Elliott Bay/Duwamish Restoration Program
1998 Annual Report

Panel Publication 20
May 1999

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1998 Annual Report

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May 1999

Individuals and organizations needing further information about the Elliott Bay/Duwamish Restoration Program should contact the Administrative Director at the following address and telephone number:

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The Panel of Managers holds regularly scheduled meetings that are open to the public. Technical Working Group and committee meetings are scheduled on an as-needed basis, and are also open to the public. Meetings are generally held at the National Oceanic and Atmospheric Administration, National Marine Fisheries Service - Regional Directorate Conference Room, Building 1, 7600 Sand Point Way NE, Seattle. The Panel recommends that you contact the Administrative Director, at the above phone number to confirm meeting schedules and locations. The Panel also holds periodic special evening and weekend public information meetings and workshops.

General Schedule for Panel and Committee Meeting Dates

Panel: quarterly, first Thursday of January, April, July, October, 9:30 A.M. - 12:30 P.M.
Habitat Development Technical Working Group: third Thursday of every month, 9:30 A.M. - 12:30 P.M.
Sediment Remediation Technical Working Group: scheduled as needed.
Public Participation Committee: scheduled as needed.
Budget Committee: scheduled as needed.

Environmental Review of Specific Projects

Formal hearings and comment periods on appropriate environmental documents for proposed sediment remediation and habitat development projects will be observed. Please contact the Administrative Director for more information.

This information is available in accessible formats on request at (206) 296-0600 (voice) and 1-800-833-6388 (TTY/TDD users only).

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Introduction

On March 19, 1990, the United States filed a complaint for the National Oceanic and Atmospheric Administration (NOAA) acting on behalf of the public as a trustee for natural resources. The complaint was filed under Section 107 of CERCLA, 42 U.S.C. § 9607 (a), to assess and recover damages for alleged injuries to United States' trust resources in Elliott Bay and the Duwamish River. The other natural resource trustees who were parties to the Consent Decree were: the U.S. Fish and Wildlife Service (USFWS), Washington State Department of Ecology (Ecology), Suquamish Indian Tribe, and the Muckleshoot Indian Tribe. The defendants named in the lawsuit were the Municipality of Metropolitan Seattle (King County) and the City of Seattle (City).

The lawsuit was settled by consent decree on December 23, 1991. The settlement stipulates that King County and the City will provide a combination of cash payments, real estate, and in-kind services with a total value of $24 million. Within the $24-million budget, $12 million is set aside for sediment remediation projects, $5 million for habitat development projects, up to $5 million for acquisition of real estate for habitat development, and up to $2 million for source control measures in addition to those planned and implemented by the City and County. The Consent Decree and a detailed summary of the settlement appears in the *Elliott Bay/Duwamish Restoration Program 1992 Annual Report*, available from the Administrative Director.

From its inception through the present, the Panel of Managers (Panel) has selected sites for sediment remediation and habitat development activities and engaged in source control activities following substantial public review and comment. The Program's goals, organization, site selection process, public comments, and responses are presented in the Elliott Bay/Duwamish Restoration Program *Concept Document* (Panel Publication 7), published in June, 1994. Descriptions of sediment remediation and habitat development sites are provided in the *Concept Document* and addenda issued in 1996 and 1997.

This annual report (1998) summarizes implementation of the settlement during the seventh year of the Elliott Bay/Duwamish Restoration Program (Program). The report is divided into five major parts. The introduction provides a discussion of program organization and the geographic area covered by the settlement. An executive summary highlighting 1998 activities in all program areas is presented in the second section.

The third section, 1998 Program Chronology, provides highlights taken from minutes of Panel and technical working group meetings. In the fourth section, working group and committee reports describe specific project activities and program developments. The final section provides text of resolutions passed by the Panel during 1998, as well as a report on cash disbursements from the Court Registry account. Appendix A, which includes an organizational chart and listing of Panel participants, is provided for readers who are interested in the Panel organization plan. Appendix B lists the Panel publications issued to date.

Elliott Bay/Duwamish Restoration Program Organization

The Panel was established by the Consent Decree to manage the implementation of the settlement reached between the natural resource trustees and King County and the City of Seattle. The Panel consists of designated voting representatives and alternates from all parties to the Consent Decree. In 1992, the Panel established a Sediment Remediation Technical Working Group (SRTWG), and a Habitat Development Technical Working Group (HDTWG) to advise the Panel. Also established were the Public Participation Committee and the Budget Committee.

NOAA, through its National Marine Fisheries Service - Restoration Center Northwest, General Counsel Natural Resources, and Damage Assessment Center representatives has been delegated by the Panel the duties and responsibilities of "Administrative Director" (Director). The Director manages and maintains the Administrative Record, is responsible for logistics and planning of Panel and Technical Work Group meetings, and for the dissemination of Panel documents and information requests. The Director is also responsible for tracking Panel resolutions and court registry account activity.

The Panel, Habitat Development and Sediment Remediation Technical Working Groups, Public Participation Committee, Budget Committee, and the Administrative Director comprise the managerial, technical, outreach, and administrative components of the Elliott Bay/Duwamish Restoration Program.

The Panel, through the independent actions of individual representatives, works cooperatively and monitors the process of others initiating restoration projects and other developments or policies affecting the Elliott Bay/Duwamish River ecosystem. The Panel has sponsored public meetings and outreach presentations.

Geographic Boundaries

The area encompassed by the settlement includes Elliott Bay eastward of a line between Alki Point and West Point including the shoreline ten meters upland from the mean high water line within Elliott Bay, and the Duwamish River from the river mouth to the head of navigation (see Figure 1). For purposes of habitat development, the covered area includes tributaries to the Duwamish River.

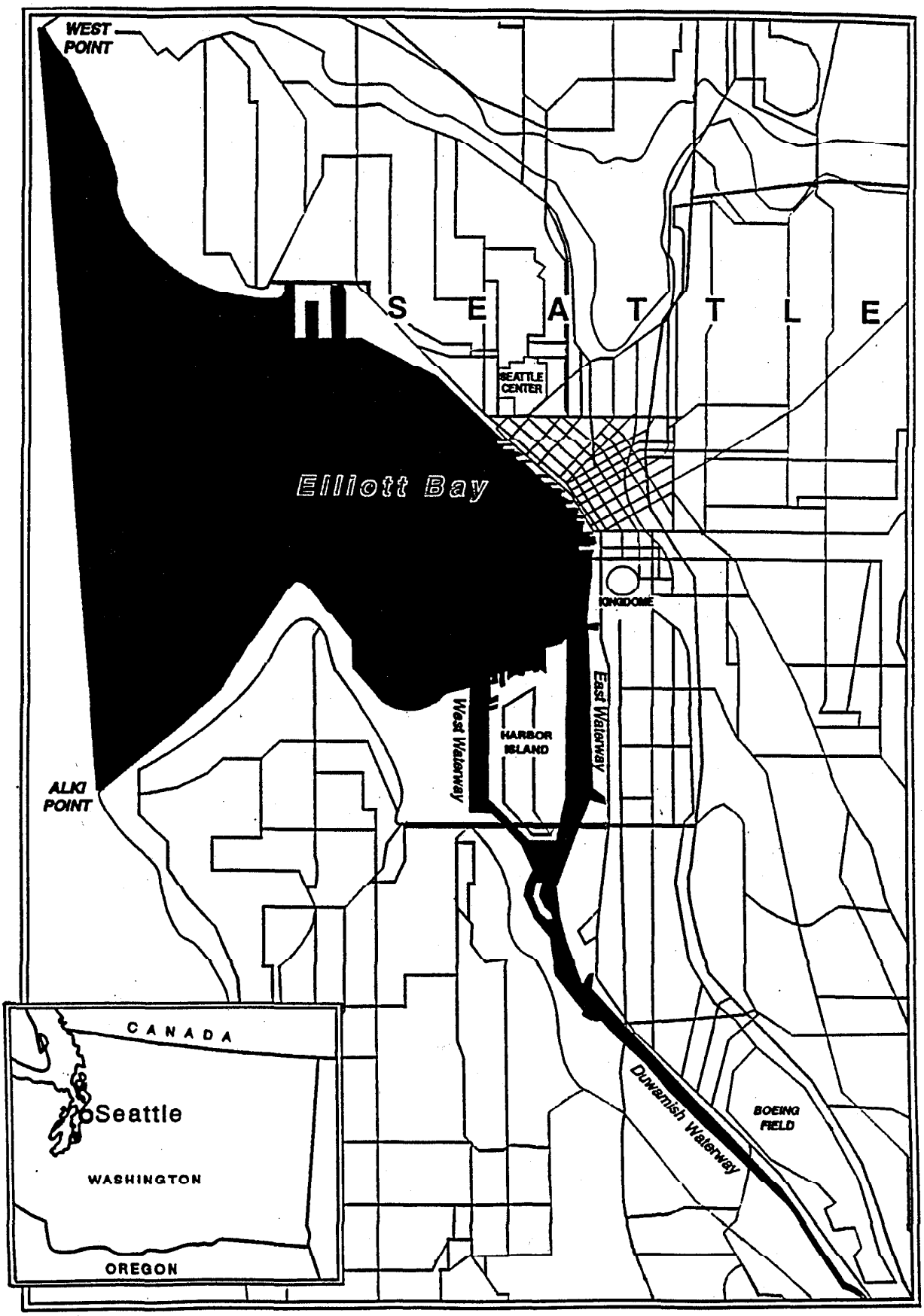


Figure 1. Area Covered by Settlement

Executive Summary
1998 Activities

Project activities in 1998 included additional site selection activities, environmental investigations, cultural resource assessments, acquisition negotiations, design, permit planning, and bidding and construction. Figure 2 provides the location of Panel projects in the area encompassed by the settlement, with the exception of the Porter Levee habitat acquisition site, which is located at River Mile 34.5, King County (see Figure 3).

Habitat Development

During 1998, the Habitat Development Technical Working Group, chaired by Curtis Tanner of the U.S. Fish and Wildlife Service (USFWS), continued to guide the Panel concerning habitat projects and acquisition of real property for the purpose of habitat restoration.

Construction of the intertidal restoration project at the former Seaboard Lumber site in the Kellogg Island Geographic Focus Area (GFA) began in November and continued into 1999. The placement of oyster shell, cobble and other material in the West Seattle near-shore environment of the Elliott Bay GFA was completed in March 1998. Preliminary conceptual designs of habitat restoration possibilities at the former Kenco Marine site were explored by members of the Habitat Technical Working Group and presented to members of the public in October. The permit and environmental review processes for the intertidal restoration project at North Wind's Weir were initiated in the first quarter of 1998.

Negotiations for acquisition of real property (conservation easement) for habitat restoration purposes continued with Seattle City Light for the daylighting of Hamm Creek and intertidal restoration project at the property known as City Light North. Porter Levee, in the middle Green River watershed, was acquired for habitat restoration purposes and acquisition options for two other properties were considered.

At the close of 1998, $4,884,122 of the available $5,000,000 for the acquisition of real property for habitat development had been allocated to King County and the City of Seattle. The City of Seattle met its full obligation of $2.5 million through the purchase of the former Seaboard Lumber property across from Kellogg Island.

Sediment Remediation

During 1998, members of the Sediment Remediation Technical Working Group chaired by Pat Romberg, King County Department of Natural Resources, focused on bidding and clean-up activities related to the Norfolk CSO sediment remediation project scheduled to occur in the first quarter of 1998. Planning and design activities for the Diagonal/Duwamish CSO sediment remediation project and the Central Waterfront Clean-up Study continued to be held in abeyance pending an amendment to the Consent Decree (see Budget Committee Report).

Source Control

Source Control activities are discussed by the Panel pursuant to recommendations made by the City of Seattle and King County Department of Natural Resources in concert with members of the Sediment Remediation Technical Working Group. During 1998, the City undertook confirmatory sampling and an investigation of phenols and 4-methyl phenols pursuant to Pier 53/55 sediment cap monitoring activities. Up to $5,000 was authorized to conduct a literature search on phenols in the marine environment. King County was authorized to spend up to $36,378 for the investigation of phthalate sources to separated storm drains connected to the Norfolk CSO outfall and recontamination modeling by phthalates. At the close of 1998, the amount authorized against the up to $2.0 million available for source control activities totaled $233,595.

Budget Committee

The Budget Committee, chaired by Margaret Duncan of the Suquamish Tribe, was established to assist the Panel and technical working group members in budget development and review of habitat and sediment remediation project scopes, schedules and budgets. The committee also tracks credits to the City of Seattle and King County for real property acquisitions and source control activities. Summary budget worksheets for real property acquisition allocations and source control activities appear in the habitat and source control sections of the report. A total of $90,578 was disbursed from the Court Registry Account for panel support functions.

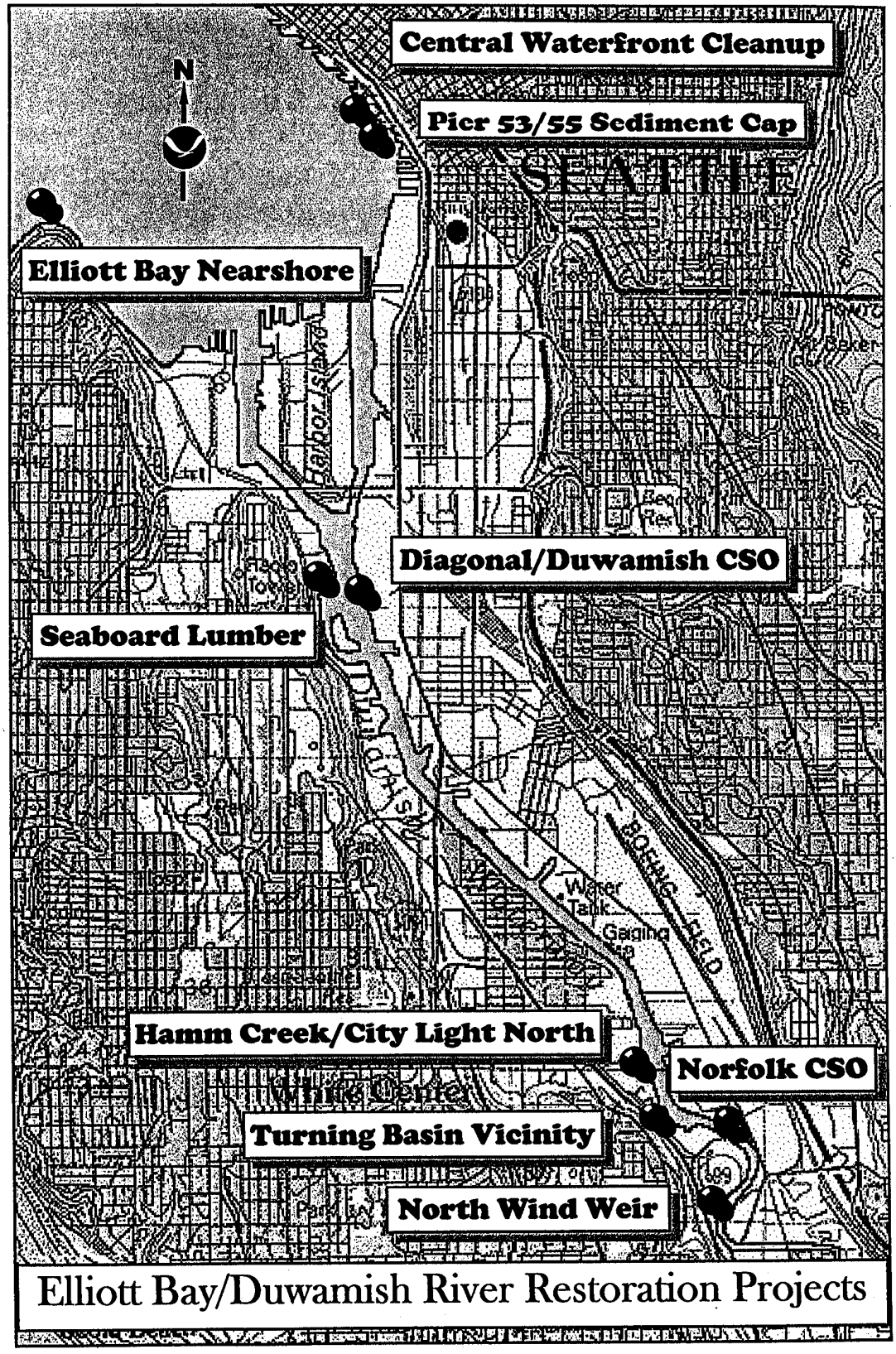

Central Waterfront Cleanup
Pier 53/55 Sediment Cap
SEATTLE
Elliott Bay Nearshore
Diagonal/Duwamish CSO
Seaboard Lumber
Hamm Creek/City Light North
Norfolk CSO
White Center
Turning Basin Vicinity
North Wind Weir
Elliott Bay/Duwamish River Restoration Projects
N
Water Tank
Gaging
Printed from TOPO! © 1997 Wildflower Productions (www.topo.com)

Figure 2.

Public Participation Committee

The Public Participation Committee, chaired by Margaret Duncan of the Suquamish Tribe, advises the Panel on opportunities for public involvement and education in all Program activities. The committee implements the *Public Participation Plan* (Panel Publication 6) published in 1994. In addition to assisting with the Administrative Record, mailing list, and general community outreach activities during 1998, the Committee worked with the Seaboard Lumber and Turning Basin No. 3 (Kenco) habitat project managers to gain public comments and suggestions on project planning and design, and with members of the working group to gain community input on additional real property acquisition options. Committee members also assisted with media advisory activities related to the groundbreaking for the Seaboard Lumber habitat project and the implementation of the Elliott Bay Nearshore habitat project.

1998 Program Chronology

January

- King County reported on Diagonal/Duwamish internal review recommendations, and announced that bids for the Norfolk CSO sediment remediation project had been advertised.
- King County provided revised cost estimates for the Norfolk CSO sediment remediation project to include updated contaminated sediment disposal information.
- Tentative dates were discussed for a Seaboard Lumber project Public Meeting.
- Amendment Number 2 of the Concept Document was approved and placed in the Administrative Record. The addendum provides the ranking and scoping of three sites above the Turning Basin geographic focus area for potential acquisition for habitat development purposes (Porter Levee, Burns Creek/Loans Levee, and the Black River Confluence).
- The Muckleshoot Indian Tribe provided an update on the habitat restoration cost proposal for the Turning Basin No. 3 (Kenco Marine) project.

February

- A Public Information Meeting for the Seaboard Lumber project was held on February 24, 1998 at the Delridge Community Center.

March

- Seaboard Lumber project construction drawings were forwarded to the City of Seattle Department of Parks and Recreation for review.
- The Seaboard Lumber project JARPA permit was submitted.
- A design contractor was selected for the Turning Basin No. 3 project.
- Phase I of the Elliott Bay Nearshore project was successfully completed. A monitoring plan and budget will be developed.
- The US Army Corps of Engineers presented plans to create a new mouth to the river at the Puget Creek site. Letters of support for Section 1135 funding for this project were requested.

April

- Resolutions 1998-02 through 09 were passed (see the following "Elliott Bay/Duwamish Restoration Program Panel 1998 Resolutions" section for a description of these and all subsequent 1998 resolutions).
- King County reported that the Norfolk CSO sediment remediation project received many inquires, but no bids. A modified bid package was to be prepared and advertised in May.
- King County presented the Henderson/MLK CSO project to the Panel. Four storm drains that will potentially recontaminate the Norfolk project with phthalates were identified.

- The City of Seattle proposed that sampling for phenols and 4-methylphenols on the Pier 53-55 sediment cap, and a literature search, be funded.

May

- A draft 1997 Annual Report was distributed for comments.
- Resolutions 1998-10 through 13 were passed.
- A Henderson/MLK CSO Project Workshop was held on May 28, 1998.

June

- Porter Levee property acquisition efforts continued.

July

- Panel Publication 18, *Elliott Bay/Duwamish Restoration Program 1997 Annual Report* was distributed.
- A source control budget sheet update was distributed.
- The Panel discussed the potential recontamination by phthalates at the Norfolk site. Recommendations were made to continue the clean-up as planned and to utilize source control funds to investigate the source and control of phthalates. The primary concern at the Norfolk site is PCB contamination which needs to be removed as soon as possible.
- Pier 53-55 sediment cap sampling for phenols and 4-methylphenols was completed. A literature search on phenol contamination was underway.
- The Seaboard project budget was discussed. Engineering and construction costs leave little money for vegetation planting. Issues regarding shoreline armoring and placement of contaminated soils onsite were also discussed.
- US Army Corps of Engineers is allotting Section 1135 funds for a feasibility study to move Puget Creek and open the mouth at the T-107 site.
- The first Green River site acquisition was complete. The Panel successfully acquired the Porter Levee property for habitat development purposes.
- The Public Participation Committee recommended that the Panel provide a display at the Salmon Homecoming Celebration scheduled for Labor Day.

August

- The Public Participation Committee met to prepare for September activities. The Committee discussed display materials and project signage.
- King County provided a progress report for the Elliott Bay Nearshore project monitoring.
- Cultural and historic signage proposed by the North Wind's Weir consultant was accepted, completing the draft design process.

- The Turning Basin No. 3 design consultants presented sketches showing the existing site plan and five design options. The ferry hulk and barges have been removed from an adjacent site. A security fence was erected.

September

- The Public Participation Committee represented the EB/DRP at the following events:
  Green River Duwamish Watershed Alliance - September 24, 1998.
  King County Salmon Homecoming Festival - September 9-13, 1998.
- The Porter Levee property acquisition celebration was held on September 16, 1998. The event included site tours and a barbecue.

October

- Dr. Jacques White, People for Puget Sound, gave a presentation to the Panel on the Duwamish Estuary Citizen Stewardship Project. The Panel provided a letter of support for the concept.
- The Seaboard Lumber project construction bid was awarded. The bid contained limited funding for vegetation planting. The City will apply for a WDNR "ALEA" grant for additional vegetation planting.
- The Port of Seattle and the US Army Corps of Engineers agreed to fund a feasibility study to reconnect the mouth of the creek to the river at the Puget Creek site.
- King County reported that construction bids for the North Wind's Weir intertidal habitat restoration project were due by mid-October.
- The Muckleshoot Indian Tribe presented preliminary designs for the Turning Basin No. 3 project and provided a Restrictive Covenant (in perpetuity) for the property.
- A Public Meeting for the Turning Basin No. 3 habitat restoration project was held on October 21, 1998 at the City of Tukwila Community Center.
- Hamm Creek (City Light North) easement negotiations continued at the senior management level. The US Army Corps of Engineers has Section 1135 funds for the project in the FY 1999 budget.
- The Diagonal/Duwamish CSO sediment remediation project was put on hold due to errors in the original flow estimates. A new model is required to identify recontamination potential.
- The City of Seattle reported that environmental monitoring of the Pier 53-55 sediment cap did not detect phenol and 4-methylphenol contamination.
- Resolutions 1998-14 and 15 were passed .
- Linda Hammons, City of Seattle - Public Utilities, assumed the duties previously performed by Rich Gustav of that office.
- Cheryl Paston, City of Seattle - Public Utilities, reported that Linda Gardner is now the lead contact for source control activities for that office.
- LCdr. Tim Clancy, NOAA was introduced as the new Panel Secretary.

November

- A Groundbreaking Ceremony for the Seaboard Lumber habitat restoration project was held on November 3, 1998.
- King County provided a progress report on the Hamm Creek easement negotiations with Seattle City Light. The permit process has started which will address easement setback issues.
- The US Army Corps of Engineers reported that $1.78M has been authorized for the Hamm Creek project. Property acquisition must be completed by April. Construction is planned for June 1999.
- The US Army Corps of Engineers reported that construction of the Puget Creek project is planned for February 1999, and that construction of the Porter Levee project is planned for August 1999.
- The Muckleshoot Indian Tribe reported that a preferred alternative construction design had been selected based on input from the Public Meeting.
- Construction of the Seaboard Lumber project was delayed due to a review of the HPA.
- Project Monitoring goals, objectives, performance standards and success criteria for Panel projects was discussed. A draft Monitoring Plan Outline was distributed.

December

- The Seaboard Lumber HPA was approved. The notice of the NEPA Environmental Assessment and Finding of No Significant Impact (FONSI) was published in the West Seattle Herald. Construction will start in early January 1999.
- Panel Publication 19, *Construction of an Oyster Shell Habitat Plot in Elliott Bay: Evaluation of Crab Settlement and Habitat Utilization in 1998* was distributed.
- A construction budget was established for the Turning Basin No. 3 project.

Public Participation Committee
1998 Summary

Chair: Margaret Duncan, The Suquamish Tribe
Telephone: (360) 394-5254

The Public Participation Committee was established by the Panel in accordance with the settlement agreement to assist in the development and implementation of the Panel's Public Participation Plan. The Plan, published in June 1994, provides for public comment, education and involvement in all aspects of the Panel's activities, including project selection and planning, implementation and where appropriate, long-term stewardship. The following objectives were adopted:

- Inform the public about the Panel's Program and its goals, plans and activities;
- Encourage public comment about proposed goals, plans and activities as they are being developed; and
- Involve the public in the Program, to the extent possible.

The Public Participation Plan focuses on five areas: meetings, public outreach and education, environmental review of specific projects, program evaluation, and an administrative record.

1998 Activities

During 1998, the committee continued to update and maintain the Panel's mailing list and suggest opportunities for Panel outreach and educational activities. In addition, the committee assisted in the preparation of the 1997 Annual Report and the maintenance of the Administrative Record.

Along with the Technical Working Group members, Public Participation Committee members participated in the Green/Duwamish Watershed Alliance meetings in February and September, providing displays and answering questions concerning progress on habitat and sediment remediation projects, including the acquisition of real estate for habitat restoration purposes.

In addition to assisting with media advisories, committee members worked with project managers in scheduling and holding special evening meetings to inform and solicit public comments and suggestions on project planning and conceptual designs for the Seaboard Lumber and Turning Basin No. 3 (former Kenco Marine) projects.

The Panel celebrated reaching the construction phase of two habitat restoration projects during 1998. In February and March, the committee worked with King County's project manager to ensure coverage of the Panel's first habitat project to reach construction phase: the Elliott Bay Nearshore project, undertaken in cooperation with the U.S. Army Corps of Engineers. In the

Fall, the committee enjoyed working with the City of Seattle Public Utilities project manager for the November groundbreaking ceremonies for the Panel's habitat restoration project at the former Seaboard Lumber site.

Throughout the year, committee members continued discussions with the Habitat Technical Working Group members about the development of interpretive signage and displays concerning habitat functions and values which could be used for restoration projects undertaken in the Lower Duwamish.

Publications

The Panel issued two publications during 1998, Panel Publication 18 - *1997 Annual Report* and Panel Publication 19 - *Construction of an Oyster Shell Habitat Plot in Elliott Bay: Evaluation of Crab Settlement and Habitat Utilization in 1998*. Please refer to Appendix B for a full listing of Panel publications.

Budget Committee
1998 Summary

Chair: Margaret Duncan, The Suquamish Tribe
Telephone: (360) 394-5254

The Budget Committee was established by the Panel to assist with annual budget development and status reporting, and the exploration of alternatives and solutions to the limitations posed by the $3 million planning and design budget (Consent Decree, ¶10[b]). The Committee was also tasked with the development and review of project scopes, schedules and budgets and summary worksheets for source control and real estate acquisition credits to King County and the City of Seattle in fulfillment of Consent Decree obligations.

1998 Activities

Consent Decree Amendment

At the close of 1997, Panel members agreed unanimously to seek specific amendments to the Consent Decree which would allow the Panel to supplement planning and design funds with unspent panel function support funds and interest earned on moneys deposited in the Court Registry account. During 1998, Panel representatives worked with their attorneys, who in turn worked with one another to refine language which could be forwarded to the Department of Justice for review prior to public notice and comment. At the close of 1998 Panel members anticipated that the amendment process would be complete in early 1999 and that, accordingly, planning for the Diagonal/Duwamish clean-up and other sediment remediation projects which had been held in abeyance pending resolution of the planning and design limitations could resume.

Program Budget Summary Worksheets

Throughout the year, the committee continued the process of ensuring that budget summary worksheets for each program element were updated. (Readers are referred to the Habitat Development section for the real estate acquisition budget summary and to the Source Control section for the source control budget summary).

Project Scope, Schedule and Budget Review

With the exception of the Seaboard Lumber habitat restoration project, neither project managers nor project coordinators indicated a need to review the scope, schedule and budgets which had been developed for their projects in concert with the Habitat Development Technical Working Group. The Seaboard Lumber project team management, however, requested a budget meeting to discuss vegetation and monitoring costs. Monitoring issues were resolved, and the project team

undertook efforts to ensure that supplemental funds would be available to fulfill the original plans for plantings in the newly restored site.

Court Registry Account

In December, King County informed the Panel that the Court Registry Clerk had received the final check from King County in partial fulfillment of the Consent Decree requirements. Panel members anticipated that the City of Seattle settlement funds would be deposited in January of 1999.

Habitat Development Technical Working Group
1998 Summary

Chair: Curtis Tanner, U.S. Fish and Wildlife Service
Telephone: (360) 753-4326

During 1998, the Habitat Development Technical Working Group (HDTWG) continued to work on potential habitat projects within three Geographic Focus Areas (GFA) chosen for habitat development projects as described in the *Concept Document* (June 1994): the vicinity of Turning Basin No. 3 at the upper end of the Duwamish Waterway; the vicinity of Kellogg Island in the lower portion of the estuary; and along the shoreline of Elliott Bay in the nearshore environment of the marine system.

Summaries of HDTWG activities during 1998 for all projects, real estate acquisition processes, and collaborative activities are provided below.

Elliott Bay GFA

Elliott Bay Nearshore Habitat Enhancement
Project Manager: Judy Bevington, Larry Jones, King County WLR
Panel Project Coordinator: Margaret Duncan, The Suquamish Tribe

In February, a right of entry was obtained from WDNR for habitat projects located Northwest of Duwamish Head on WDNR property and seaward of Seattle tidelands north of Seacrest Marina in West Seattle. Implementation of the habitat development project plans in the Elliott Bay Near-shore environment occurred in March. Together with the Corps of Engineers, the King County project team oversaw placement of oyster shell, quarry spalls, and pea gravel in the intertidal and subtidal areas seaward of Seacrest Marina and approximately five cubic yards of rocks at four plots at the Duwamish Head location. Monitoring plans included epibenthic monitoring of oyster shells after placement and dives by Garfield High School Explorer Scouts Post 84 working under the direction of King County project team leaders. The Panel, King County, and the Corps of Engineers discussed a second project phase pending monitoring results.

Paul Dinnell, of Dinnell Marine Research, monitored the oyster shell plot and a nearby eelgrass control area on two sampling dates in the summer of 1998. Although no Dungeness crab were found in the subtidal shell, other crab species and fish and invertebrate fauna were found there. Recommendations were presented for future shell plot projects (refer to Panel Publication 19, *Construction of an Oyster Shell Habitat Plot in Elliott Bay: Evaluation of Crab Settlement and Habitat Utilization in 1998*, November 1998).

Subsequent monitoring of the oyster shell and cobble by the Explorer Scouts indicated that juvenile rockfish, shrimp, and selected crab species were present and utilizing the sites in greater numbers than prior to the project.

Kellogg Island GFA

Seaboard Lumber Project Site
Project Managers: Linda Hammons, City of Seattle Public Utilities and
Kevin Stoops, Seattle Parks and Recreation Department
Panel Project Coordinator: Curtis Tanner, U.S. Fish and Wildlife Service

Project activities for the Seaboard Lumber site began in February with an evening public meeting to gain comments and input on public access and restoration plans, and culminated in November with a groundbreaking ceremony that celebrated the beginning of the construction phase.

Restoration project plans presented at the February meeting included discussion of the cleanup of some of the residual contamination on site, the creation of a natural inter-tidal basin at the shoreline, and establishing areas of marsh, meadow and forest in the upland portion of the property.

By the end of the first quarter of 1998, a bathymetric survey had been completed, and hydrologic and wave models for the site had been developed and analyzed. Final design work was reviewed and the project design team confirmed earlier recommendations that the channel be designed to open to the northeast, oriented downstream, to protect the site from erosion and to reduce floating debris entry. Other issues addressed included planting, viewpoint areas, parking, and public access. Following release of the cultural resources assessment in May, the project team initiated the permit process while NOAA completed NEPA documents. Groundbreaking for the project was celebrated in November by Panel members and their guests. Project team members anticipated completion of the project by autumn 1999. Working group members agreed to address vegetation, monitoring and long term stewardship activities in the early part of 1999.

Turning Basin GFA

Hamm Creek (City Light North)
Property Acquisition Lead: King County WLR
Panel Project Coordinator: Dr. Robert C. Clark, Jr. NOAA

During 1998 King County WLR continued to report to the HDTWG and the Panel concerning progress of negotiations with Seattle City Light for the purchase of a property easement that would enable King County and the Corps of Engineers to utilize Section 1135 program funds for intertidal habitat restoration and daylighting of Hamm Creek.

By October, expectations of all parties appeared to have been clarified. King County advised the Panel that Seattle City Light wanted a guarantee that the restoration project would be completed within three years, and that there were continuing setback issues that needed to be resolved prior to agreeing to sell the easement. By the end of October, King County conveyed that the setback and project completion issues seemed to have been resolved, and that agreement on the purchase of the easement would be reached no later than the end of the year. The Corps reported that it had completed the NEPA documents and that if the agreement were signed in November as expected, project construction could start in May of 1999. Although the agreement was not signed by the end of the year, King County indicated that it remained optimistic that the agreement would be signed in the early part of 1999.

City Light South
Project Acquisition Lead: King County WLR
Panel Project Coordinator: not assigned

At the close of 1997, the HDTWG agreed that restoration work at the site would be desirable if funds were available. Accordingly, King County was requested to continue discussions with Seattle City Light concerning restoration options and opportunities through purchase of an easement. Factors identified which would potentially affect design options included the planned bike trail, maintenance issues, and the cost of a geotechnical study. No firm plans for the project developed during the year, and at the close of 1998 working group members determined that design options were too limited at the site to warrant further investigation.

Turning Basin No. 3 (formerly Kenco Marine)
Project Manger: Rod Malcom, Muckleshoot Indian Tribe
Panel Project Coordinator: not yet assigned

Acquisition of the property known as Kenco Marine located at Turning Basin No. 3 was completed by the Muckleshoot Indian Tribe in November 1997. In recognition of its agreement with the Elliott Bay/Duwamish Restoration Program Panel, the Muckleshoot Indian Tribe's responsibility for maintaining the site and its habitat in perpetuity was embodied in the filing of restricted covenants with King County in May of 1998. In July, the project manager provided preliminary conceptual designs of habitat restoration possibilities to the Panel's Habitat Development Technical Working Group. Following the exploration of further options, an evening meeting was held in October to gain public comment and input on proposed alternatives for habitat development at the site. Input from Hugh Shipman, of the Washington State Department of Ecology, was also sought concerning shoreline morphology and the potential for bank softening, angle of repose, changing riprap to root wads, and other habitat development techniques. The project manager and working group members anticipated that final design work would occur early in 1999 and that, depending upon permits, project construction could begin in the Fall.

North Wind's Weir

Project Manager: Michael Lazano, King County Dept. of Construction and Facility Mgmt.
Panel Project Coordinator: Joanne Polayes, Ecology

The North Wind's Weir site was formally approved for a Panel restoration project in mid-1996, with discussions focusing on integrating a 1.03 acre inter-tidal habitat restoration project into King County Facilities and Parks plans for the site.

Following the completion of the cultural resources assessment and the development of amenities of the upland park area, the project manager began work on permit and the environmental review processes in the first quarter of 1998. Through May, Habitat working group members continued to work with the project manager on design issues, including bank stabilization and surface water drainage questions along the North boundary. Working group members also reviewed and commented on interpretive signage developed by project team members. By autumn, NOAA reported to the HDTWG that it had completed the draft NEPA-EA document. Permit applications were forwarded to the City of Tukwila in October, and the project manager informed the working group members that he expected to initiate the bidding process for project construction in the first quarter of 1999.

Collaborative Activities

During 1998 members of the Panel and HDTWG continued to work with the Corps of Engineers concerning habitat restoration projects at the Porter Levee and West Seattle Nearshore project sites, and anticipated project activities related to the daylighting of Hamm Creek and intertidal habitat restoration project.

The HDTWG wrote letters of support and in other ways encouraged People For Puget Sound in its efforts to develop a long term stewardship program for the Duwamish River projects. Development of the stewardship project is being undertaken pursuant to a grant award from Urban Resources Partnership and King County Waterworks.

Community members received support from the Panel for the restoration of the mouth of Puget Creek in anticipation of eventual daylighting. A letter of support was written in July to the Port of Seattle encouraging the Port to work with the Corps of Engineers through a cost-share agreement to implement an intertidal habitat restoration project at the historic mouth of Puget Creek. The Panel also encouraged the Port and the Corps to evaluate the feasibility of separating Puget Creek from the Idaho Street storm drain complex, providing a direct connection to the restored area. As well, Panel members conveyed to the Port and to the community group representatives that depending on the timing and an analysis of the results of the Puget Creek feasibility study and project funding requirements, the Panel would be pleased to consider becoming a potential partner at the site.

Real Property Acquisitions for Habitat Development Purposes

Under terms of the Consent Decree, the City of Seattle and Metro (King County) agreed to make real property permanently available for use as sites for habitat development projects selected by the Panel. The maximum obligation of each party is $2.5 million, and includes easements, fee title, right of access, lease or real property "sufficient to permanently secure a site for any habitat development project..." (Consent Decree, ¶ 30).

The following Real Estate Acquisition Budget Worksheet (Table 1.) provides a summary of project site acquisitions for which the Panel has allocated funds to be credited for acquisition of real property. By the close of 1998, the acquisition process had been completed for the former Seaboard Lumber site in the Kellogg Island Geographic Focus Area (GFA), the North Wind's Weir and former Kenco Marine site in the Turning Basin GFA, and Porter Levee upriver of North Wind's Weir. The Department of Natural Resources waived the lease fee for the habitat project undertaken in the Elliott Bay GFA. At the close of 1998, $115,878 remained available (unallocated) for the acquisition of real property for habitat purposes.

City of Seattle Credits for Real Property Acquisition for Habitat Purposes

The City of Seattle was credited a full $2.5 million for the purchase of the former Seaboard Lumber site for the Panel's habitat restoration project. The real estate acquisition process was headed by Linda Hammons, of Seattle Public Utilities. Acquisition costs included sampling and site analysis, appraisal, project management activities and purchase.

King County Credits for Real Property Acquisition for Habitat Purposes

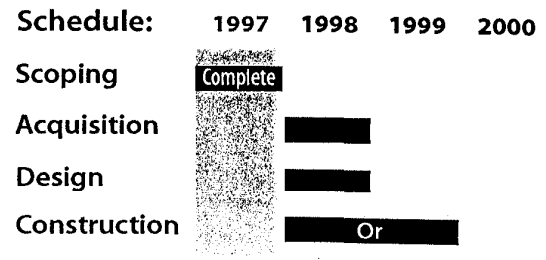
During 1998, King County DNR, through its Panel representative Bob Swartz and HDTWG members Larry Jones and Jody Heintzman, reported on the completed acquisition process for Porter Levee, for a real estate credit of $238,000 (see Panel Resolution 1998-07). The Porter Levee site is described in the *Concept Document* (Addendum 2) as a long parcel approximately 31 acres in size adjacent to the Green River, with excellent restoration opportunities ranging from reconnecting an isolated side channel to larger scale options and opportunities. In December, the U.S. Army Corps of Engineers undertook the design of a restoration project which could be funded under the Corps' Section 1135 program (see Figure 3).

King County also received credit for $518,122 for the acquisition of the former Kenco Marine site at Turning Basin No. 3 for habitat development purposes. The property was purchased in December 1997 in cooperation with the Muckleshoot Indian Tribe.

Negotiations for the acquisition of an easement for the Hamm Creek/City Light North project (see Panel Resolutions 1998-01 and 1998-09) continued throughout 1998. The Panel authorized King County to incur expenses totaling $750,000 for project management, appraisals and

Porter (Slaughterhouse) Levee: Phase 1

Location: King County
Cost- ***Recommended Contribution:***
$390,000 (COE Section 1135, Elliot Bay/Duwamish Restoration Panel)
Other Funds: $30,000 (Trout Unlimited, Mid-Sound Fisheries Enhancement Group, Muckleshoot Indian Tribe)
Lead Agency: Corps of Engineers

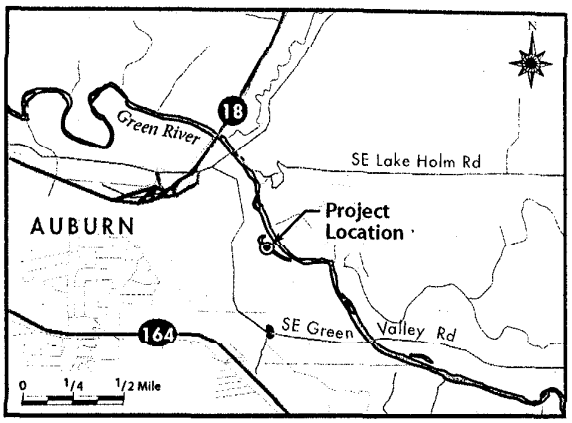


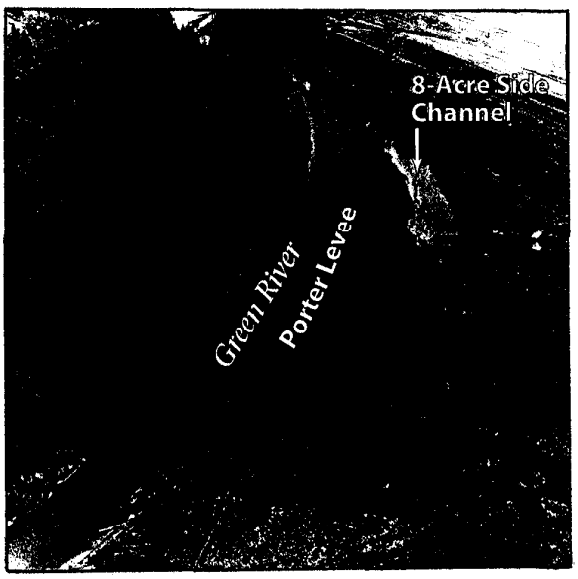
This project involves purchasing a 30-acre parcel adjacent to the Green River on the left bank just upstream of Highway 18, and restoring the river's connection to an isolated side channel. The side channel would be connected by excavating a notch in the Porter Levee at the downstream end of the project site, and excavating a channel connection with a possible control weir and log and rock fishway. An upstream connection through a culvert or permeable rock weir may be necessary to provide flow-through. The side channel would then be enhanced through the addition of snags and other habitat features, and the entire site would be replanted in native riparian and wetland vegetation. This reconnection would establish fish access to an 8-acre side channel, and would enhance 13 additional acres of riparian wetland.

Side channel habitat, allowing for salmon refuge from high flows and overwintering habitat for juveniles, is currently extremely limited along the middle Green River. This project would demonstrate an approach to restoring these functions.

The property is currently for sale, and preliminary negotiations are underway. The Elliot Bay/ Duwamish Restoration Panel has indicated their interest in purchasing this site. Restoration here has a high level of public support from Trout Unlimited, the Mid-Sound Fisheries Enhancement Group, and is also supported by Muckleshoot Indian Tribal staff. Each of these groups has indicated a possible interest in cost-sharing and/or contributing volunteers or equipment.

For further information, contact Noel Gilbrough at (206) 764-3652.





Phase 1 of the Porter Levee project would excavate a channel opening at the downstream end of the levee (bottom center), linking this side channel with the Green River. Purchase of the entire 30-acre parcel would allow for wetland restoration as well.

Figure 3.

property acquisition negotiation costs ($25,000) and an amount not to exceed $725,000 for the real property easement in perpetuity from Seattle City Light. At the close of 1998, real estate acquisition negotiations continued for an easement in perpetuity from Seattle City Light for the restoration project.

King County DNR representatives continued to discuss acquisitions of real property above the Turning Basin GFA with the Panel. At the close of the year, HDTWG members agreed to recommend to the Panel at its meeting in January 1999 that the Black River Confluence site be withdrawn from further consideration. The work group concluded that the site's proximity to the Burlington Northern-Santa Fe Railroad would restrict restoration project options, and that a portion of the site is owned by King County Parks (Fort Dent Park). Parcels at the Burns Creek Confluence remained under consideration.

ELLIOTT BAY/DUWAMISH RESTORATION PROGRAM PANEL

REAL ESTATE ACQUISITION BUDGET WORKSHEET

Real Estate/Project Site	Obligated	Total project	Comments
Kellogg Island GFA: Seaboard Lumber			
Appraisal	20,000		
Site Analysis	102,500		
Project Mgmt/acquis. phase	31,000		
Land Purchase	2,166,000		
Total acquisition budget/credit	2,319,500	$ 2,500,000	Res. 1998-05
Turning Basin GFA			
Project with Muckleshoot Indian Tribe			
Acquisition phase budget	38,922		Res. 1997-5
Pledged maximum contribution for land purchase	479,200		Res. 1996-16, 1997-12 Res. 1997-19
Total acquisition budget		518,122	
Duwamish/Hamm Creek (City Light North) with King County SWM			
Acquisition-contingent upon avail. of implementation funds	750,000	750,000	Res. 1996-28; Res. 1998-01; Res. 1998-09
North Wind Weir with King County Parks and Recreation			
Maximum pledged (MP) for acquis.	416,000	416,000	Res. 1997-20
Properties Upriver of North Wind Weir (Duwamish River tributaries)			
Porter Levee, Burns Confluence, Black River Confluence	700,000	700,000	Res. 1997-18
Elliott Bay GFA			
Elliott Bay Nearshore project			DNR lease fee waived
Total Allocated as of 4/27/98		**4,884,122**	
Total Available per Consent Decree		**5,000,000**	

DRAFT - Budget Committee (MD) 4/27/98, supercedes 4/2/98 draft. Reference Consent Decree paragraphs 27 and 30.

Table 1.

Sediment Remediation Technical Working Group
1998 Summary

Chair: Pat Romberg, King County Water and Land Resources Division
Telephone: (206) 296-8251

Norfolk Sediment Remediation Project
Project Manager: Priscilla Hackney, King County Wastewater Treatment Division
Panel Project Coordinator: Glen St. Amant, Muckleshoot Indian Tribe

The Norfolk project site is located along the east bank of the Duwamish River near the south end of the Boeing Airport, and is between two fixed concrete bridges (Figure 4). The clean-up study report and decision document adopted in December 1996 identify the specified dredging area as about 125 feet wide by 400 feet long and 3 feet deep. The clean-up plan states that sediment would be removed using mechanical dredging methods and transported downstream by barge for off-loading. The plan also states that the material which exceeds the Toxic Substances Control Act (TSCA) limits of 50 ppm DW PCBs would be transported to an approved hazardous waste (Subtitle C) landfill in Arlington, Oregon. The clean-up plan also specifies that non-TSCA regulated waste would be sent to Holnam Cement Manufacturing Plant (the first option for disposal of non-TSCA regulated waste), and waste rejected by Holnam would be sent to an approved Subtitle D landfill accepting non-TSCA regulated waste.

In 1998, the Department of Ecology was consulted and the clean-up plan was revised making the Holnam option and the Subtitle D landfill option equal choices for disposal of non-TSCA regulated waste. Revisions to the plan also included the use of a Boeing provided staging area for equipment transfer, storage of equipment, sediment handling and dewatering, and truck access near the clean-up area.

Also during 1998, King County brought data to the Panel suggesting that phthalates discharging to storm drains represent a potential source of recontamination of the Norfolk sediment remediation site. Accordingly, King County was authorized to begin an investigation of phthalate sources to the storm drains connected to the Norfolk Combined Sewer Overflow (CSO) outfall.

Permits to undertake the cleanup were secured in 1997. Some were modified and one was obtained in 1998 to accommodate the updated schedule, revisions to the clean-up plan, and findings of potential phthalate recontamination of the site.

Bidding, contractor selection and other pre-construction processes and activities were largely completed during 1998, with the clean-up projected to occur in early 1999 prior to the Spring "fish window".

The following permits and easements were amended as shown below:

- Washington Department of Fish and Wildlife - Hydraulic Project Approval; work completion date changed from March 15, 1998 to March 31, 1999; post monitoring of the sediment for source control (SC), including submittal of monitoring reports to WDFW for review on a yearly basis for the next five years, was added.

- Washington Department of Natural Resources Aquatic Lands Right of Entry Agreement; changed to state that the specific volume of dredged sediment sent to an approved hazardous waste facility may vary based on the results of chemical testing rather than stated quantity of 300 cubic yards to go to approved hazardous waste facility; changed to include use of the staging area for activities described above, including sediment handling and dewatering, rather than prohibit sediment offloading and dewatering at the staging area; changed to include a provision that if re-contamination occurs based on annual monitoring results, King County will facilitate implementation of SC measures.

- Boeing Property Agreement; period to use property changed from January 1, 1998 through April 15, 1998, to through April 30, 1999.

- King County Authorization to Discharge to the Sanitary Sewer was added to permit disposal to water collected from dewatering operation to the sanitary sewer.

Diagonal/Duwamish CSO Sediment Remediation Project
Project Manager: Priscilla Hackney, King County Wastewater Treatment Division
Panel Project Coordinator: not yet assigned

The Diagonal/Duwamish sediment remediation involves clean-up of a large area of sediment on the east side of the lower portion of the Duwamish River just upstream of Harbor Island, at approximately river km 3, in the south industrial section of Seattle (see Figure 5). The Panel released the Duwamish/Diagonal Clean-up Study Work Plan in June 1994, and three sampling events were conducted from 1994 to 1996 to characterize sediment chemistry. A draft Site Assessment Report and Alternatives Evaluation Report were started during 1997. That year, further work on the drafts and permit preparation was suspended pending availability of additional planning and design funds. During 1998, new information was brought forward which indicated that the volume of separated storm water discharged from the Diagonal CSO/storm drain is nearly double the volume originally reported by the City of Seattle and has a greater potential for recontamination with bis(2-ethylhexyl) phthalates. The Panel accordingly

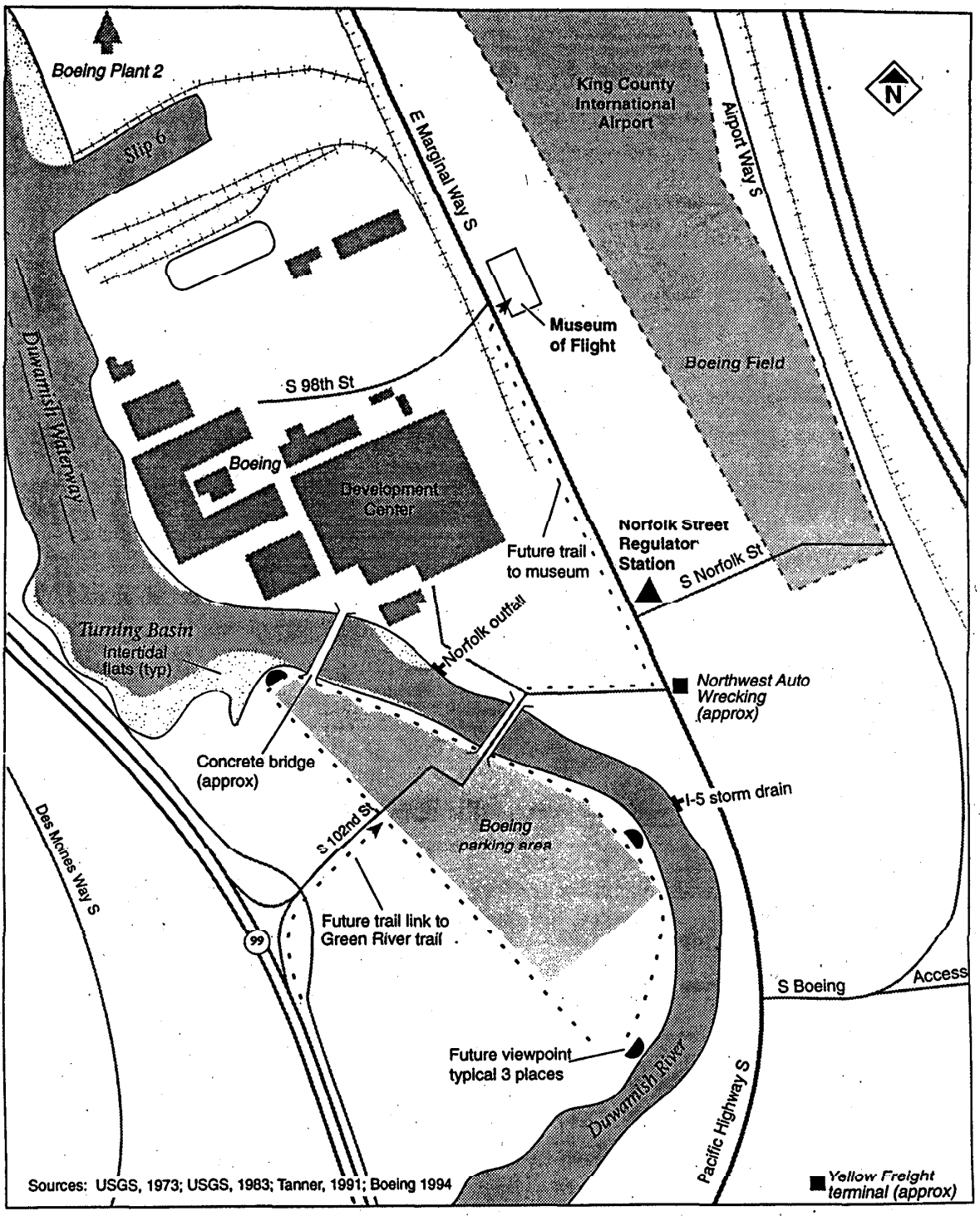


Figure 4. Norfolk CSO

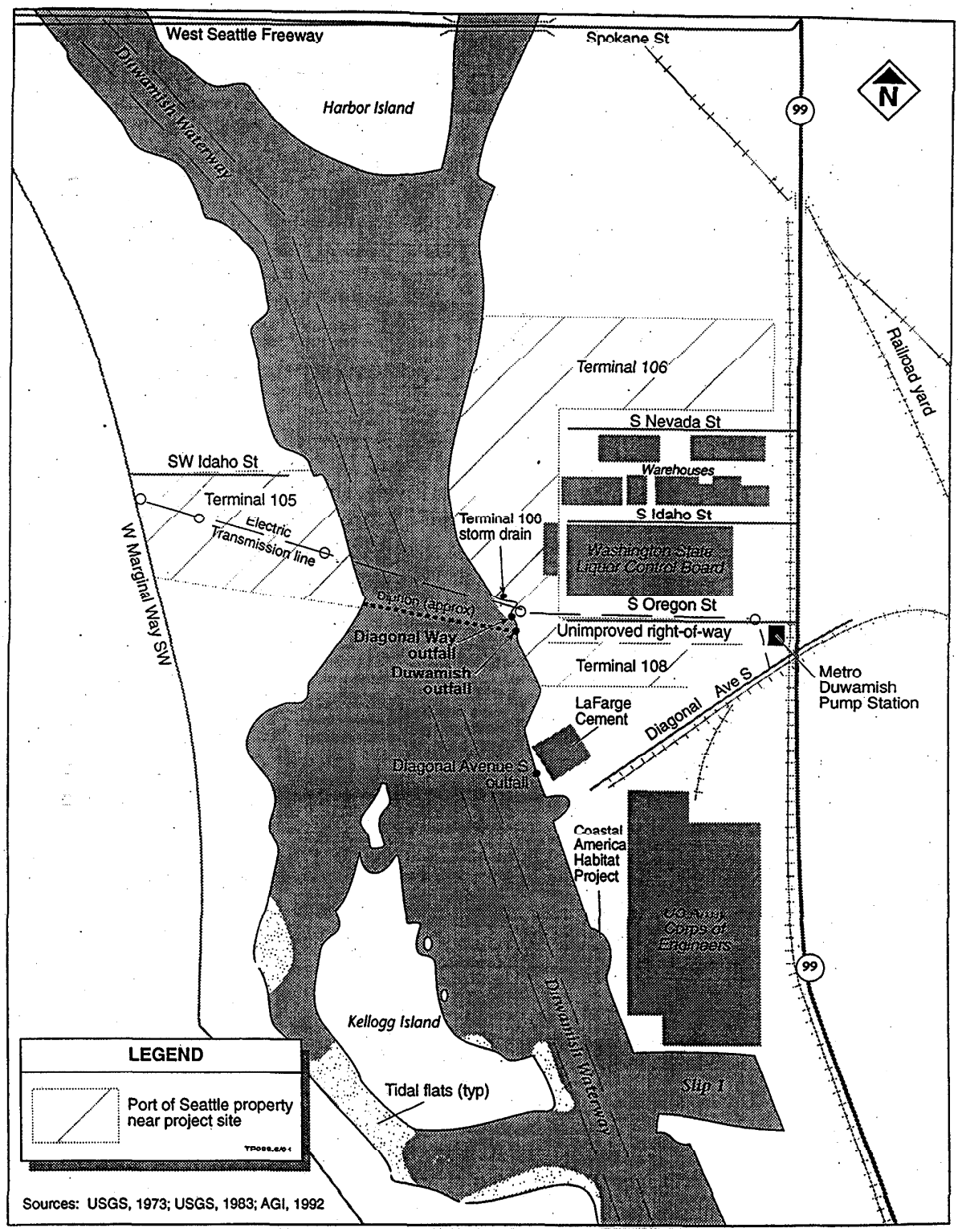


Figure 5. Diagonal/Duwamish CSO

authorized King County to expend up to $14,600 of Source Control funds for additional modeling. The project manager and technical working group members agreed that the additional work would allow revision and completion of the draft Diagonal/Duwamish Site Assessment Report and that additional source control investigation may be needed once work on the draft Alternatives Evaluation Report is resumed.

Panel members anticipate resolving the funding issue in 1999 and authorizing additional Planning and Design funds.

Pier 53-55 Sediment Cap and Enhanced Natural Recovery Area Remediation Project

Project Manager: Cheryl Paston, City of Seattle Public Utilities
Panel Project Coordinator: not yet assigned

The Pier 53-55 Sediment Cap and Enhanced Natural Recovery Area sediment remediation project was completed in March 1992. The project entailed clean-up a of a 4.5 acre area located offshore of Piers 53, 54, and 55 in downtown Seattle near Colman Dock (Figure 6). The Pier 53 site is on property owned by the Washington State Department of Natural Resources and is at the location of a former deep water sewer outfall which has been abandoned. There is presently a combined sewer overflow adjacent to the site which has been controlled to a maximum of one event per year. There is also a storm water outfall at the same location, at the end of Madison Street.

Monitoring results for 1996 were released in the December 1997 *Pier 53/55 Sediment Cap Monitoring Report*. (Panel Publication 17). The monitoring report discussed the appearance of two new chemicals that had not been previously found in sediments along the waterfront: 4-methyl phenol and phenol. Discussion concerning possible sources continued through 1998. Confirmatory sampling was undertaken in June 1998 pursuant to requirements under the project's Water Quality Permit. The report by King County Environmental Laboratory stated that chemicals 4-methyl phenol and phenol were not detected, and that the method detection limits (MDL's) for both compounds were well below the sediment quality criteria and clean-up screening levels specified in Chapter 173-204 WAC. In October 1998, the project manager provided technical working group members with a report on the investigation into the nature, uses, and potential sources of phenols and 4-methyl phenols. The report concluded that no ongoing sources were identified and that the detection of the phenols could be considered a random event, since the chemicals are believed to be very short lived in the environment.

The next sampling activities and monitoring report for the Pier 53-55 sediment remediation project cap and natural recovery area are scheduled to occur in 2003.

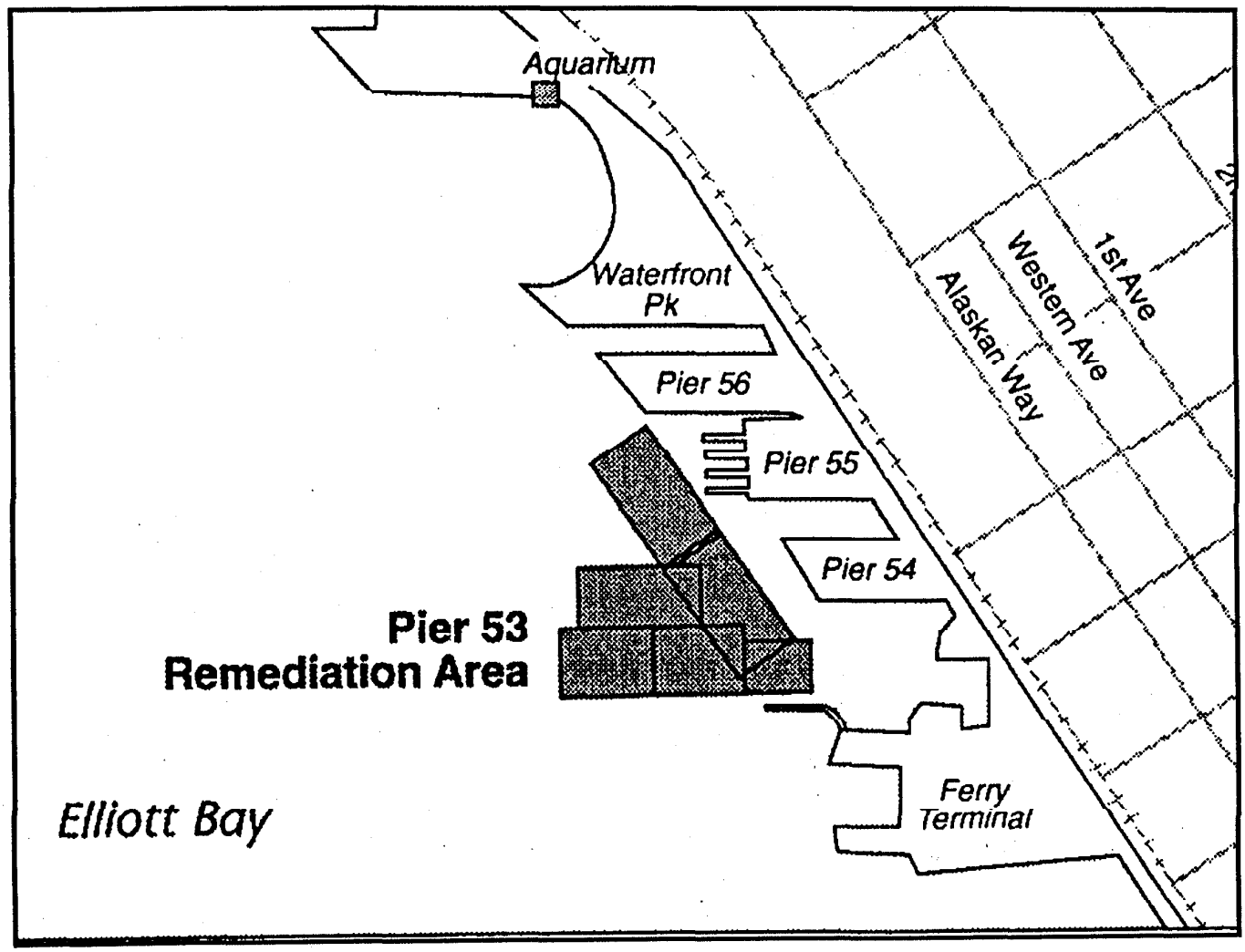


Figure 6. Pier 53/55 Sediment Cap

Elliott Bay Central Waterfront Clean-up Study

Project Manager: Cheryl Paston, City of Seattle Public Utilities

Panel Project Coordinator: not yet assigned

In 1993, the Panel initiated and funded the Elliott Bay Waterfront Recontamination Study and selected Teresa Michelsen, then with the Washington State Department of Ecology, as the project manager. The study was designed to evaluate the feasibility of undertaking sediment remediation projects within the central Seattle Waterfront area by 1997 (see Figure 7). The study encompassed the portion of Elliott Bay along the central waterfront from Pier 45 on the south to Pier 59 on the north. The final report of the two phased study was released in July 1995. Based on results of the field investigation, the Panel was encouraged to separate the study area into two distinct units for remedial design purposes.

Following the release of the Waterfront Recontamination Study, the Panel selected the City of Seattle (Chris Woelfel) as project manager for a potential remediation project from Colman Dock on the south to Pier 59 on the north. A draft Clean-up Study Work Plan and other draft documents were prepared for consideration and public comment purposes in 1996. Although interest in waterfront sediment remediation possibilities continues, further work on the project was suspended in January 1997 pending the availability of additional planning and design funds (see Budget Committee report). Panel members anticipate resolving the funding issue during 1999.

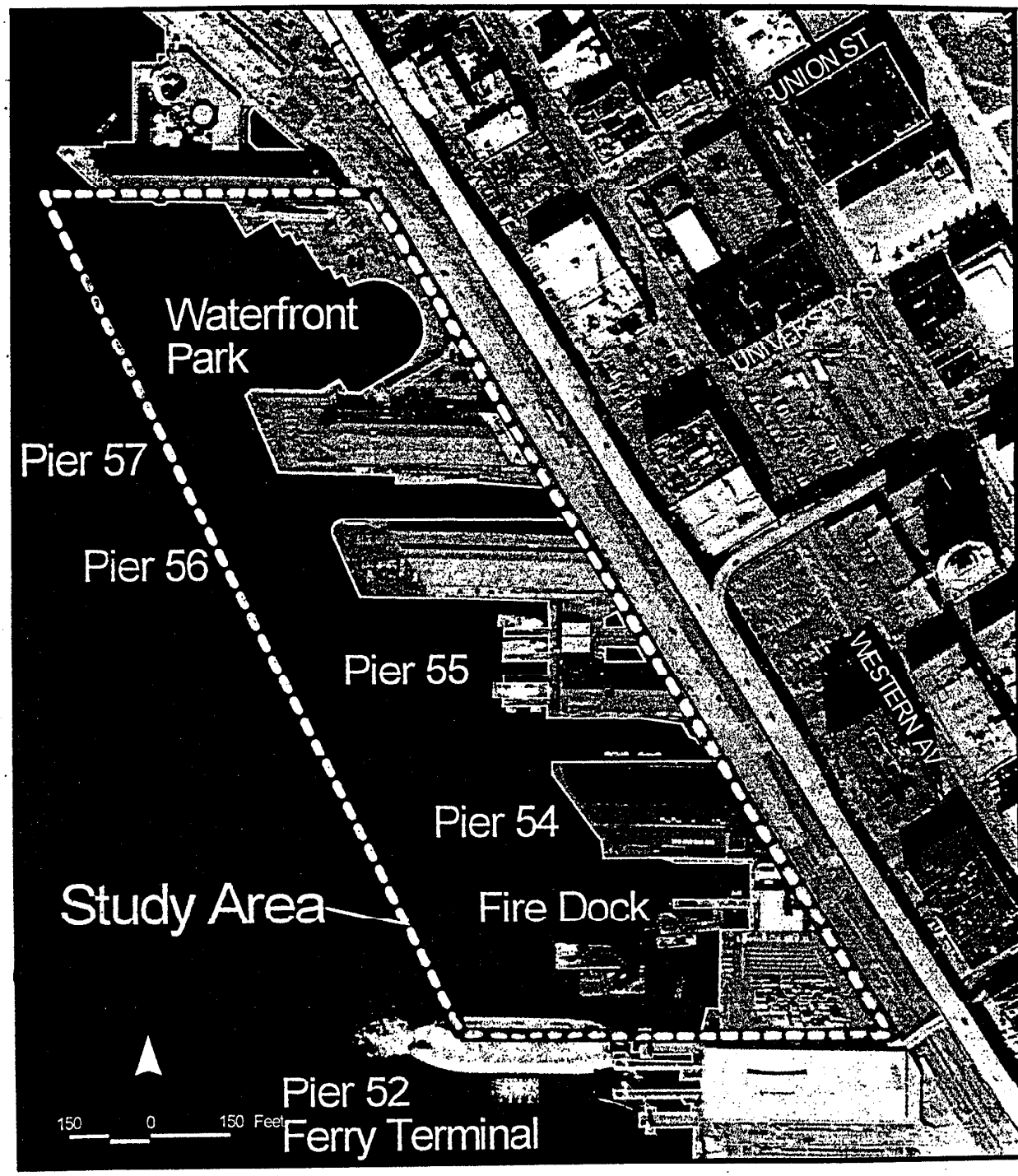


Figure 7. Central Waterfront Cleanup

Source Control
1998 Summary

Project Manager: Cheryl Paston, City of Seattle Public Utilities
Telephone: (206) 684-4609

The Consent Decree establishing the Elliott Bay/Duwamish Restoration Program provides for the development of Source Control Goals to protect natural resources and prevent recontamination of sites selected for sediment remediation and habitat development in the covered area.

In accordance with the settlement agreement, King County Department of Natural Resources and the City of Seattle, through Seattle Public Utilities (SPU), are charged with determining what changes and new activities, if any, are needed in addition to or from their ongoing source control programs to protect natural resources and prevent recontamination of Panel projects. The two agencies are then responsible for presenting recommendations for changes and actions to the Sediment Remediation Technical Working Group and the Panel for review and comment, and taking actions approved by the Panel. Table 2 lists source control activities authorized by the Panel from 1992 through 1998, along with amounts and resolutions authorizing credits to the City of Seattle and King County.

1998 Activities

During 1998, SPU continued business inspections begun in 1997 and responding to water quality complaints in the Diagonal Way storm drainage basin.

A source investigation of 4-methyl phenol and phenol was undertaken in June due to the discovery of toxic chemicals on the Pier 53-55 sediment remediation cap and natural recovery area (see sediment remediation summary, Pier 53-55 project).

In July 1998, the Panel authorized King County to expend source control funds for additional recontamination modeling at the Diagonal/Duwamish sediment remediation site, and an investigation of phthalate sources to separated storm drains connected to the Norfolk CSO outfalls.

Modeling at the Diagonal/Duwamish sediment remediation project site was deemed necessary because new information demonstrated that the volume of separated storm water discharged from the Diagonal CSO and storm drain is nearly double the volume originally reported by the City of Seattle. The larger volume of storm water significantly increases the potential for recontamination of the remediation site by phthalates.

The investigation of phthalate sources to separated storm drains at the Norfolk sediment remediation project site was authorized because data suggested that phthalates from four separated storm drains may be a source of recontamination. Hence, the Panel authorized a phased approach to the investigation. Panel members anticipate discussion of results of the investigation during 1999.

ELLIOTT BAY/DUWAMISH RESTORATION PROGRAM PANEL
SOURCE CONTROL BUDGET WORKSHEET 1992-2000+
(Reflects in-kind services unless otherwise noted)

YEAR	ALLOCATION	ACTIVITIES
1992		no activity
1993		no activity
1994	$31,697 24,320 13,500	Res. 1994-8: authorizes KC Metro to collect and analyze five storm water samples from two location in the Diagonal Way storm drain Res.1994-16: authorizes ($18,000) City and KC Metro ($6,320) to undertake mathematical modeling to determine whether source control activities at Norfolk and Diagonal/Duwamish a(D/D) are sufficient to prevent recontamination Res. 1997-17: authorizes development of Source Control Goals (Goals adopted 7/6/65, Res. 1995-14)
1995	20,220 8,000 94,480	Res. 1995-3: authorizes KC to sample, analyze, and determine total vol of sediment from Diagonal outfall pipe Res. 1995-12: KCDNR Diagonal phthalates literature review Res. 1995-21: authorizes City of Seattle to obligate up to $94,480 for source control activities for the Diagonal and Norfolk storm drain basins.
1996		no activity
1997		no activity
1998	7,400 21,720 14,658	Res. 1998-08: authorizes City of Seattle to conduct sampling for phenols ($2,400) at Pier 53/55 and provide a literature survey concerning the occurrence of phenols in a marine environment and possible sources and business uses of phenols ($5,000). Res. 1998-14: authorizes King Co. to investigate phthalate sources to separated storm drains connected to the Norfolk CSO outfall Res. 1998-15: authorizes additional recontamination modeling due to larger volume of storm water and potential recontamination by phthalates
TOTAL APPR'D TO DATE	$ 235,995	
TOTAL ALLOC	$2,000,000	per Consent Decree, paragraphs 33 and 34

Draft - Budget Committee (MD) 3/30/99; supersedes draft produced 11/13/98

Table 2.

Elliott Bay/Duwamish Restoration Program
1998 Resolutions

Contained in the following pages are the fifteen (15) Elliott Bay/Duwamish Restoration Panel 1998 Resolutions. The attachments have not been included here for the sake of brevity. The attachments, which are contained in the Administrative Record of the Elliott Bay/Duwamish Restoration Program, may be viewed at the offices of the Administrative Director upon request.

Panel Resolution 1998-01

Authorizes property acquisition credit ($725,000) to King County for Duwamish/Hamm Creek Project.

Adopted:	January 22, 1998	
Consent Decree:	¶ 9(c),(h) planning and study activities; ¶27(b) habitat development, and ¶30 property acquisition	
Resolutions:	1993-19	Designating Geographic Focus Areas
	1994-13	First appraisal
	1995-08	Turning Basin Fact Sheet
	1995-10	Project Management
	1995-18	Scope of Work and Acquisition Planning
	1995-27	Acquisition
	1996-02	Seattle City Light discussions
	1996-28	Panel participation level
	1996-29	Scope, Schedule, Budget

The Elliott Bay/Duwamish Restoration Program Panel hereby authorizes the crediting of habitat development property acquisition funds to King County not to exceed $725,000 upon the granting of an easement in perpetuity from Seattle City Light on the site called Duwamish/Hamm Creek Estuary Project (City Light North) in the Turning Basin Geographic Focus Area for habitat development. A property appraisal dated June 10, 1997, from Lamb Hanson Lamb Appraisal Associates, Inc. is appended. This credit is in partial fulfillment of King County's Consent Decree obligation of up to $2,500,000 in "permanently available real property...of any right of...easement...sufficient to permanently secure a site for any habitat development project under this Decree" (¶30).

Panel Resolution 1998-02

Adopted: 2 April, 1998
Consent Decree: ¶ 10(a) Trustee Reimbursements
Resolution: 1996-23

In accordance with Consent Decree paragraph 10(a) and Panel Resolution 1996-23, the Elliott Bay/Duwamish Restoration Program Panel hereby authorizes disbursement from the Registry Account to the payees specified below for the purpose of reimbursement for Trustee costs for the calendar year 1997. Supporting invoices and memoranda are attached.

Payees	Amount of disbursement
Washington State Department of Ecology Post Office Box 5128 Lacey, Washington 98509-5128 Attention: Cashiering Section Account Number: 001T000019-AA	$ 9,741.35
Muckleshoot Indian Tribe 39015 172 Avenue S.E. Auburn, Washington 98092 Attention: Jerry Hecke, Comptroller	$ 5,222.67
The Suquamish Tribe P.O. Box 498 Suquamish, Washington 98392 Attention: Randy Hatch	$13,492.00
National Oceanic and Atmospheric Admin. NOAA Finances Services Division Bills and Collections Unit Call Service 7025 (DARRF) 20020 Century Blvd. Germantown, MD 20874 Attention: Nancy Eadie	$27,937.59
U.S. Department of the Interior Account No. 14X5198 U.S. Fish and Wildlife Service 4401 N. Fairfax Drive, Room 380 Arlington, VA 22203 Attention: Chief, Division of Finance	$12,248.00

Panel Resolution 1998-03

Adopted: 2 April, 1998
Consent Decree: ¶ 10(a) Trustee Reimbursements
Resolution: 1996-23

In accordance with Consent Decree paragraph 10(a) Panel Bylaws and Panel Resolution 1996-23, the Elliott Bay/Duwamish Restoration Program Panel hereby authorizes disbursement from the Registry Account to the payee for reimbursable Administrative Director expenses for U.S. Government Fiscal year 1997. Supporting memoranda are attached.

Payees	Amount of disbursement
National Oceanic and Atmospheric Administration NOAA Finances Services Division Bills and Collections Unit Call Service 7025 (DARRF) 20020 Century Blvd. Germantown, MD 20874 Attention: Nancy Eadie	$13,117.34

Panel Resolution 1998-04

Adopted: 2 April, 1998
Consent Decree: ¶ 4(c) Registry Account, ¶ 10(c) Project Expenses
Resolution: 1997-14
Short Title: Project Reimbursement Streamlining

The Elliott Bay/Duwamish Restoration Program Panel of Managers has been reviewing its administrative procedures and has determined that a streamlined process can be used to obtain disbursements from the Registry of the Court. This process is in three parts:

1. Submission of Invoices:
   a. The Project Manager for each Panel-authorized project shall submit project invoices and all relevant background materials to the Administrative Director of the Panel and the Project Liaison.
   b. The Project Liaison shall review the invoices to determine whether the invoice(s) and its subject work product(s) are covered under the project's scope, schedule, and budget (SSB) on file in the Administrative Record of the Panel.

c. For all covered invoices, the Project Liaison shall direct the Administrative Director to prepare a Panel Resolution authorizing the disbursement of funds as appropriate.

d. Background materials and other documentation needed to review the invoices shall be submitted by the Administrative Director to the Panel Representatives two weeks prior to any regularly scheduled meeting or, in the case of special meetings, at the time of notification of the special meeting.

e. Authorization for the disbursement of funds shall be by unanimous vote of the Panel of Managers. Should the vote not be unanimous, procedures in accordance with the Bylaws and Consent Decree shall be followed.

2. Other resolutions requesting reimbursement:

a. All other invoices falling outside the scope of the SSB and all other requests for reimbursement (e.g., Trustee oversight costs) shall be identified and separately forwarded to the Administrative Director along with any explanatory materials.

b. The procedures as set out in #1d and #1e above shall be followed.

3. Required Signatures:

a. The Administrative Director and Panel Secretary are authorized to sign resolutions approved by an unanimous vote of the Panel of Managers.

b. The Consent Decree at paragraph 4c. states that:
"Applications for disbursement orders may be made only by the United States on behalf of, and with the approval of, the Panel." By their signatures below, counsel for the Panel representatives herein authorize the Administrative Director, for all future resolutions approved and signed by the Panel, to forward resolutions and their supporting documentation directly to the U.S. Department of Justice representative for the Panel in order to request formal disbursement from the Registry of the Court.

4. Further, the Panel amends the following By-laws:

By-Laws, Article V, Actions by Written Consent: to

"Any action required or permitted by the Consent Decree or Bylaws to be taken at a meeting of the Panel may be taken without a meeting if consent in writing, setting forth the action so taken, shall be signed by all member groups entitled to vote with respect to the subject matter thereto."

add

"All resolutions pertaining to the submission of invoices or requests for disbursement from the Registry of the Court may be signed by the Administrative Director and the Panel Secretary when said resolutions are approved by the unanimous vote of the Panel. These resolutions and their supporting

documentation may then be forwarded directly to the U.S. Department of Justice representative for the Panel in order to request formal disbursement from the Registry.

Panel Resolution 1998-05

Authorizes in-kind services credit ($55,093.96) to City of Seattle for 1994-1997; authorizes in-kind services credit ($81,570.21) to the City of Seattle for 1992-93; in addition to $87,071.55 credited for Source Control.

Adopted:	2 April, 1998
Consent Decree:	¶ 13 in-kind services, ¶ 10(b), planning and design support.
Resolutions:	1992-05, 06, 16, 20, 23 1993-07, 09, 11b, 21 1994-03, 10, 16, 17 1995-07, 12, 14, 21, 22, 30 1996-01, 07, 12, 17, 21, 26 1997-15

The Elliott Bay/Duwamish Restoration Program Panel hereby recognizes and authorizes the following in-kind credit to the City of Seattle for 1993-1997. With this tabulation and referenced accounting documents, the City has discharged a total of $8,496,626.87 against their $8.5 million debt: $136,664.17 in-kind services (see attached) and $8,359,962.70 in cash payments to the Registry of the Court account between January . 1992 and December 31. 1997. An additional $87,071.55 in source control has been expended against the (up to) $2 million City/County obligation. The City is anticipated to satisfy its real property obligation of $2.5 million with the purchase of the Seaboard Lumber site for habitat development.

Project	Panel Function	Planning & Design	Implementation	Source Control
Pier 53/55		$81,570.21		
Central Waterfront		$55,093.96		
Source Control				$87,071.55
Subtotal	0	$136,664.17	0	$87,071.55

Panel Resolution 1998-06

Change in By-Laws for Panel Chair.

Adopted:	2 April, 1998
Consent Decree:	¶ 9a, Panel authority
Resolutions:	1992-02, 04, 09
	1993-01
	1997-09

The Elliott Bay/Duwamish Restoration Panel amends the following By-Laws:

Article VII. Officers: Change from:

> "...The position of chair shall rotate among the member groups on a quarterly basis commencing January 1, 1992..."

to

> "...The position of chair shall be held by the NOAA voting representative effective this date."

(By unanimous consent)

Panel Resolution 1998-07

Authorizes property acquisition credit to King County for the Porter Levee Project.

Adopted:	27 April, 1998	
Consent Decree:	¶ 9(c), (h) planning and study activities; ¶27(b) habitat development, and ¶30 property acquisition	
Resolutions:	1997-16	Adopts Green River Sites
	1997-17	Amends Concept Document
	1997-18	Green River Site Acquisition

The Elliott Bay/Duwamish Restoration Program Panel hereby authorizes the crediting of up to $280,000 for project management, appraisals, acquisition negotiations, and property acquisition from habitat development property acquisition funds to King County. Credit is given by the Panel upon the successful acquisition and proof of placing of the property known as the Porter Levee (Slaughterhouse) in perpetuity for habitat development. This credit is in partial fulfillment of King County's Consent Decree obligation of up to $2,500,000 in "permanently available real property... for any habitat development project under this Decree" (¶30).

Panel Resolution 1998-08

Authorizes the City of Seattle to conduct sampling for phenols ($2,400) at Pier 53/55 and provide a literature survey on sources and uses ($5,000).

Adopted:	27 April, 1998	
Consent Decree:	¶ 26 sediment remediation; ¶33 source control	
Resolutions:	1992-20	Pier 53/55 credit
	1993-09	Pier 53/55 credit
	1994-01	Pier 53/55 budget
	1995-14	source control
	1996-18	Pier 53/55 budget

The Elliott Bay/Duwamish Restoration Program Panel authorizes the City of Seattle to incur up to $2,400 as a project cost against the remaining monitoring budget to collect two sediment samples on the Pier 53/55 Sediment Remediation Project cap and analyze them for 4-methyl-phenol and phenol. The Panel also authorizes the City of Seattle to incur up to $5,000 for source control to conduct a literature search of previous studies relating to the occurrence of phenols in a marine environment and possible sources and business uses of phenols.

Panel Resolution 1998-09

Authorizes additional property acquisition credit ($25,000) to King County for Duwamish/Hamm Creek Project

Adopted:	27 April, 1998	
Consent Decree:	¶ 9(c), (h) planning and study activities; ¶27(b) habitat development, and ¶30 property acquisition	
Resolutions:	1993-19	Geographic Focus Areas
	1994-13	Appraisal
	1995-10, 18, 27	Project management, scope, acquisition
	1996-02, 28, 29	Letter, 1/3 participation, negotiations
	1997-14	Scope/Schedule/Budget
	1998-01	Property acquisition credit

The Elliott Bay/Duwamish Restoration Program Panel hereby authorizes the crediting of up to an additional $25,000 for project management, appraisals, and property acquisition negotiations from habitat development property acquisition funds to King County. This credit plus up to $725,000 previously authorized in Panel Resolution 1998-01 is given by the Panel upon proof of the granting of an easement in perpetuity from Seattle City Light on the site called Duwamish/Hamm Creek Estuary Project (City Light North) in the Turning Basin Geographic Focus Area for habitat development. A property appraisal dated June 10, 1997, from Lamb Hanson Lamb Appraisal Associates, Inc. is appended. This credit is in partial fulfillment of King

County's Consent Decree obligation of up to $2,500,000 in "permanently available real property...of any right of...easement...sufficient to permanently secure a site for any habitat development project under this Decree" (¶30).

Panel Resolution 1998-10

Authorizes in-kind services credit ($1,217,274) to King County for 1995-1997.

Adopted: 14 May, 1998
Consent Decree: ¶ 13 in-kind services, ¶ 10(b), planning and design support.
Resolutions: 1992-20
1995-10, 11, 13, 15, 16, 18, 20, 23, 25, 28
1996-01, 04, 07, 17, 18, 20, 24, 30, 31
1997-02, 03, 05, 08, 19, 20
1998-01

The Elliott Bay/Duwamish Restoration Program Panel hereby recognizes and authorizes the following in-kind services credit to King County for 1995, 1996, and 1997. With this tabulation and referenced accounting documents, the County has discharged a total of $8,345,912 against their $8.5 million debt: $1,795,912 in-kind services (see attached for $1,217,274 in this resolution plus $447,718 in Resolution 1997-03 and $130,920 in Resolution 1992-20) and $6,550,000 in cash payments to the Court Registry account between January 1, 1992 and December 31, 1997.

Project	Panel Function Support	Planning & Design	Implementation
Pier 53/55			85,686
Norfolk		150,499	48,427
Diagonal/Duwamish		176,510	
D/D/N/Chelan (& management)		471,390	46,088
Central Waterfront		72,121	
Duwamish/Hamm Creek		2,100	
North Wind Weir		107,749	
Elliott Bay Nearshore		49,527	7,177
Subtotal		$1,029,896	$187,378

Total: $1,217,274

Panel Resolution 1998-11

Authorizes planning & design and construction expenditures ($114,093) to the Muckleshoot Indian Tribe for the Turning Basin/Kenco Project.

Adopted:	14 May, 1998	
Consent Decree:	¶ 15 planning and study activities, ¶ 27(b) habitat development	
Resolutions:	1993-02,23	Panel cosponsoring for SIF application
	1993-19	Designating Geographic Focus Areas
	1996-16	Property acquisition
	1997-05	Property management and Level 2 site analysis
	1997-12	Allocation of additional acquisition funds
	1997-14	Scope, Schedule, Budget
	1997-19	Property acquisition credit

The Elliott Bay/Duwamish Restoration Program Panel hereby authorizes up to $114,093 ($108,918 for P&D, $5,175 for construction) for the Muckleshoot Indian Tribe to coordinate the planning, design, and permitting of a project for habitat development at the Turning Basin Vicinity/Kenco site.

Panel Resolution 1998-12

Adopted:	14 May 1998
Consent Decree:	¶ 10(a) Trustee Reimbursements
Resolution:	1996-23

In accordance with Consent Decree paragraph 10(a), Panel By-Laws, and Panel Resolution 1996-23, the Elliott Bay/Duwamish Restoration Program Panel hereby authorizes disbursement from the Registry Account to NOAA for reimbursable Administrative Director expenses for the first quarter of U.S. Government Fiscal Year 1998 (October 1, 1997 to January 3, 1998 = last quarter of calendar year 1997). Supporting memoranda are attached.

Note: Request for disbursement of funds covering NOAA's administrative costs for the first three quarters of calendar year 1997 (January 1, 1997 through September 30, 1997) were covered under Resolution 1998-03

Payee	Amount of disbursement
National Oceanic and Atmospheric Administration NOAA Finances Services Division Bills and Collections Unit Call Service 7025 (DARRF)	$ 4,251.84

20020 Century Blvd.
Germantown, MD 20874
Attention: Nancy Eadie

Panel Resolution 1998-13

Adopted: 14 May 1998
Consent Decree: ¶ 10(a) Trustee Reimbursements
Resolution: 1996-23

In accordance with Consent Decree paragraph 10(a), Panel By-Laws, and Panel Resolution 1996-23, the Elliott Bay/Duwamish Restoration Program Panel hereby authorizes disbursement from the Registry Account to the Payee for reimbursable Trustee expenses for the period January 1, 1998 to April 30, 1998. Supporting memoranda are attached.

Payee	Amount of disbursement
The Suquamish Tribe P.O. Box 498 Suquamish, Washington 98392 Attention: Randy Hatch	$ 4,116.39

Panel Resolution 1998-14

Authorizes expenditure of $21,719.19 under Source Control budget to King County for contractor investigation of phthalate sources to separated storm drains at Norfolk CSO.

Adopted: 01 October 1998
Consent Decree: ¶ 33 Source Control
Resolution:
- 1995-14 Adoption of Source Control Goals/Objectives
- 1995-20 EcoChem Scope of Work Accepted
- 1997-08 Norfolk Construction and Project Management

In accordance with the Consent Decree, the Panel was tasked with establishing source control goals "to protect natural resources and prevent recontamination of sites selected for sediment remediation or habitat development in the covered area." The Panel's source control goals were adopted by Resolution 1995-14. The Norfolk CSO was selected by Resolution 1993-20 for development of a Cleanup Study Workplan.

King County has presented the Panel with new data which suggests that phthalates from four separated storm drains may potentially recontaminate the Norfolk CSO sediment remediation project. Upon review of the documentation, the Sediment Remediation Technical Working Group (SRTWG) recommended to the Panel that a Source Control Investigation be initiated to

determine whether or not the source of phthalates can be identified and what, if any, source control measures can be implemented by the City of Seattle or King County to prevent the recontamination of the Panel's project. To this end, the SRTWG recommended a phased approach. The SRTWG has reviewed the consultant work proposal and cost estimates (Attachment 1) for the first phase of the investigation and recommends Panel approval.

This source control investigation is being conducted in coordination with the activities underway for the Diagonal/Duwamish project.

NOW, THEREFORE, IT IS HEREBY RESOLVED THAT:

1. The Panel has reviewed and approves the Black and Veatch (the consultant) proposal dated August 7, 1998, as provided in Attachment 1, for the first phase in the referenced source control investigation.

2. The Panel has reviewed and approves the cost estimate of $21,719.19 provided in Attachment 1 as follows:

    a. Up to $6,523.04 to EcoChem, Inc. to evaluate past and present sources, define drainage basin, identify potential sources, source control feasibility study, prepare letter report, participate in project management and meetings; and

    b. Up to $15,196.15 to Black & Veatch to evaluate past and present sources, define drainage basin, identify potential sources, source control feasibility study, prepare letter report, participate in project management and meetings.

The Panel authorizes King County to expend source control funds in the amount of $21,719.19 in order to initiate the first phase of the investigation. Work plans, contractor deliverables, and final cost invoices shall be submitted to the Panel for review and approval prior to proceeding with any additional phases of the referenced investigation.

Panel Resolution 1998-15

Authorizes expenditure of $14,657.53 under Source Control budget to King County for additional contractor support for the Evaluation of Potential Recontamination and the Completion of the Duwamish/Diagonal Site Assessment Report.

Adopted:	01 October 1998	
Consent Decree:	¶ 33 Source Control	
Resolution:	1995-14	Adoption of Source Control Goals/Objectives
	1995-20	EcoChem Scope of Work Accepted

In accordance with the Consent Decree, the Panel was tasked with establishing source control goals "to protect natural resources and prevent recontamination of sites selected for sediment remediation or habitat development in the covered area." The Panel's source control goals were adopted by Resolution 1995-14. The Diagonal Way CSO/storm drain and the Duwamish Pump Station CSO were selected by Resolution 1993-20 for development of Cleanup Study Workplans.

King County has presented the Panel with new data which suggests that the volume of separated storm water discharged from the Diagonal/Duwamish CSO/SD is nearly double the volume originally reported by the City of Seattle. The larger volume of storm water significantly increases the potential for recontamination of the remediation site by phthalates, which are the primary chemicals defining the cleanup boundary.

The Sediment Remediation Technical Working Group (SRTWG) has reviewed the new documentation, the consultant work proposal, and the cost estimates and recommends Panel approval.

This source control investigation is being conducted in coordination with the activities underway for the Norfolk CSO project.

NOW, THEREFORE, IT IS HEREBY RESOLVED THAT:

1. The Panel has reviewed and approves the EcoChem, Inc. (the consultant) proposal dated August 11, 1998, as provided in Attachment 1, for the purpose of completing the Duwamish/Diagonal Site Assessment Report (Section 5.4, which discusses the potential for sediment recontamination after clean up).

2. The Panel has reviewed and approves the source control cost estimate provided in Attachment 1 as follows:

    a. Up to $14,657.53 to EcoChem, Inc. to: evaluate system data, compute SD and CSO settling, compute loss rates, effects of source reduction, reporting, revising the D/D SA, and project management and meetings.

3. The Panel authorizes King County to expend source control funds in the amount of $14,657.53 in order to complete the Diagonal/Duwamish Site Assessment Report. Work plans, contractor deliverables, and final cost invoices shall be submitted to the Panel for review and approval prior to proceeding with any additional phases of the referenced investigation.

1998 Cash Disbursements from the Court Registry Account

Resolution	Recipient	Amount $	Reason
1998-02	Ecology	9,741.35	TE: CY97
1998-02	Muckleshoot	5,222.67	TE:CY97
1998-02	Suquamish	13,492.00	TE:CY97
1998-02	NOAA	28,208.63	TE:CY97
1998-02	USFWS	12,428.00	TE:CY97
1998-03	NOAA	13,117.34	AD:10/01/96-09/30/97
1998-12	NOAA	4,251.84	AD:10/01/97-01/03/98
1998-13	Suquamish	4,116.39	TE:01/01/98-04/30/98
Subtotal of Disbursements:		**$90,578.22**	

AD: Administrative Director
TE: Trustee Expense reimbursement

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Appendix A
Panel Organization Plan

Panel Organization Plan

Contents

A. Acronyms and abbreviations....A-1
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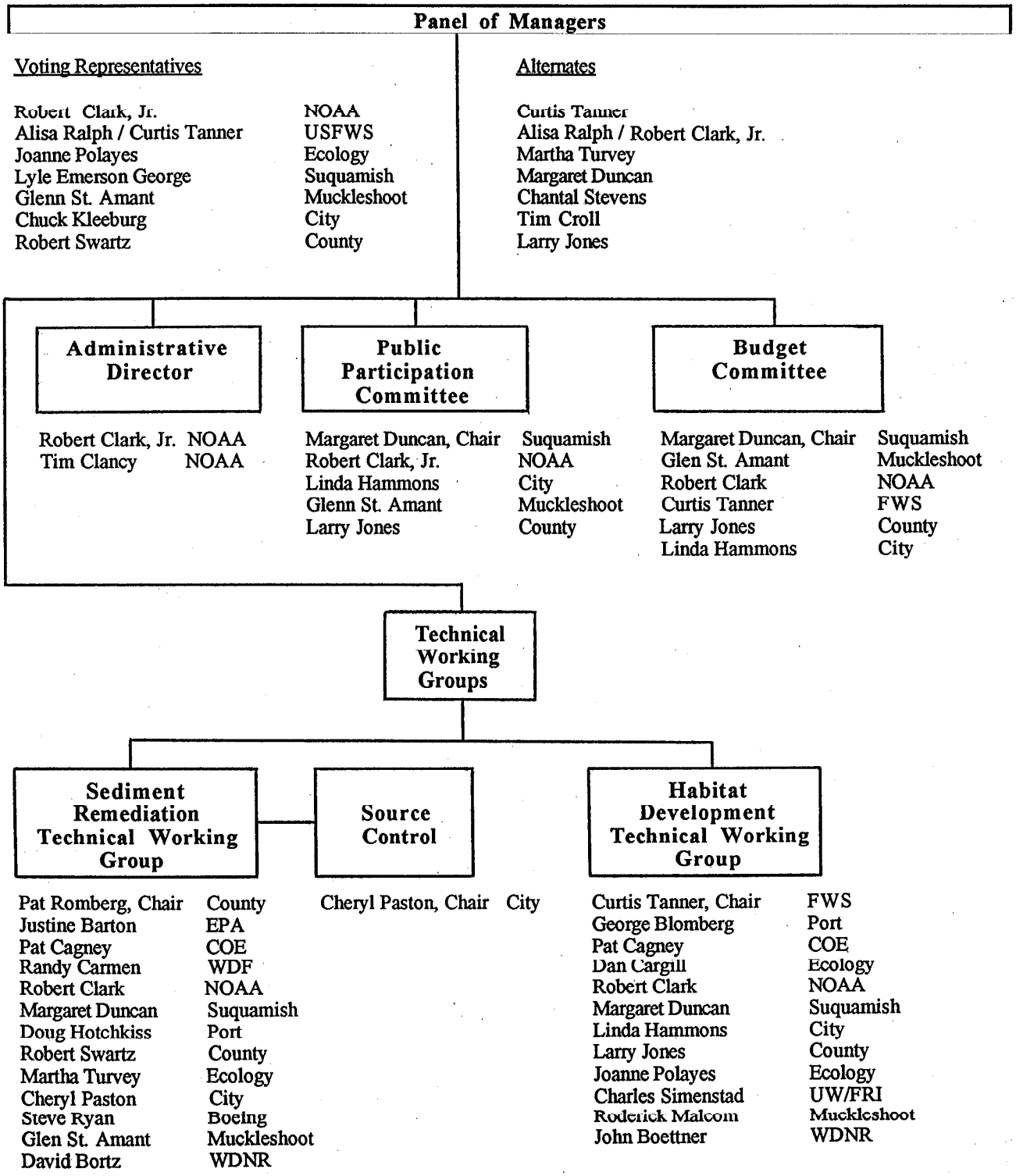
A. Acronyms and Abbreviations

Boeing	The Boeing Company
City	The City of Seattle
COE	U.S. Army Corps of Engineers
County	King County (formerly METRO)
DOI	U.S. Department of the Interior
Ecology	Washington State Department of Ecology
EPA	U.S. Environmental Protection Agency
Muckleshoot	Muckleshoot Indian Tribe
NMFS	National Marine Fisheries Service
NOAA	National Oceanographic and Atmospheric Administration
NOS	National Ocean Service
Port	Port of Seattle
Suquamish	Suquamish Tribe
USFWS	U.S. Fish and Wildlife Service
UW/FRI	University of Washington/Fisheries Research Institute
WDNR	Washington State Department of Natural Resources
WDFW	Washington State Department of Fish and Wildlife
WPC	King County Water Pollution Control Division

B. Organization Chart

Organization Structure



C. Panel Participants

P = Panel of Managers Representatives
S = Sediment Remediation Technical Working Group
H = Habitat Development Technical Working Group

National Oceanic and Atmospheric Administration

Dr. Robert C. Clark, Jr. (P,S,H) — Phone: (206) 526-4338
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Damage Assessment and Restoration Center Northwest
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Ecology Division
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The Suquamish Tribe

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Cheryl Paston (P,S) Phone: (206) 684-4609
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Involvement: Damage assessment, restoration planning

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Involvement: Legal

King County Department of Natural Resources (formerly METRO)

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Involvement: Damage assessment, restoration planning

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D. Additional Technical Working Group Members

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Appendix B
Panel Publications

Panel Publications

1. *Draft Public Participation Plan*, February 1992.
2. *Summary of Stakeholder Interviews*, December 1992.
3. *Draft Concept Document* , August 1993.
4. *1992 Annual Report*, May 1993.
5. *1993 Annual Report*, April 1994.
6. *Public Participation Plan*, June 1994
7. *Final Concept Document*, June 1994.
8. *1994 Annual Report*, June 1995.
9. *Waterfront Recontamination Study - Volume I*, July 1995.
10. *Waterfront Recontamination Study - Volume II*, August 1995.
11. *Pier 53/55 Sediment Cap Monitoring Report*, January 1996.
12. *1995 Annual Report*, June 1996.
13. *Norfolk CSO Sediment Cleanup Study*, July 1996.
14. *Concept Document Addendum No. 1*, November 1996.
15. *1996 Annual Report*, June 1997.
16. *Concept Document Addendum No. 2*, December 1997.
17. *Pier 53/55 Sediment Cap Monitoring Report*, December 1997
18. *1997 Annual Report*, May 1998.
19. *Construction of Oyster Shell Habitat Plots in Elliott Bay: Evaluation of Crab Settlement and Habitat Utilization* (Dinnel Marine Research), November 1998.
20. *1998 Annual Report*, May 1999.