

**Elliott Bay Trustee Council
Lower Duwamish River
Resolution 2011-01**

In this resolution by the Elliott Bay Trustee Council: 1) Trustees agree that the performance bond obtained by Bluefield Holdings Inc. is an appropriate financial assurance to ensure construction completion of the Duwamish River Habitat Restoration Project, West Side West Waterway - Site 01 (Site 1 Project); 2) Trustees agree that an Escrow Agreement is an appropriate financial assurance to ensure the ten-year operation and maintenance of the Site 1 Project; 3) Authorizes the National Oceanic and Atmospheric Administration to sign the Escrow Agreement with Bluefield Holdings, Inc. and Bay Area Escrow, an Escrow Agent, to establish an Escrow Account which ensures completion of the operation and maintenance of the Duwamish River Habitat Restoration Project, Site 1 Project; and 4) Trustees agree that the conceptual design for the Site 1 Project is valued at 46.9 DSAYs.

Adopted: March 24, 2011

Attachments: Bluefield Holdings Project Site 1 Design

The Elliott Bay Trustee Council (hereafter “Trustee Council”) consists of the National Oceanic and Atmospheric Administration (NOAA) of the U.S. Department of Commerce (acting as Lead Administrative Trustee); the U.S. Department of the Interior, represented by the U.S. Fish and Wildlife Service; the Muckleshoot Indian Tribe; the Suquamish Tribe; and the Washington Department of Ecology (as lead state Trustee), Department of Natural Resources and Department of Fish and Wildlife (as state co-Trustees). The Trustee Council is operating under the *Memorandum of Agreement for Elliott Bay, the Duwamish River and Eagle Harbor (effective date 1/19/06)*. That MOA provides the framework for implementing joint damage assessment and restoration actions by the Trustee Council in Elliott Bay and the Lower Duwamish River.

The Trustee Council has been engaged in discussions with Bluefield Holdings, Inc. concerning the use of some City of Seattle (City) properties for habitat restoration projects, which have been made available by the City for development of habitat restoration projects by Bluefield Holdings, Inc. (“Bluefield”) through a lease executed on February 23, 2009. Bluefield intends to build restoration projects on these properties. Such projects are designed to provide ecological credits that could be used by Potentially Responsible Parties (PRPs) as one alternative approach to address their liability for natural resource damages (NRD) in settlements with the Trustee Council.

Bluefield has completed a 30 percent design for the Site 1 Project and is submitting it to the necessary permitting agencies. Moreover, Bluefield completed a Statement of Work (SOW) for Site 1. The 30 percent design and SOW have been accepted by the Trustees. If Site 1 Project is constructed as designed and implemented in accordance with the Statement of Work, the Trustees agree that it is likely to generate ecological credits of 46.9 DSAYs available as ecological credits for Bluefield to sell to PRPs wherein such credits may be used by PRPs to resolve NRD liability at LDR. Bluefield established a performance bond to ensure that construction of the Site 1 Project will be completed. The Trustees agree that this performance bond is an appropriate financial assurance for this project. Bluefield has also established an Escrow Account to cover costs of the ten-year operation and maintenance for the Site 1 Project post construction. The Trustees agree that this Escrow Agreement is an appropriate financial assurance to ensure completion of the operation and maintenance of the Site 1 Project and agrees that NOAA will sign this Escrow Agreement.

Now, therefore, it is resolved that:

1. The Trustee Council agrees that the performance bond represents an appropriate financial assurance for the construction completion of the Bluefield Site 1 Project.
2. The Trustee Council agrees that the Escrow Agreement is an appropriate financial assurance to ensure the ten-year operation and maintenance of the Site 1 Project.
3. The Trustee Council authorizes NOAA to sign the Escrow Agreement with Bluefield to hold funds to ensure operation and maintenance of the Site 1 Project will be done for ten years.
4. Trustees agree that the Site 1 Project if constructed as currently designed will generate credits of 46.9 DSAYs.

By their signatures below, representatives of the Elliott Bay Trustee Council hereby certify that this Resolution, 2011-01, was adopted in compliance with decision-making procedures of the Trustee Council.

NOAA:

By: Rebecca Hoff 3/24/11
Rebecca Hoff Date

U.S. Department of the Interior/U.S. Fish and Wildlife Service:

By: _____
Jeff Krausmann Date

Washington State Department of Ecology (Lead State Trustee):

By: _____
Craig Thompson Date

The Muckleshoot Indian Tribe:

By: _____
Glen St. Amant Date

The Suquamish Tribe:

By: Richard Brooks 3/24/11
Richard Brooks Date

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By: _____
Jeff Krausmann Date

Washington State Department of Ecology (Lead State Trustee):

By: Craig Thompson _____
Craig Thompson Date 3/23/11

The Muckleshoot Indian Tribe:

By: _____
Glen St. Amant Date

The Suquamish Tribe:

By: _____
Richard Brooks Date

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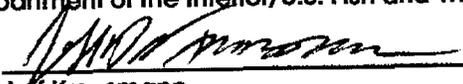
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By:  24 MAR 2011
Date
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By: _____
Jeff Krausmann Date

Washington State Department of Ecology (Lead State Trustee):

By: _____
Craig Thompson Date

The Muckleshoot Indian Tribe:

By: _____
Glen St. Amant Date 3-24-2011

The Suquamish Tribe:

By: _____
Richard Brooks Date

