

**DRAFT**  
**AMENDMENT TO THE CHALK POINT 2002 RESTORATION PLAN**  
**AND ENVIRONMENTAL ASSESSMENT**

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**National Oceanic and Atmospheric Administration**  
**Maryland Department of Natural Resources**  
**Maryland Department of the Environment**  
**U.S. Fish and Wildlife Service**



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## **I. Introduction**

### **The Chalk Point Oil Spill and Natural Resource Injuries**

On April 7, 2000, a leak was detected in a 12-inch underground pipeline that supplies oil to the Pepco Chalk Point generating facility in Aquasco, Maryland. Approximately 140,000 gallons of fuel oil spilled from the ruptured pipeline into Swanson Creek, a small tributary of the Patuxent River. The spilled oil was a mix of Number 6 fuel, the oil normally transported by the pipeline to generate electricity, and Number 2 fuel, much lighter oil that was being used to flush the pipeline as part of a cleaning process. On the night of April 8, high winds blew the oil over the booms that had been deployed, spreading oil down seventeen miles of the Patuxent River. Approximately 40 linear miles of environmentally sensitive downstream creeks and shorelines along the Patuxent River were oiled. Injuries resulting from the spill included lost recreational use, and injury to wetlands and beach shorelines, birds and waterfowl, fish and shellfish, diamondback terrapins, and benthic communities.

### **Natural Resource Trustees**

The natural resources trustees for the Chalk Point Oil Spill include the following four federal and state agencies: the National Oceanic and Atmospheric Administration (NOAA) on behalf of the U. S. Department of Commerce, the United States Fish and Wildlife Service (USFWS) on behalf of the U.S. Department of the Interior (DOI), the Maryland Department of Natural Resources (DNR), and the Maryland Department of the Environment (MDE) (collectively, the Trustees). The goal of the Trustees' natural resource damage assessment (NRDA or Assessment) was to determine the nature and extent of injuries to natural resources and to quantify the resulting resource and service losses. Once this Assessment was undertaken, the Trustees examined restoration options in the Restoration Plan.

### **Chalk Point Oil Spill Settlement and Restoration Plan**

The Trustees prepared a Restoration Plan and Environmental Assessment for the April 7, 2000 Oil Spill at Chalk Point on the Patuxent River, Maryland (Restoration Plan or RP/EA) and completed it in November 2002 (available at [https://casedocuments.darrp.noaa.gov/northeast/chalk\\_point/admin.html](https://casedocuments.darrp.noaa.gov/northeast/chalk_point/admin.html)). The RP/EA supported a settlement that was reached in December 2002, for \$2.7 million for natural resource restoration. Based on public meetings and outreach to federal, state, and local agencies, the Trustees developed a list of potential restoration and lost use project options. From this list, the Trustees selected a suite of proposed projects for implementation after a detailed analysis on project feasibility, cost and anticipated benefits. The Restoration Plan called for:

- (1) creation of a new 6-acre marsh combined with a beach enhancement project;
- (2) creation and seeding of an oyster sanctuary;

- (3) acquisition, restoration, and maintenance of nesting habitat for ruddy ducks in the Prairie Pothole region of the Midwest;
- (4) build two canoe/kayak campsites;
- (5) build a canoe/kayak/small boat launch;
- (6) enhance a recreational park with foot trails, a boardwalk, educational signs, and parking;
- (7) improve an existing boat ramp and pier;
- (8) replace a deteriorating boardwalk and provide equipment for a river education program, and
- (9) add boat launch capabilities to an existing fishing pier.

## **II. Purpose and Need for Action**

The purpose of this Amendment to the Restoration Plan for the Chalk Point Oil Spill is to make the environment and the public whole for injuries resulting from the Oil Spill, and resulting impacts by implementing restoration actions that restore and compensate for injured natural resources and services. Based on information collected during the pre-assessment efforts and summarized in the RP/EA, the Trustees identified the following six categories of injury resulting from the Chalk Point oil spill: (1) wetlands and beach shoreline, (2) fish and shellfish, (3) benthic communities, (4) birds, (5) diamondback terrapins and (6) recreational use. These injuries were further assessed in the RP/EA, and as a result, the Trustees determined that a number of potential restoration actions existed to compensate for the losses. Regarding lost recreational use, the Trustees determined that the Chalk Point oil spill caused a reduction in the number of trips taken to the Patuxent River for swimming, boating, fishing and general shoreline use. All of the ecological restoration and lost recreational use projects that the Trustees selected in the original RP/EA have been completed, with the exception of two lost recreational use projects that were not able to be implemented.

The Cedar Haven Fishing Pier Project recommended within the RP/EA was not implemented following additional outreach and consultation with the local neighborhood and landowners adjacent and near to the proposed location of the pier. Although the location had been identified by county planners as a site recommended for facility improvement and increased access, the neighborhood expressed concern that the infrastructure (roads, parking, site control, etc.) lacked the ability to support the desired increased use without significantly impacting the local community. For this reason, the Trustees agreed with county planners that the pier project should not move forward with construction at this location.

The Kings Landing Boardwalk and River Education Project, located just north of the spill impact zone, was intended to replace a deteriorating boardwalk and to establish a river education project. The proposed project on Cocktown Creek was a 160-foot-long

boardwalk, terminating at a 10-by-20 foot platform. After completion of the RP/EA, park authorities determined not to move forward with the construction and upkeep of these facilities, nor the river education program that was to be associated with those facilities. Other educational and access improvements have occurred within the park since that time with funding and implementation independent of the Trustees' Restoration Plan.

Because the Trustees were unable to carry out the Cedar Haven Fishing Pier or the King's Landing Boardwalk and River Education Project, there remains a need for public access and utilization of water resources in the vicinity of the Oil Spill. The Trustees must consider other options for compensating the public for service losses due to the Oil Spill, and subsequent closure during the clean-up period. The Trustees propose to modify the 2002 RP/EA, replacing those two lost recreational use projects with a suitable and comparable alternative.

### **III. Public Involvement**

This Amendment to the Restoration Plan provides the public with information on the Trustees' restoration project progress to date, the Trustees' remaining restoration objectives, the restoration alternatives considered, and the preferred restoration alternative. This Amendment is being released and circulated for public comment by the Trustees, electronically, via email to known interested parties and through a NOAA web-based case page posting (<https://darrp.noaa.gov/oil-spills/chalk-point>), and through placement at public document centers (at Jefferson Patterson Park and the Calvert County Library in Prince Frederick (Market Square Shopping Center, 850 Costley Way, Prince Frederick, MD 20678) for a 30 day comment period. Following this, the Trustees will evaluate and address any significant public comments, and subsequently issue a Final Amendment to the Restoration Plan.

### **IV. Administrative Record**

This document will be retained in the formal administrative record for the case, which currently resides with the NOAA Restoration Center, at National Oceanic and Atmospheric Administration – National Marine Fisheries Service, 177 Admiral Cochrane Drive, Annapolis, Maryland 21401.

### **V. Alternatives Considered**

#### **Trustee Criteria for Identifying Additional Potential Recreational Lost Use Projects**

In the 2002 RP/EA, the Trustees established the criterion that any projects located in the immediate area impacted by the spill should be considered as a first priority. There was a strong desire in public comments received throughout the original public process to keep the restoration and projects in proximity to those areas that were affected by the spill. Comments on the original Restoration Plan also endorsed increasing public access for both powered and paddle craft.

In seeking to identify and evaluate an alternative project in this Amendment to the RP/EA, the Trustees once again prioritized proximity to the area of the original spill and affected shoreline. The Trustees also prioritized identifying a similar type project with comparable benefits to the two original projects not implemented, to the extent practical. Further, the Trustees continued to use the evaluation criteria in the OPA regulations (15 CFR § 990.54) in addition to the other “Factors to evaluate proposed restoration alternatives under the Oil Pollution Act, Patuxent River oil spill” which were fully described in the original RP/EA (section 5.2 Evaluation Criteria). The Kings Landing Boardwalk site was planned with the intended goal of improving recreational access through King’s Landing Marsh and along the river edge for birding, wildlife observing, and educational programming. This was to have been provided by constructing an elevated boardwalk over the marsh and along the river edge. The Cedar Haven Fishing Pier Project goal was to increase recreational access by providing a pier for recreational fishing and small boat access.

The Trustees considered alternative projects to replace those that were not implemented, specifically seeking projects that meet the restoration goals of providing public access and utilization of water resources in the vicinity of the Oil Spill. The Trustees re- considered the non-preferred restoration alternatives included in the original RP/EA<sup>1</sup>. Only those potential projects that were deemed to have a nexus to the injury in the original RP/EA were considered once again (Table 1).

**Table 1.** List of potential lost recreational use projects considered in the 2002 RP/EA and reconsidered for the proposed 2018 Amendment to the Restoration Plan.

<b>Project Name</b>	<b>Project Description</b>	<b>County</b>	<b>Preliminary Determination</b>
Paddle In Campsites	Establish paddle-in primitive campsites on state NRMA properties	Prince Georges, Calvert and Charles	The paddle in sites that were deemed feasible and merited being upgraded were already completed as part of the original RP/EA.
St. Mary’s Marina Boat Ramp	Upgrade and repair	St. Mary’s	The ramp could be enhanced by various improvements, but the long term easement on the site and private ownership concerns remain as were identified in the original RP/EA.
Kings Landing Boardwalk and Foot Trail	Construct a 2,200 foot long boardwalk and foot trail along the shoreline and marsh.	Calvert	The site is located outside of the immediate spill impact area and the estimated construction cost alone (not including design) exceeds the available funds remaining for implementation. (note: this was a different and separate proposed project from Kings Landing Project originally considered and selected in the 2002 RP/EA)
Solomons Island Boardwalk Lighting	Install lighting on boardwalk near Solomons Island	Calvert	Since been completed independent of the 2002 RP/EA, but also little direct nexus toward spill and increasing public access and utilization.

<sup>1</sup> Projects considered, but not selected as preferred projects for implementation were evaluated in section 5.7 (Non-preferred Alternatives) of the original RP/EA. While many of those non-preferred restoration alternatives were expected to be beneficial, the Trustees ultimately concluded that either the alternative did not meet one or more of the evaluation criteria, or better alternatives existed at the time.

Jefferson Patterson State Park Boardwalk and Foot Trail	Construct a boardwalk along the base of a bluff by the shore.	Calvert	Considered in the 2002 RP/EA <sup>2</sup> and in this Amendment to the Restoration Plan. Non-preferred due to likely impacts to sensitive coastal habitats and more effective alternatives.
Jefferson Patterson State Park Paddle Trail	Develop a paddle trail from Jefferson Patterson State Park to the headwaters of St. Leonard Creek	Calvert	Other projects selected in 2002 RP/EA addressed paddle trail access needs and put-in areas, so that need has been fulfilled. Remaining need is for walking access, fishing access and small vessel docking.
Golden Beach Boat Ramp	Repair boat ramp at Long Point in the private community of Golden Beach	St. Mary's	This is a privately owned boat ramp. Funds and projects intended to compensate the public for lost recreational use should be publicly accessible.

Based on the information gathered for the original RP/EA, and updated information in Table 1 above, the Trustees determined that these alternatives remain unviable and/or non-preferred when re-evaluated. There were no other recreational use alternatives identified by the Trustees that met the restoration goals and objectives or that met the Trustees' criteria for identifying additional potential recreational lost-use projects.

Additionally, no new public access points have been created on the Patuxent River in the original spill area (identified as the Prince Georges/Charles County line to the north and Solomons to the south) since the original identification and implementation of projects.

### **Proposed Alternative Lost-Use Project Location and Details**

The proposed action is a pier and boardwalk project located at the Jefferson Patterson Park and Museum (JPPM). JPPM is part of the Maryland Historical Trust, and was donated to the State of Maryland in 1983 by Mrs. Jefferson Patterson to be a 512-acre passive recreation, educational and research facility. The state has added about 48 acres to the property and it is now 560 acres with over 2.5 miles of shoreline on the Patuxent River and St. Leonard's Creek. JPPM is the only publicly owned waterfront on St. Leonard's Creek.

JPPM lies within the area impacted by Chalk Point Oil Spill, and its shoreline had to undergo active clean-up for a period after the spill. There is a current demand for water-based access to JPPM that cannot be met due to lack of pier or dockage facilities. The park regularly receives inquiries from the public asking for instructions on how to visit the park by water. A public pier will provide access to boaters who want to visit the park or come to one of JPPM's many cultural and historical festivals. A public pier is needed for boat-based tours from the Calvert Marine Museum at Solomon's to JPPM and

<sup>2</sup> In the original RP/EA, the Trustees considered this proposal to create a boardwalk and foot trail along part of the northeast shore of the Patuxent River in Jefferson Patterson State Park. However, the expense of the project and the potential disruption of shoreline vegetation and wildlife weighed against the project in the Trustees' selection process.

Historic Sotterley, directly across the river from JPPM. The number of visitors arriving by boat would be expected to significantly increase with the construction of the pier.

The proposed Jefferson Patterson Park Pier and Boardwalk Project, would provide a new publicly accessible pier to replace the remnants of the existing pier that was destroyed by Hurricane Isabel in 2003 (Figures 2 and 3). The pier would need to be approximately 140 feet long with a short ‘T’ on the end, in the same place and orientation as the former pier (Figures 2 and 3). The pier design would need to accommodate about four vessels up to about 40 feet long. There would need to be approximately 340 feet of boardwalk to connect the pier to existing trails, with both the boardwalk and pier designed to Americans with Disabilities Act (ADA) standards so as to be handicapped accessible.

The initial cost estimate for this project includes survey, design, permitting, construction management, construction, inspection and required post-construction as-built surveys.

340’ of ADA Boardwalk	\$125,000
140’ of ADA Pier	\$225,000
Total	\$350,000

The proposed project would implement the remaining funds and fulfill the need for public access projects due to the two earlier selected projects not being able to be implemented. There are sufficient funds available from those two unviable projects and remaining case funds to support full design and construction of the proposed Jefferson Patterson Park Pier and Boardwalk Project.

A boardwalk project at JPPM was considered in the original RP/EA, but ruled out for selection since the location and alignment of it would have required impacts to sensitive vegetated shoreline areas. The original proposed location was adjacent to the current proposed pier location, and would have provided access to a natural shoreline area. The 2002 RP/EA determined that similar walking trails existed on the property for experiential walking tours of the site. The boardwalk portion of the proposed JPPM pier project analyzed here would have a different alignment but fulfill similar goals, connecting not only the proposed pier to the mainland by elevating it over sensitive wetlands, but also providing access to a separately planned, funded, and permitted shoreline restoration project currently under construction (Figure 4). This would reduce any wetland impact while also providing a similar wetlands related boardwalk as would have been originally accomplished had the originally selected Kings Landing Project been implemented. In conjunction with the co-occurring shoreline project, the proposed project also provides public access to educational and outreach opportunities at a shoreline/wetlands site.

### **No Action/Natural Recovery Alternative**

NEPA requires the Trustees to consider a “no action” alternative, and the OPA regulations require consideration of the natural recovery option. These alternative

options are equivalent. The no action/natural recovery alternative for the Chalk Point restoration planning was fully described and analyzed in the original RP/EA. That information has not changed, and is incorporated here by referenced and briefly summarized below.

Under this alternative, the Trustees would take no direct action to restore injured natural resources or compensate for lost services pending environmental recovery. Instead, the Trustees would rely on natural processes for recovery of the injured natural resources. While natural recovery would occur over varying time scales for the injured resources, the interim losses suffered would not be compensated under the no action alternative.

The principal advantages of this approach are the ease of implementation and low cost. This approach relies on the capacity of ecosystems to “self-heal”. OPA, however, clearly establishes Trustee responsibility to seek compensation for interim losses pending recovery of the natural resources. This responsibility cannot be addressed through a no action alternative. While the Trustees have determined that natural recovery is appropriate as primary restoration for injuries resulting from this incident, the no action alternative is rejected for compensatory restoration. Technically feasible, cost-effective alternatives exist to compensate for these losses.

The no action/natural recovery alternative would not result in impacts to the physical, biological, and cultural/human use environment since no restoration actions would be undertaken. However, the benefits from public access and utilization of water resources in the vicinity of the Oil Spill would not be fully achieved and the public would not be fully compensated for lost recreational use resulting from the spill.

### **Preferred Alternative**

After considering multiple alternatives, the Trustees propose selection of the Jefferson Patterson Park Pier and Boardwalk as a project to address lost recreational use due to the Chalk Point Oil Spill, and to provide comparable benefits to the unimplemented Cedar Haven Fishing Pier and Kings Landing Boardwalk Projects. Further, the Trustees have determined that the proposed action falls within the scope of the originally selected Cedar Haven Fishing Pier and Kings Landing Boardwalk alternatives described in the original RP/EA. The type of project, geographic vicinity within the spill area and original restoration scoping area, resource benefits, and direct, indirect, and cumulative benefits are all nearly identical between the originally planned two projects and the proposed replacement boardwalk/pier project.

The Trustees have also determined that the proposed boardwalk and pier project at Jefferson Patterson Park meets the restoration goal of restoring lost recreational uses impacted by the spill, and is consistent with the evaluation criteria in the OPA regulations (15 CFR § 990.54) in addition to the other “Factors to evaluate proposed restoration alternatives under the Oil Pollution Act, Patuxent River oil spill” (NOAA 2002) which were fully described in the original RP/EA (section 5.2 Evaluation Criteria).

The Trustees therefore propose to modify the original RP/EA with this Amendment to the RP/EA, to include design and construction of a public access pier and boardwalk at Jefferson Patterson Park in Calvert County Maryland as the preferred restoration alternative

## **VI. Compliance with the National Environmental Policy Act**

Actions undertaken by the Trustees to restore natural resources or services under OPA and other federal laws are subject to the National Environmental Policy Act, (NEPA), 42 U.S.C. § 4321 *et seq.*, and the regulations guiding its implementation (40 C.F.R. 1500 *et seq.*). The original RP/EA demonstrates the Trustees' compliance with NEPA requirements for selection of the various restoration projects and concluded with a Finding of No Significant Impact (FONSI) under NEPA.

### **Affected Environment**

The proposed project area is in close proximity to other recreational use projects (Nan's Cove Boat Access, ADA Kayak/Canoe Launch, Forest Landing Boat Ramp) that were analyzed and selected in the original RP/EA. The affected physical, biological, and cultural environment remains similar to that described in the original RP/EA (section 3.0 Affected Environment), and that information is incorporated by reference and briefly summarized here. There are no new resources that were not described and evaluated in the RP/EA.

The physical environment affected by the Chalk Point oil spill includes approximately 40 miles of surface water, sediments, and shoreline along the mainstem of the Patuxent River and associated tidal tributaries, marshes, and shoreline habitats including (but not limited to) the mainstem of the Patuxent River, Swanson Creek, Indian Creek, Trent Hall Creek, Washington Creek, Cremona Creek and Caney Creek.

The biological environment includes a wide variety of birds, fish, mammals, shellfish, and other organisms. The federally threatened Puritan tiger beetle resides in the Patuxent River region. The diamondback terrapin, Maryland's official state reptile, is also of special interest to state and federal wildlife managers and is found within the spill area.

In addition to valuable cultural resources, the Patuxent River watershed supports a considerable amount of recreational activity, including fishing, swimming, boating, and picnicking. While available data are not sufficient to determine the contribution of economic activity in the impact area to these statewide totals, the contributions are significant and depend on a healthy ecosystem in the Patuxent River region.

## **Environmental Consequences**

### Jefferson Patterson Park Pier and Boardwalk Project

The potential impacts to natural resources or services from this type of recreational use restoration activity (i.e., pier and boardwalk project construction) were fully evaluated in the original RP/EA (section 5.3 Environmental Consequences (Indirect, Direct, Cumulative)); also see section 5.5.7.5 King's Landing Boardwalk and River Education Project and 5.5.7.6 Cedar Haven Fish Pier Project), and are incorporated here by reference. No significant project-specific adverse environmental, social or economic impacts are expected.

Any adverse impacts from project construction would be temporary, localized, and generally minor, and would be minimized via the use of best management practices (BMPs). These temporary impacts are anticipated to have a minor short term impact to recreation, public access to, and public use of the site; and localized use of the nearshore area and habitats by fish, birds, and other wildlife. Minor increases in noise during pile driving and related construction activities may disturb humans and wildlife; however, these impacts are expected to be temporary. There may be temporary visual impacts during project implementation; however, once construction is completed, the visual impacts will cease and beneficial aesthetic impacts will then extend to the users of the project. No adverse social or economic impacts on neighborhoods or communities are anticipated. Impacts to water quality may result from temporary increases in sedimentation and turbidity during project construction; however, these impacts would be minor and localized, and would be minimized through the use of BMPs along with other avoidance and mitigation measures. The Trustees know of no direct or indirect impacts of the proposed restoration action on threatened or endangered species, or their designated critical habitats. The general locale where the restoration actions would be sited is not critical habitat for any listed species. No unique or rare habitat would be destroyed due project construction. Marine mammal presence in the area is transient and infrequent, minimizing the potential for vibration/noise impacts from pile driving. The proposed project will not adversely affect any known archaeological sites or sites of cultural significance. Once implemented, the project is expected to provide indirect and direct benefits to recreational opportunities in the area. Since the Trustees designed the project to achieve recovery of injured natural resources and services, the cumulative environmental consequences will be largely beneficial.

The proposed action can be implemented in compliance with all applicable federal, state and local permits and approvals, and associated state water quality certification. All permits and environmental compliance would be obtained and satisfied prior to project implementation, as discussed in section VI. Compliance with other Laws and Regulations below.

As summarized in the original RP/EA, the Trustees determined that the selected restoration projects, including the lost recreational use projects, would not cause significant adverse impacts to natural resources or the services they provide. Further, the Trustees did not believe the proposed projects would affect the quality of the human environment in ways deemed "significant." That determination remains unchanged for

the proposed Jefferson Patterson Park Pier and Boardwalk Project selected in this Amendment to the RP/EA.

Based on the review documented above, the Trustees conclude that the proposed action and associated environmental impacts are fully covered in the original RP/EA NEPA analysis.

## **Conclusion**

The Trustees are confident that the proposed lost-use project at Jefferson Patterson Park provides comparable benefits to the two originally selected recreational use projects that could not be implemented (King's Landing Boardwalk and River Education Project and Cedar Haven Fish Pier Project). Furthermore, coupled with the shoreline restoration project underway adjacent to the proposed pier location, the proposed boardwalk component would facilitate both access over the marsh to the proposed pier as well as provide public access to the newly restored shoreline project. When the proposed project is considered in conjunction with the co-located shoreline project, the benefits exceed the original two planned projects.

The Trustees have preliminarily determined that the scope of the proposed restoration action at Jefferson Patterson Park (and the no-action alternative) and all its potential impacts are essentially the same as those described and evaluated in the original RP/EA, and there are no geographic or site-specific conditions, sensitivities, new information, or additional environmental impacts expected to occur within the project area beyond those covered in the RP/EA that might warrant additional NEPA analysis or preparation of a new NEPA document (e.g., EA, SEA).

## **VII. Compliance with other Laws and Regulations**

The U.S. Army Corps of Engineers issued a permit for the proposed pier project on February 1, 2018, under Section 404 of the Clean water Act and Section 10 of the Rivers and Harbors Act, which addressed and resolved any issues and concerns regarding the following consistencies and consultations.

The permit reviewed and ensured consistency, through inter-agency consultation and review, with the Coastal Zone Management Act, the Endangered Species Act, the Fish and Wildlife Conservation Act, the Fish and Wildlife Coordination Act, the Magnuson-Stevens Fishery Conservation and Management Act, as amended and reauthorized by the Sustainable Fisheries Act, the Marine Mammal Protection Act, Executive Order 11990 (42 FR 26,961) - Protection of Wetlands, Executive Order 12898 (59 Fed. Reg. 7,629) – Environmental Justice, and National Historic Preservation Act (NHPA).

## **VIII. Request for Information**

Requests for further information about the proposed modifications to the original RP/EA may be directed to Rich Takacs, National Oceanic and Atmospheric Administration – National Marine Fisheries Service, 177 Admiral Cochrane Drive, Annapolis, Maryland 21401 or rich.takacs@noaa.gov.

**Figure 1.** Jefferson Patterson Park location in the Patuxent River.



**Figure 2.** Southern end of Jefferson Patterson Park showing existing shoreline features and proposed pier alignment.



**Figure 3.** Remnant pier pilings at Jefferson Patterson Park. Proposed pier would follow same alignment. Image shows existing marsh to be traversed by proposed boardwalk.



**Figure 4.** Image showing co-located shoreline restoration project under construction in August of 2018. This separate project would be accessible via proposed boardwalk.

