

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648-XA44

Intent to Prepare a Programmatic Environmental Impact Statement, and Conduct Restoration Planning to Compensate for Injuries to Natural Resources in the Lower Duwamish River

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of intent to prepare a programmatic environmental impact statement and restoration plan; request for comments; notice of public scoping meetings.

SUMMARY: The NOAA, U.S. Fish and Wildlife Service, Washington State's Department of Ecology and the Department of Fish and Wildlife, Suquamish Tribe of Indians, Muckleshoot Tribe of Indians (all agencies and Indian Tribes are collectively referred to as the "Trustees") are providing notice of their efforts to plan restoration projects to compensate for injuries to natural resources in the Lower Duwamish River (River). The Trustees seek damages from potentially responsible parties (PRPs) to restore, rehabilitate, replace or acquire the equivalent of natural resources and services injured by the release of hazardous substances. The Trustees will prepare a programmatic environmental impact statement (PEIS) to identify and address the environmental impacts of the injuries, and they seek public involvement in development of a Draft Restoration Plan (RP). This notice explains the scoping process the Trustees will use to gather input from the public. Comments on what the Trustees should consider in the PEIS and RP may be submitted in written form or verbally at a public scoping meeting.

DATES: Preliminary public scoping meeting dates and times are scheduled as follows:

1. June 6, 2007, from 6:30 p.m. to 8:30 p.m. in Seattle, WA.
2. June 7, 2007, from 10 a.m. to 12 p.m. in Tukwila, WA.

Written comments must be received by August 1, 2007.

ADDRESSES: Written comments on suggested alternatives and potential impacts should be sent to John Kern, NOAA Restoration Center, 7600 Sand Point Way NE, Seattle, WA 98115.

The public scoping meetings will be held at the following locations:

1. June 6, 2007 - - South Park Community Center, 8319 8<sup>th</sup> Ave. S, Seattle, WA 98108.
2. June 7, 2007 - - Tukwila Center, 12424 42<sup>nd</sup> Ave. S, Tukwila, WA 98168.

FOR FURTHER INFORMATION CONTACT: John Kern at 206-526-6029 or e-mail at [john.kern@noaa.gov](mailto:john.kern@noaa.gov).

SUPPLEMENTARY INFORMATION: Under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), 42 U.S.C. 9601 *et seq.*, parties responsible for releasing hazardous substances into the environment are liable both for the costs of responding to the release (by cleaning up, containing or otherwise remediating the release) and for damages arising from injuries to publicly owned or managed natural resources resulting from the release. Natural resource damage assessment (NRDA) is the process of assessing the nature and extent of the resulting injury, destruction or loss of natural resources and the services they provide. NRDA also includes the process of determining the compensation required to make the public whole for such injuries, destruction or loss. CERCLA authorizes certain federal and state agencies and Indian tribes to be designated as Trustees for affected natural resources. Under CERCLA these agencies and tribes are authorized to assess natural resource injuries and to seek compensation

from responsible parties, including the costs of performing the damage assessment. The Trustees are required to use recovered damages only to restore, replace or acquire the equivalent of the injured or lost resources.

Scientific literature and studies conducted by the Trustees elsewhere in Puget Sound have documented injuries from contaminants found in the Duwamish Waterway. Contractors for PRPs as part of the EPA-led remediation process have documented large quantities of hazardous substances that have contaminated extensive areas of the Duwamish Waterway. The Trustees' studies have demonstrated how the contamination has harmed both the organisms that inhabit the estuarine sediments, as well as fish and wildlife that come into contact with the contaminated sediments or that eat contaminated prey items.

As restoration planning proceeds, the Trustees will take advantage of opportunities to settle natural resource damage claims with willing parties. By identifying criteria and guidance to be used in selecting feasible restoration projects, the plan will provide an ecological framework to maximize the benefits of specific restoration projects to the affected resources in the defined areas of the River.


The National Environmental Policy Act (NEPA), 42 U.S.C. 4321 et seq., and the Council on Environmental Quality regulations implementing NEPA under 40 CFR chapter V apply to restoration actions by federal trustees. The purpose of the scoping process is to identify the concerns of the affected public and federal agencies, states, and Indian tribes, involve the public early in the decision making process, facilitate an efficient EA/EIS preparation process, define the issues and alternatives that will be examined in detail, and save time by ensuring that draft documents adequately address relevant issues. The scoping process reduces paperwork and delay

by ensuring that important issues are addressed early.

In compliance with 15 CFR 990.45, Trustees will prepare an Administrative Record (Record). The Record will include documents that the Trustees relied upon during the development of the RP and PEIS. After preparation, the Record will be on file at the NOAA Damage Assessment Center in Seattle, WA, and duplicate copies will be maintained at the following website: <http://www.darp.noaa.gov/>.

A draft PEIS document will be released for public comment by Fall/Winter, 2007. Specific dates and times for future events will be publicized when scheduled.

Dated: May 21, 2007



---

Patricia A. Montanio

Director, Office of Habitat Conservation

National Marine Fisheries Service