

Steamship Mutual

Cosco Busan –FFO and Pollution.
– 7th November, 2007.

4.1 The incident

- Cosco Busan sailed San Francisco – 0748 hrs 7th November, 2007
 - Heavy fog in the bay area restricted visibility to less than ¼ mile.
 - San Francisco bay safety plan recommends vessels do not sail if visibility less than 1/2 mile.
 - Pilots on four other vessels delayed sailing.
 - Vessel struck “Delta” pier of Bay Bridge – 0830 hrs
 - Two of vessel’s bunker tanks damaged and 200 mt (1,262 barrels) of bunkers spilled
 - 89.66 miles of shoreline polluted; although only 34.45 miles heavily/moderately.
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Damage to “Delta” pier of Bay Bridge



Damage to the vessel



Pollution



1. Pollution – impact areas

Heavy 2 miles	Moderate 4 miles	Light 21 miles	Very Light 43 miles	NOO 130 miles
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Maximum Oiling

- █ Heavy
- █ Moderate
- █ Light
- █ Very Light
- █ No Oil
- █ Flats
- █ Eelgrass



Pollution – clean up





Clean up operation

Massive clean-up response

State of emergency declared and crab fisheries closed

Majority of clean-up completed within 2 months

finally concluded in autumn 2008

Cost of Spill clean up:	US\$68,555,656
Shoreline Assessment & NRDA:	US\$ 3,814,527
Government Agencies and Environmental costs:	US\$ 9,215,316*
Total	US\$81,585,499

*does not include Federal and State response and assessment costs of US\$9 million that are part of the NRD settlement package.



Third party claims

Include:	Pleasure craft, marinas, commercial and residential property, Fishing vessels, crab and herring fishing boats and crew, Bay Bridge, and fish industry class actions
Claims:	1,824 claims in total at US\$285,000,000*
Settled:	1,151 claims at US\$59 million (20%)
Rejected:	667 claims (37%)
Outstanding	6 claims

*class action claimants claimed US\$200,000,000 – settled at US\$23 million.

Natural Resource Damage (incl Govt / State / City fines / costs)

<u>Trustee Groups</u>	<u>Trustees Claim</u>	<u>Settlement</u>
Birds	US\$ 6,593,944	US\$ 5,000,000
Fish & Eelgrass	US\$ 2,686,780	US\$ 2,500,000
Sandy Beaches } Marsh & Mudflats}	US\$ 6,547,000	US\$ 4,000,000
Rocky Intertidal } Recreational		
- shoreline	US\$22,110,000	
- boating	US\$ 1,930,000	
- fishing	<u>US\$ 2,920,000</u>	
	<u>US\$25,960,000</u>	<u>US\$17,800,000</u>
Admin & oversight cost	US\$ 3,000,000	US\$ 3,000,000
	US\$ 44,787,724	US\$32,300,000

Total claims of **US\$145.15million** settled at **US\$43.327 million**

Overall costs

Strict liability under OPA and threat of forfeiture of vessel under National Marine Sanctuaries Act. Claims settled under OPA and threat of forfeiture eventually dropped.

Clean-up costs	\$81,585,500
Third party claims	\$59,000,000
Natural Resource Damage	\$43,327,000
Fines	\$10,000,000
Costs	\$31,088,000
Total Costs	\$215,491,500

No right to reimbursement of sums paid in excess of vessel limitation because the incident was:

“... proximately caused by (A) gross negligence or wilful misconduct of, or (B) the violation of an applicable federal safety, construction or operating regulation by, the responsible party,”

The causes of the incident

Navigating in thick fog in contravention of local regulations

Navigating at excessive speed for the conditions

Vessel did not prepare berth to berth passage plan

Pilot did not advise the master of his own passage plan out of the bay.

Pilot error



The Pilot - Captain Cota

Certified to conduct pilotage by USCG and State of California via Board of Commissioners. Annual medical examinations.

11 prior incidents – 1983 - 2002

Medical problems include:

Pancreatitis caused by alcoholism – depression – migraine headaches – anxiety – obstructive sleep apnea - irritable bowel syndrome - glaucoma – hypothyroidism – kidney stones.

Taking cocktail of prescription drugs including Vicodin, Darvon, Talwin, Lorazepam, Diazepam, Imitrex, Lomitril, Valium, Provigil, Vicodin and Zoloft

Average daily consumption of 20 tablets

Prescription records show 10,000 tablets purchased in 2 years prior to the incident

Top International Group Pollution Claims

		Cost	Tonnes	US\$ per tonne
1989	Exxon Valdez	US\$ 4,000,000,000*	41,000	US\$ 97,560
2007	Hebei Spirit	US\$ 225,000,000	12,000	US\$ 18,750
2007	Cosco Busan	US\$ 215,491,500	200	US\$ 1.077 mil
2004	Selendang Ayu	US\$ 177,000,000	1,200	US\$ 147,500
2003	B.NO.120	US\$ 132,594,101	400	US\$ 331,485
2003	Tasman Spirit	US\$ 64,522,662	30,000	US\$ 2,150

*Capped at US\$400,863,151



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