

Elliott Bay Trustee Council
Lower Duwamish River
Resolution 2015-01

In this resolution by the Elliott Bay Trustee Council, the Trustees: 1) Agree that there are sufficient settlement funds available for use in restoring injuries through the implementation of one or more restoration projects; 2) Agree that expenditure of some or all of these settlement funds for implementing restoration to address injuries in the Lower Duwamish River is appropriate at this time; and 3) Authorizes NOAA to release a Request for Proposals (RFP) for potential restoration project implementation utilizing these settlement funds.

Adopted: January 21, 2015

Attachments: Request For Proposals and Project Worksheet

References: Trustee Council MOA
Final Programmatic Environmental Assessment and Restoration Plan

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 (LDR).

The Trustees currently have approximately \$3.4 million in settlement funds from the Pacific Sound Resources/Wyckoff settlement to conduct restoration activities in the LDR. The Trustees’ mandate under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) is to restore injuries to natural resources in an expeditious manner in order to reduce the overall amount of injury and provide compensation to the public. The Trustees have no property under their control on which to implement a restoration project, and the funds available are not sufficient to both purchase property and design, permit, and build a significant restoration project within the most appropriate Habitat Focus Areas (HFA 1 and 2) to address injuries arising from the Pacific Sound Resources site.

There are entities which expressed an interest in conducting restoration in the LDR, and funding support from the Trustees may enable one or more of these entities to implement a restoration project that would be appropriate for restoring injured natural resources. The Trustees developed a Request for Proposals to solicit potential projects for funding. The Request for Proposals identifies the type of restoration projects that are appropriate for using NRDA settlement funds, explains the requirements for such a project to obtain financial support from the Trustees, and explains the factors that will be used to evaluate project proposals. A project worksheet was also developed for project proponents to use in their proposals.

Now, therefore, it is resolved that:

1. The Trustee Council agrees that the settlement funds available are sufficient to implement one or more projects.
2. The Trustee Council agrees that it is appropriate to solicit restoration project proposals at this time.
3. The Trustee Council authorizes NOAA to release the RFP to allow potential project proponents to request funding to implement restoration projects consistent with the Trustees' Final Programmatic Environmental Assessment and Restoration Plan which sets forth both injuries to and appropriate restoration of natural resources in the LDR.

By their signatures below, representatives of the Elliott Bay Trustee Council hereby certify that this Resolution, 2015-01, was adopted in compliance with decision-making procedures of the Trustee Council.

NOAA:
By: Rebecca Hoff 21 Jan 2015
Rebecca Hoff Date

U.S. Department of the Interior/U.S. Fish and Wildlife Service:
By: Jeff Krausmann 21 Jan 15
Jeff Krausmann Date

Washington State Department of Ecology (Lead State Trustee):
By: Donna Podger 1-21-15
Donna Podger Date

The Muckleshoot Indian Tribe:
By: Glen St. Amant 1-21-15
Glen St. Amant Date

The Suquamish Tribe:
By: Richard Brooks 1/21/15
Richard Brooks Date

Request For Proposals

The Elliott Bay Trustee Council (EBTC) invites proposals for habitat restoration projects in the Lower Duwamish River (LDR)¹.

The EBTC consists of federal, state, and tribal natural resource trustees that are acting under the Comprehensive Environmental Response, Liability and Compensation Act to assess injuries to natural resources in the LDR resulting from unpermitted releases of hazardous substances and to undertake restoration actions that will compensate for these injuries. The EBTC has natural resource damage assessment (NRDA) settlement funds available to address natural resource injuries in the LDR and seeks proposals from entities for funding to implement appropriate restoration projects. In this round of project proposal solicitation, the EBTC will review proposed projects and may choose to provide funding to one or more project proponents to implement projects in the LDR.

Eligible Projects

To be eligible for funding under this initial project solicitation round, restoration projects must create new habitat and/or rehabilitate degraded or impaired habitat consistent with the habitat project description in the Final-Lower Duwamish River NRDA Restoration Plan and Programmatic Environmental Impact Statement (RP)². Projects must be:

- Located within the Duwamish in Habitat Focus Area 1 (extending from the northern tip of Harbor Island upstream to North Winds Weir) or within Elliott Bay in Habitat Focus Area 2 (inner Elliott Bay shoreline between the Duwamish head and Port of Seattle Terminal 91; see map at end);
- Consistent with RP and include marsh and/or mudflat habitat with a riparian buffer;
- Protected from conversion to other than habitat purposes in perpetuity;
- Maintained through a long-term stewardship program to preserve ecological function
- Implementable without long-term negative impacts on existing habitat or public safety;
- Free from risk of release of contamination from implementation; and
- Monitored for a minimum of 10 years consistent with the guidelines in the RP

The EBTC is interested in accomplishing restoration as quickly as possible, and therefore projects that can be implemented within three years will be preferred for funding under this solicitation over similar projects that will take longer to construct.

Projects proposed for funding can include projects designed to address Endangered Species Act and Section 404 mitigation as well as NRDA liability. However, if a portion of a proposed project is intended to be used for mitigation or other such purposes, a strict accounting system must be in place

¹ Projects within a portion of Elliott Bay may also be eligible for funding.

² Project proponents may attempt to create marsh at elevations down to +6 ft MLLW, however the likelihood of success of marsh planting below +8 ft MLLW is low based on examination of existing marsh in the Lower Duwamish River.

to guarantee that the portion of the project funded by NRDA settlement funds is not used for mitigation or other such purposes.

Available Funding

The EBTC currently has approximately \$3.4 million available for restoration activities. Further funding may become available as additional NRDA settlements are reached. Some or all of this funding may be used to fund projects proposed in response to this solicitation.

Proposal Evaluation

Factors that will improve the likelihood of a project receiving EBTC settlement funding include:

- Large size relative to other proposed projects
- Proximity to existing high quality habitat
- Strong potential to be constructed within 3 years;
- Low cost to EBTC settlement funds compared to overall size and benefits of the project, including use of other sources of funding
- High habitat diversity
- Degree of expected benefits to multiple injured natural resources in the LDR

Lower Duwamish River Proposed Project Nomination Worksheet

This worksheet provides applicants with an opportunity to propose restoration projects for Elliott Bay Trustee Council funding. Project proposals for this round of potential funding must be submitted by [60 days after email notification].

The questions below are tailored to provide information necessary for project evaluation and selection. You may wish to consult the Final-Lower Duwamish River NRDA Restoration Plan and Programmatic Environmental Impact Statement for additional information regarding the purpose and desired features of restoration in the Lower Duwamish River. Please limit proposals to 20 pages or less.

Proposed Project Name

Person or Entity Proposing the Project

Contact Information

Address

Telephone

Email

1. Provide the physical address of the proposed project and directions to drive to it, along with a map.

2. What is size in acres of the potential area for restoration by type of habitat?

Shallow subtidal¹ (-14 to -4 ft MLLW) _____

Intertidal mudflat (-4 to +12 ft MLLW) _____

Marsh² (+8 to +12 ft MLLW) _____

Riparian (> +12 ft MLLW) _____

¹ Shallow subtidal areas can be enhanced by the creation of marsh or riparian buffer, or by the removal of overwater structures.

² Project proponents may attempt to create marsh at elevations down to +6 ft MLLW, however the likelihood of success of marsh planting below +8 ft MLLW is low based on examination of existing marsh in the Lower Duwamish River.

3. What are the current physical conditions at the proposed project site, including the presence of debris, overwater structures, high erosion potential, etc.?
4. Describe project actions necessary to implement the project with anticipated schedule for completing those actions.
5. Provide estimate of total Project budget and amount requested from the Elliott Bay Trustee Council. If some project funding comes from other sources, please provide information about any special requirements for this funding.
4. Indicate whether the project site is publicly or privately owned, and what mechanism will be used to protect the habitat use of the project in perpetuity (conservation easement, etc.).
5. Provide information regarding known contamination at or in the vicinity of your proposed project. If contamination is present at the project location, please explain how the contamination will be addressed and how releases of contamination to the Duwamish River or Elliott Bay will be prevented.
6. Describe any planned public access at the site and discuss how the value of the habitat function of the project to injured natural resources will be protected.
7. Describe what you know about the habitat value and use of the project site, and describe the surrounding area noting whether existing habitat is adjacent or near the proposed project location.
8. Briefly describe what you know about the current and past land uses of adjacent properties.

Feel free to provide any additional information that might be helpful in evaluating your project, including attaching a sketch or concept drawing if available.