutchen, Doyle Brown & Enersen, to C. McKinley, U.S. DOI. Enclosing Draft Report - A Method for Estimating "Value" from Agency Proposed Restoration Projects Associated with the Tesoro SPM Hose Spill. 11 pp.
- 03/22/99. Massey, G., HDLNR, to K. Foster, USFWS. Restoration Ideas. 1 p.

3.1.2 NET REMOVAL

- Tesoro/Trustees Net Removal Plan: Project Description.

3.1.3 SEABIRDS

- 04/12/99. Telfer, T., HDLNR, to K. Foster, USFWS. Comments on Draft "Trustee Proposed Seabird Restoration Projects". 2 pp.
- 04/29/99. Terry, C.J., HDLNR, to K. Foster, USFWS. Seabird Restoration and Augmentation on Offshore Seabird Sanctuaries. 1 p.

3.2 NOTICE OF PUBLIC MEETING

3.3 NOTICE OF AVAILABILITY OF DRAFT RP/EA

3.4 DRAFT RESTORATION PLAN

3.5 FINAL RESTORATION PLAN

3.6 REFERENCE DOCUMENTS (*Documents referenced in Draft and Final RP/EAs that are not otherwise readily available*)

Boland, R. 12/97. A preliminary survey of the underwater accumulation of derelict nets at French Frigate Shoals. Administrative Report, NMFS-Honolulu, HI. 12 pp.

Demarest, H.E. and L.S. Elliott. 1997. Birds of the Hawaiian Archipelago: Oil Spill Exposure Risk. Proceedings from the Fifth International Conference on the Effects of Oil on Wildlife, Nov. 3-6, 1997, Monterey, CA. Pp. 7-31.

Department of Natural Resources. DLNR (Hawaii). Descriptions of Kauai Forest Reserves from map, 10 p.

Hu, Darcy E. 1991. Age-Related Reproductive Effort in the Red-Footed Booby (*Sula sula*). Unpublished Master's Thesis, University of California, Davis, California. Pages 17-22.

Kay, E.A., undated. About Opihi: Some of the Things we Think We Know.

Kay, E.A. . 1979. Hawaiian Marine Shells. Reef and Shore Fauna of Hawaii. Section 4: Mollusca. Bernie P. Bishop Museum Spec. Publ. 64(4)43-46.

Latham, R.C. 1967. Kauai Channel Currents. Unpublished Master's Thesis, University of Hawaii, Honolulu, Hawaii. 128 pp.

Lumpkin, C.F. 1998. Eddies and Currents of the Hawaiian Islands. Unpublished Ph.D. Thesis, University of Hawaii, Honolulu, Hawaii. Pages 1-25 and curriculum vitae.

National Oceanic and Atmospheric Administration. 2/97. Hawaiian Islands Humpback Whale National Marine Sanctuary Final Environmental Impact Statement/Management Plan. Part II (Description of the Affected Environment).

Pearl Harbor Natural Resource Trustees. 1999. Final Restoration Plan and Environmental Assessment for the May 14, 1999 Chevron Pipeline Oil Spill into Waiau Stream and Pearl Harbor, Oahu, Hawaii (11/99). Prepared by: U.S. Department of Defense, U.S. Department of the Interior, National Oceanic and Atmospheric Administration, and State of Hawaii. 122 pp.

Smith, D.G. 1994. Oahu Offshore Islands State Seabird Survey and Sanctuary Monitoring Program. Hawaii Dept. of Land and Natural Resources, Division of Forestry and Wildlife. 9 pp.

U.S. Fish and Wildlife Service. 1983. Hawaiian Dark-rumped Petrel and Newell's Manx Shearwater Recovery Plan. Portland, Oregon, February 1983. 57 pp.

APPENDIX A.3

PUBLIC MEETING COMMENTS ON TESORO DRAFT RESTORATION PLAN AND ENVIRONMENT ASSESSMENT

A public meeting on the Draft Restoration Plan and Environmental Assessment was held on June 21, 2000, at the Kapaa Public Library on Kauai, Hawaii. The audience members asked a number of questions of the Trustees. Listed below is a brief summary of the questions and the responses.

- Why was there a delay between the spill and the notification of the Trustees?

Response: The purpose of this meeting is to discuss the Restoration Plan and the proposed restoration activities rather than response activities. Please contact Tesoro Hawaii Corporation if you'd like to discuss the response activities in more detail.

- Why do the Trustees use compensatory restoration rather than direct?

Response: Nothing can be done at this time to help directly the injured species and there is no real way to compensate for the loss. We can provide ways to increase population growth to compensate for injured birds by yielding more chicks. Also, fishing nets are a potential entanglement hazard and their removal will reduce potential injury to seals and turtles, other threatened/endangered species, and the reefs.

- Why net removal -- is there a problem w/abandoned nets on the shoreline?

Response: Fishermen lose their nets and they become tangled up on the shoreline or in the intertidal where they can injure resources such as the opihi and endangered/threatened species. We can increase the value of their environment, make things better for these species, by removing the nets. We found 133 during the survey.

- What were the known mortalities to birds?

Response: One hundred and five birds were found oiled, approx. 30 were cleaned and released, and some died. We didn't do full sampling and analysis. We know that oil upsets the thermoregulatory process in birds and there are some questions as to whether cleaned and released birds can even reproduce successfully (sublethal effects). It is costly to measure sublethal effects, but we can do some things to help existing populations.

- What about economic impacts and how to measure them?

Response: The economic impact evaluation was done by a third-party. A Tesoro representative from the audience stated that the claim line was opened and the company received claims for about \$20,000.00 from fishermen with fouled lines; there were no claims by the hotels. The representative believed that the "hotel packs" which were brought in immediately seemed to be effective.

- When will restoration begin?

Response: When the settlement negotiations have been concluded, the Consent Decree is entered, and the Plan is final.

Participants.

NAME	ADDRESS	ORGANIZATION	PHONE
Charles O'Neill	733 Bishop St., Honolulu, HI	Reinwald O'Connor and Playdon	808-524-8350
Jude Schwarce	3040 Umi St.	Dept. Health	808-241-3323
John Naughton	NMFS-Honolulu	NOAA	808-973-2935
Don Heacock	3060 Eiwa St., Lihue	DAR/DLNR	808-274-3344
Melisa Mars		Garden Island Newspaper	808-249-3681
Tom Telfer	3060 Elwa St., Lihue	DLNR/DOFAN	808-274-3433
Dave Aplin	PO Box 1128, Kileauea	USFWS	808-828-1413
Carol Terry	1151 Punchbowl St., Honolulu	DLNR/DFW	808-587-0166
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R. Chris Jansen	733 Bishop St., Honolulu, HI	Tesoro Hawaii	808-547-3242
Nathan Hokama	733 Bishop St., Honolulu, HI	Tesoro Hawaii	808-547-3639
Susan A. Kusunoki	733 Bishop St., Honolulu, HI	Tesoro Hawaii	808-547-3425
Gary Gill		Dept. Health	
Curtis Martin		Dept. Health, HEER	
Kathleen Ho		Hawaii Office of Attorney General	
Francis Oishi		Dept. Land and Natural Resources, Aquatic Resources	
Dan Palawski		USFWS	
Gail Siani		NOAA	206-526-4566

APPENDIX A.4

PUBLIC COMMENTS AND TRUSTEE RESPONSES TESORO DRAFT RESTORATION PLAN AND ENVIRONMENTAL ASSESSMENT

Two written public comments were received during the public comment period (June 7-July 10, 2000). Their comments are provided below, along with the responses by the Trustees.

The Trustees appreciate the input from these two individuals:

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4.5.3: Preferred Alternative: Predator Control in Newell's Shearwater Colonies on Kauai (pp. 44-46)

Comment: p. 44. Be VERY careful that the predator removal efforts do not actually increase predation by opening up trails through the uluhe fern. Frankly, the only way to keep this from happening might be to fence in the entire colony, which might not be feasible. (Cooper)

Response: The Trustees appreciate your concern regarding the potential to increase predation in the Newell's shearwater colonies. The colonies proposed for predator control work are already compromised by trail systems and have known mammalian predation. As noted in the Final Restoration Plan, we will attempt to minimize trail enhancement and disturbance to the birds by limiting access points to the colony. Fencing colonies from rat predators was not considered to be a viable option since it would be expensive, impracticable, and potentially more disruptive to nesting seabirds.

Comment: I am familiar with the studies done on the seabirds of Kauai and the great concern over the diminishing population estimates for these federally listed threatened and endangered species. Section 4.5.3 does not address the significant "taking" of the Newell's shearwater and dark-rumped petrel by the power lines that intercept the birds during their flights between the ocean and their nesting habitats in the mountains of Kauai. I feel that something must be done to stop the killing of the birds by the power lines. Section 4.5.3 focuses, instead, on predator control within the breeding colonies. This I support. I strongly believe that action such as

that proposed must be taken immediately to control population decline by the introduced predators. Furthermore, the benefits of predator control will far out weigh any disturbance to the natural habitat. We do not have the luxury of time to do further scientific studies. (Berg)

Response: The Restoration Plan notes that recent studies suggest that the decline of Newell's shearwaters on Kauai is due to the combination of predation by alien mammals and collision with power lines and lighted structures. Of these threats, predation was found to be the most serious threat to shearwater survival. The U.S. Fish and Wildlife Service and the State of Hawaii, Department of Lands and Natural Resources, organized the Save Our Shearwaters (SOS) program in 1978 to recover, rehabilitate, and release shearwaters injured by their attraction to lights and subsequent collisions with structures and power lines. This program has been highly successful in recovering and rehabilitating injured shearwaters. Additional measures have been developed to reduce fallout from collisions with lighted structures and power lines such as reducing the intensity of lights and placing lines underground at specific "hot spots" where the risk to shearwaters may be the greatest. These measures, however, are voluntary. Given the limited funds available for restoration, the high costs of placing power lines underground, and the success of the SOS program, the Trustees decided to focus efforts on an area which has not received attention to date, namely predator control. We appreciate your support of the proposed predator control project.

Comment: Some other restoration ideas not specifically mentioned: (1) bury existing power lines in bird "hot spots" where birds have been found historically, and (2) test marker balls effectiveness at reducing collision. (Cooper)

Response: Placement of power lines underground in seabird "hot spots" has been identified by scientists as a measure which would reduce seabird collisions. However, this measure is a voluntary effort and can be very expensive. The Trustees are focusing their efforts and limited funding on projects that will restore, protect, and enhance natural resources potentially injured by the spill and that will provide some compensation to the public and the environment for the loss suffered during the period until recovery is achieved. For this reason, broader research activities, such as testing the effectiveness of marker balls, were not considered in developing this Plan.

4.5.4 Preferred Alternative: Predator Control and Habitat Enhancement on Offshore Islands in the Hawaii Seabird Sanctuary (pp. 46-48)

Comment: The proposed action for offshore islands (Section 4.5.4) is well designed and backed by extensive experience. It will have significant impact on the restoration of seabirds. (Berg)

Response: The Trustees appreciate your comment.

4.5.5 Preferred Alternative: Extension of the Predator Fence at Kilauea Point National Wildlife Refuge on Kauai (pp. 48-50)

Comment: I am most familiar with the proposed alternative for the extension of the predator fence at Kilauea Point Natural Wildlife Refuge on Kauai (Section 4.5.5), as I am a volunteer hike leader at that refuge. The objectives of the proposed alternative are great, well worth the expenditure of funds, but I would like to offer some corrections and additions to the proposal. (Berg)

The proposed fence does not protect against mongooses, since none are present on Kauai, nor against mice and rats that can easily pass through the fence, nor against cats that may pass through or climb over. It functions primarily to keep dogs and humans from entering the refuge. (Berg)

Temporary breaches in the fence have resulted in significant mortalities of seabirds from uncontrolled dogs. While the hurricane did damage the fence, subsequent lack of maintenance and repair has allowed mass killings of birds up to as recently as this spring. The Kilauea Point National Wildlife Refuge is sorely lacking a Comprehensive Conservation Plan and the process of constructing one will not begin until the year 2007. Currently there is no formalized management plan for each of the species of birds that inhabit the refuge. The development of such a plan, one that specifically identifies fence survey and maintenance schedules, reporting schedules and the personnel responsible, should be a requirement of your funding. (Berg)

Specifically, under "Performance Criteria and Monitoring" should be the requirement for: (1) Conducting frequent surveys of the condition of the fence and recording of the number and locations of breaches etc. (2) Documentation of fence installation, repair and maintenance actions. (3) Reporting of the number of birds killed by each type of predator. (4) Standard monitoring. Techniques to document changes in colony size, survivorship, and productivity of each species of bird. (Berg)

It is unclear how the extension of the fence line as proposed by this restoration action plan is related to the extension currently underway and more importantly, how it is compatible with the proposed development of hiking trails, laboratories and a pavilion on the refuge's Crater Hill properties. These proposed developments will increase human disturbance of the birds and the probability of predation by dogs, thus negating any restoration activities on the refuge. A Comprehensive Conservation Plan is needed for the refuge. (Berg)

Response: The Trustees appreciate your support of this proposed project. The text has been revised to note that the predator fence provides protection primarily from dogs. Your suggestions regarding performance criteria and monitoring also have been incorporated into the Final Restoration Plan. Some of the performance criteria and monitoring actions are being addressed under other programs, such as the state-wide Hawaiian goose surveys, the state and federal fish and wildlife agencies' predator control work at the Kilauea Point NWR, and the red-footed booby colony surveys. The Trustees appreciate your concern regarding the development of a Comprehensive Conservation Plan (CCP) which specifically addresses the predator control fence. The Trustees will forward your comments concerning the CCP to the Kilauea Point NWR staff for consideration.

The installation and maintenance of the predator control fence, however, is an action that can occur in the absence of a CCP and which will provide significant and more immediate benefits to seabird resources, particularly in light of additional development in the area. A fencing plan was developed by the Kilauea Point NWR in 1997. It entailed erecting literally miles of fence, and in some places constructing two fences in parallel, to ensure that dogs would not decimate the seabird colonies at the refuge. Although the fencing plan has been initiated, there are insufficient funds to complete this entire project. The project outlined in this Restoration Plan will complement ongoing efforts and allow for completion of the predator exclusion fence at the refuge.

4.5.6 Non-Preferred Alternatives (p. 50-51)

Comment: I am in strong support of one of your non-preferred alternatives, the nest habitat improvement for wedge-tailed shearwaters at Kilauea Point. The Crater Hill properties could be greatly enhanced for nesting by the planting of native species of plants and construction of artificial burrows, once the area is properly fenced. Population densities are currently so low in this area to allow for expansion without any fear of population dependent disease outbreaks. I believe we would see an immediate increase in the number of successful nest sites the following breeding season. (Berg)

Response: The Trustees appreciate your support for this project. As mentioned in your comments, the Crater Hill properties need to be fenced prior to habitat enhancement due to disruption by predators such as dogs. The Trustees have no information suggesting that habitat is a limiting factor for wedge-tailed shearwaters. Therefore, our efforts focused on installing and maintaining a predator control fence in this area as a method to enhance seabird populations. However, we will share your suggestions for habitat enhancement with the Kilauea Point NWR staff.

Alternatives Not Raised in Draft Plan

Some other restoration ideas not specifically mentioned:

(1) Comment: Bury existing power lines in bird "hot spots" where birds have been found historically, and test marker balls effectiveness at reducing collision; Increase light shielding on Kauai. (Cooper)

Response: Scientists have developed a variety of measures (e.g., burying power lines and increasing light shielding) to reduce shearwater fallout from collisions with lighted structures and power lines. These measures, however, are voluntary and some, such as burying power lines, are very expensive. Others, such as increasing light shielding, are best approached through revisions in building codes. Given the limited funds available for restoration, the high costs of placing power lines underground, the alternatives for addressing light shielding issues, and the success of the SOS program, the Trustees decided to focus efforts on an area which has not received attention to date, namely predator control.

(2). Comment: Did you consider aerial dispersal of rodenticide (would have to be careful about non-target species, however)? (Cooper)

Response: Aerial dispersal was considered, however, pesticide registration for this technique has not yet been granted for the State of Hawaii.

(3) Comment: Do a predator assessment in the Alakai swamp--how many rats/cats are in the area? (Cooper)

Response: The Trustees are focusing their efforts and limited funding on projects that will restore, protect, and enhance natural resources potentially injured by the spill and that will provide some compensation to the public and the environment for the loss suffered during the period until recovery is achieved. For this reason, broader research survey activities were not considered in developing this Plan.

(4) Comment: Do radar surveys of the other main islands (Oahu, Maui, Molokai, Big Island) to obtain baseline information on distribution and abundance of petrels and shearwaters. (Cooper)

Response: As noted above, the Trustees are focusing on projects that will restore natural resources rather than broader research activities.

Appendix A.5

TRUSTEE ADOPTION RESOLUTION

The undersigned, as authorized officials of their respective federal and state natural resource trustee agencies, hereby approve and adopt the "Final Restoration Plan and Environmental Assessment for the August 24, 1998 Tesoro Hawaii Oil Spill (Oahu and Kauai, Hawaii)" and select the restoration projects described as Preferred Alternatives contained therein.

FOR THE U.S. DEPARTMENT OF THE INTERIOR:

By: Anne Badgley 10/17/00
Anne Badgley Date
Regional Director, Region 1
U.S. Fish and Wildlife Service

Approved as to Form:

By: _____ Date _____
Charles McKinley
Assistant Field Solicitor
Office of the Solicitor

**FOR THE STATE OF HAWAII,
DEPARTMENT OF LAND AND NATURAL RESOURCES**

By: _____ Date _____
Timothy E. Johns
Chairman of the Board of
Land and Natural Resources

**FOR THE STATE OF HAWAII,
DEPARTMENT OF HEALTH**

By: _____ Date _____
Gary Gill
Deputy Director, Department of Health

TRUSTEE ADOPTION RESOLUTION

The undersigned, as authorized officials of their respective federal and state natural resource trustee agencies, hereby approve and adopt the "Final Restoration Plan and Environmental Assessment for the August 24, 1998 Tesoro Hawaii Oil Spill (Oahu and Kauai, Hawaii)" and select the restoration projects described as Preferred Alternatives contained therein.

FOR THE U.S. DEPARTMENT OF THE INTERIOR:

By: Anne Badgley 10/17/00
Anne Badgley Date
Regional Director, Region 1
U.S. Fish and Wildlife Service

Approved as to Form:

By: Charles McKinley 11/6/00
Charles McKinley Date
Assistant Field Solicitor
Office of the Solicitor

**FOR THE STATE OF HAWAII,
DEPARTMENT OF LAND AND NATURAL RESOURCES**

By: _____ Date _____
Timothy E. Johns
Chairman of the Board of
Land and Natural Resources

**FOR THE STATE OF HAWAII,
DEPARTMENT OF HEALTH**

By: _____ Date _____
Gary Gill
Deputy Director, Department of Health

TRUSTEE ADOPTION RESOLUTION

The undersigned, as authorized officials of their respective federal and state natural resource trustee agencies, hereby approve and adopt the "Final Restoration Plan and Environmental Assessment for the August 24, 1998 Tesoro Hawaii Oil Spill (Oahu and Kauai, Hawaii)" and select the restoration projects described as Preferred Alternatives contained therein.

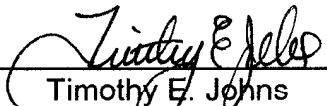
FOR THE U.S. DEPARTMENT OF THE INTERIOR:

By: _____ Date _____
Ann Badgley
Regional Director, Region 1
U.S. Fish and Wildlife Service

Approved as to Form:

By: _____ Date _____
Charles McKinley
Assistant Field Solicitor
Office of the Solicitor

**FOR THE STATE OF HAWAII,
DEPARTMENT OF LAND AND NATURAL RESOURCES**

By:  _____ Date 9/7/00
Timothy E. Johns
Chairman of the Board of
Land and Natural Resources

**FOR THE STATE OF HAWAII,
DEPARTMENT OF HEALTH**

By: _____ Date _____
Gary Gill
Deputy Director, Department of Health

TRUSTEE ADOPTION RESOLUTION

The undersigned, as authorized officials of their respective federal and state natural resource trustee agencies, hereby approve and adopt the "*Final Restoration Plan and Environmental Assessment for the August 24, 1998 Tesoro Hawaii Oil Spill (Oahu and Kauai, Hawaii)*" and select the restoration projects described as Preferred Alternatives contained therein.

FOR THE U.S. DEPARTMENT OF THE INTERIOR:

By: _____
Ann Badgley
Regional Director, Region 1
U.S. Fish and Wildlife Service
Date _____

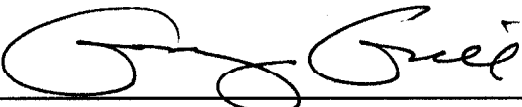
Approved as to Form:

By: _____
Charles McKinley
Assistant Field Solicitor
Office of the Solicitor
Date _____

**FOR THE STATE OF HAWAII,
DEPARTMENT OF LAND AND NATURAL RESOURCES**

By: _____
Timothy E. Johns
Chairman of the Board of
Land and Natural Resources
Date _____

**FOR THE STATE OF HAWAII,
DEPARTMENT OF HEALTH**

By: _____

Gary Gill
Deputy Director, Department of Health
Date 8/30/00

TRUSTEE ADOPTION RESOLUTION

**FOR THE NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION,
DAMAGE ASSESSMENT AND RESTORATION PROGRAM:**

This certifies that the Damage Assessment and Restoration Program (DARP) Managers, on behalf of the National Oceanic and Atmospheric Administration, approved the restoration projects described as Preferred Alternatives contained in the *"Final Restoration Plan and Environmental Assessment for the August 24, 1998 Tesoro Hawaii Oil Spill (Oahu and Kauai, Hawaii)"*. Approval by the Program Managers is pursuant to the Damage Assessment and Restoration Program Board of Directors' delegation decision of July 17, 1996.

By: Katherine A. Pease 22 August 2000
Katherine A. Pease Date
Senior Counselor for Natural Resources
DARP Manager

Appendix A.6

FINDING OF NO SIGNIFICANT IMPACT

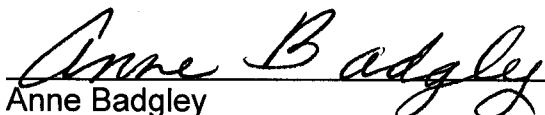
**RESTORATION PLAN AND ENVIRONMENTAL ASSESSMENT
FOR THE TESORO HAWAII OIL SPILL (AUGUST 24, 1998)
(OAHU AND KAUAI, HAWAII)**

The National Oceanic and Atmospheric Administration is the lead federal agency for National Environmental Policy Act (NEPA) compliance for the Final Restoration Plan and Environmental Assessment for the August 24, 1998 Tesoro Hawaii Oil Spill (Oahu and Kauai, Hawaii) (Restoration Plan). The cooperating agencies include the U.S. Department of the Interior (U.S. Fish and Wildlife Service) and the State of Hawaii (through the Department of Health and the Department of Land and Natural Resources).

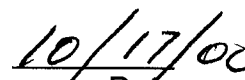
The Environmental Assessment for this project evaluated three alternatives, including the "no action" alternative. The public was afforded two opportunities to review and provide input on the alternatives, including the preferred alternatives. A public meeting was held on Kauai, Hawaii, on June 21, 2000 to present the Draft Restoration Plan to the public. The Draft Restoration Plan was also made available to the public for a 30-day public comment period, ending July 10, 2000, in both hardcopy form and posting on government web pages. The public comments received as a result of the public comment process was favorable to the Preferred Alternatives and has been included as Appendices A.3 and A.4 to the Plan.

DETERMINATION:

Based upon an environmental review and evaluation of the Restoration Plan and Environmental Assessment for the August 24, 1998 Tesoro Hawaii Oil Spill (Oahu and Kauai, Hawaii), I have determined that the proposed action does not constitute a major federal action significantly affecting the quality of the human environment within the meaning of Section 102(2)(c) of the National Environmental Policy Act of 1969, as amended. Accordingly, an Environmental Impact Statement is not required for this project.



Anne Badgley
Regional Director, Region 1
U.S. Fish and Wildlife Service


Date

DETERMINATION:

Based upon an environmental review and evaluation of the Final Restoration Plan and Environmental Assessment for the August 24, 1998, Tesoro Hawaii Oil Spill, Oahu and Kauai, Hawaii, I have determined that the proposed action does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of Section 102(2)(c) of the National Environmental Policy Act of 1969, as amended. Accordingly, an environmental impact statement is not required for these projects.

Penelope D. Dalton

10/23/01

for Penelope D. Dalton
Assistant Administrator for Fisheries
National Marine Fisheries Service
National Oceanic and Atmospheric Administration

Date