



**COMMISSION  
AGENDA MEMORANDUM**

**Item No.** 10c

**ACTION ITEM**

**Date of Meeting** February 8, 2022

**DATE:** January 21, 2022

**TO:** Stephen P. Metruck, Executive Director

**FROM:** Jon Sloan, Interim Director, Maritime Environment & Sustainability  
Kathleen Hurley, Senior Environmental Program Manager  
Kathy Bahnick, Senior Manager, Environmental Programs  
Joanna Florer, Senior Environmental Program Manager  
Tim Leonard, Capital Project Manager

**SUBJECT: T25 South Restoration program EPA Order approval and Cleanup (106176) and Habitat (105562) ERL projects design authorization**

**Amount of this request:** \$10,000,000

**Total estimated program cost:** \$75,000,000,

**ACTION REQUESTED**

Request Commission authorization for the Executive Director to (1) execute an Administrative Order on Consent (AOC) with the U.S. Environmental Protection Agency (EPA); and (2) authorize completion of design and permitting for the Terminal 25 South Restoration Program Cleanup (106176) and Habitat Restoration (105562) projects in the amount of \$10,000,000 of a total preliminary estimated Environmental Remediation Liability (ERL) program cost of \$75,000,000. No funding is requested at this time to perform this work as it is included in the annual ERL authorization and 5-year plan.

**EXECUTIVE SUMMARY**

Terminal 25 is located along the East Waterway. The northern two thirds of the property is an active cargo facility, whereas the southern third of the property, known as T25 South, is an underutilized parcel that has primarily been used in recent years for bulk material storage, viaduct demolition material storage, and drayage parking. The eastern half of T25 South is licensed to the Northwest Seaport Alliance (NWSA), and the western half of the site, managed by the Port of Seattle (Port), has been identified as a potential habitat restoration site in the Port's proposed multi-site habitat mitigation bank program. The habitat mitigation bank program is a revenue-generating program that restores marginal properties for the purposes of creating 'mitigation credits' that can be reserved, sold, or serve as a component of a future settlement agreement to resolve claims related to Natural Resource Damages (NRD).

Meeting Date: February 8, 2022

The Terminal 25 South Restoration Habitat project will create valuable off-channel habitat, which will help bridge the gap in the habitat network between the mouth of the Duwamish Estuary and the off-channel habitat upstream along this important fish migratory corridor. Importantly, the project will restore off-channel estuarine habitat important for feeding, rearing, and refuge for juvenile salmonids. The project site includes a combined total of approximately 9 acres of upland and aquatic area along the shoreline of the East Waterway which will benefit from restored nearshore habitat consisting of riparian habitat, off-channel marsh, enhanced intertidal, and shallow subtidal areas that will, in turn, improve adjacent existing deep subtidal habitat.

In 2019 and 2020, the Port conducted preliminary investigations in the footprint of the habitat area to determine if contamination was present. These investigations confirmed the presence of contamination at the site. Therefore, as required by the attached AOC, a cleanup investigation needs to be performed, with EPA's oversight, to refine the nature and extent of contamination and ensure that the proposed habitat restoration meets EPA cleanup requirements for the East Waterway Superfund site.

Port staff is currently coordinating with the NWSA regarding Terminal 25 South site use adjustments and property agreements necessary to accommodate the proposed habitat and stormwater treatment areas. The NWSA is also evaluating a separate potential Terminal 25 South capital site improvements project to be completed in conjunction with the T25 South Restoration program and thereby benefit from resultant combined design, permitting, and construction efficiencies. Additional information will be provided regarding this project as its planning is completed concurrently with the initial phases of the proposed cleanup and habitat projects' design effort.

Construction of the Port Cleanup and Habitat Restoration projects, as well as the NWSA's potential T25 South site improvements project is currently planned to be completed via a General Contractor/Construction Manager (GC/CM) Heavy Civil alternative delivery method with contractor involvement anticipated to start at a 30% design stage in 2024. Additional information will be provided regarding this, as part of a future GC/CM contracting approval request, as the T25 Restoration program design and construction scope are further developed.

### **JUSTIFICATION**

As keystone projects within the Port's proposed multi-site joint habitat mitigation and conservation bank program, the Terminal 25 South Restoration cleanup and habitat projects may serve to provide a service for industrial customers for whom the limiting factor for property development is the identification of suitable mitigation opportunities. Similar to the Duwamish River People's Park and Shoreline Habitat (formerly Terminal 117) as well as other Port habitat restoration projects at Terminal 108 and other locations, this project will create a large off-channel intertidal marsh and exposed unvegetated intertidal substrates (including mudflat, sandflat, and cobble) surrounded by a riparian buffer.

Meeting Date: February 8, 2022

The Terminal 25 Restoration program also represents an opportunity to make progress toward several of the Port's Century Agenda goals, primarily that of being the greenest and most energy-efficient port in North America; as well as watershed-based restoration priorities for the Green-Duwamish watershed and the Duwamish Estuary sub-watershed; through the proposed 40-acre habitat restoration. The Project may also serve as a component of a future settlement agreement to resolve claims related to NRD.

In conjunction with the habitat project, the site also requires cleanup with oversight from EPA. The AOC is a binding agreement to perform work by the Port, therefore the signing of the EPA Order requires Commission authorization. The signed AOC will formally initiate the process of determining the nature and extent of contamination at Terminal 25 South and identify the cleanup approach required. By cleaning up the site, the Port advances the long-term protection of human health and the environment, reduces our environmental liability, and enables the advancement of the habitat restoration.

The design effort, including extensive permitting coordination, required for this program is currently anticipated to require a minimum of five years to complete. Given this lengthy duration and the critical need to comply with the newly issued EPA cleanup order, it is recommended that this effort begin immediately. As both the proposed T25 Restoration program cleanup and habitat projects are included in the Environmental Remediation Liability (ERL) annual authorization and 5-year plan, no funding is being requested at this time to perform this work.

### ***Diversity and Contracting***

The design effort will utilize consultant services via environmental IDIQ contracts developed to serve design and permitting efforts such as those required by this program. The Maritime Environmental Site Management (Cleanup) IDIQ contract and Maritime Environmental Review Permitting and Sustainability (Habitat Restoration) IDIQ contract have WMBE aspirational goals of 15% and 23% respectively.

### ***Workforce Development***

The project team is coordinating with the workforce development team within the Office of Equity, Diversity and Inclusion, as well as Economic Development, to support construction trades opportunities in near-Port communities and the green economy in the areas surrounding the Duwamish River.

### ***Stakeholder Communication and Outreach***

The project team is coordinating with Port External Relations staff to create and implement an outreach plan for communications to appropriate community groups, stakeholders, and tenants throughout the course of the project.

Meeting Date: February 8, 2022

**DETAILS**

***Scope of Work***

The design scope to be performed under this authorization will include:

- Site investigations
- Sampling and data collection
- Coordination with EPA, Trustees, NWSA and other stakeholders
- Environmental, land use review and permitting
- Construction permitting
- Preparation of Cleanup and Habitat construction documents
- Preparation of cost estimates

The proposed site improvements planned to be performed as a result of the projects’ design efforts consist of:

- Dredging and disposal of contaminated in-water sediment
- Removal and disposal of existing in-water/shoreline creosote treated timber piles and marine structural remnants
- Excavation and disposal of upland contaminated soils
- Construction of riparian and inter-tidal habitat area including installation of native marsh and riparian plantings
- Construction of stormwater treatment basin to serve adjacent upland areas including low impact stormwater conveyance system

***Design Schedule***

*Preliminary milestones:*

Commission Design Authorization	February 2022
Execution of consultant service directives; start of site cleanup investigation and design	June 2022
30% design completion	Q4 2024
Design & permitting complete	Q1 2027
Habitat construction complete	Q4 2028

***Cost Breakdown***

	This Request	Total Project
Design, cleanup investigation, and other soft costs	\$10,000,000	\$10,000,000
Construction	\$0	\$62,000,000
Post Construction Monitoring	\$0	\$3,000,000
<b>Total</b>	<b>\$10,000,000</b>	<b>\$75,000,000</b>

Meeting Date: February 8, 2022

Project costs have been estimated based on a conceptual design and will be refined as the design is developed further.

**ALTERNATIVES AND IMPLICATIONS CONSIDERED**

**Alternative 1 – Do not proceed with the proposed T25 South Restoration program or enter into the EPA Order.**

Cost Implications: Program cost savings.

Pros:

- (1) Short-term budget cost savings.
- (2) No impact to existing T25 South site uses.

Cons:

- (1) The Port’s contamination liability at T25 South will remain unaddressed.
- (2) Could result in the U.S. Environmental Protection Agency taking enforcement action or taking over performing the required site cleanup investigation.
- (3) Loss of Port opportunity and flexibility to define and direct the work; and to manage costs.
- (4) Loss of Port opportunity to efficiently combine required site cleanup with site improvements and future.
- (5) Would not comply with Port’s obligations to remediate the site.
- (6) Not consistent with the current environmental values of the Port.
- (7) Would erode established trust between the Port and state and federal environmental oversight agencies and tribes.

This is not the recommended alternative.

**Alternative 2 – Approve entering into EPA Order and proceed with T25 South cleanup, but do not proceed with the proposed Habitat Restoration project.**

Cost Implications: Short-term program cost savings.

Pros:

- (1) Addresses the Port’s contamination liability at T25 South.
- (2) Short-term budget cost savings.
- (3) Limited impact to existing T25 South site uses.

Cons:

- (1) Loss of Port opportunity to achieve in potential efficiencies by combine required site cleanup with habitat restoration and potential NWSA site improvements.
- (2) Not consistent with the current environmental values of the Port.
- (3) Would erode trust between the Port and Habitat project stakeholders, regulatory agencies, and tribes.

Meeting Date: February 8, 2022

This is not the recommended alternative.

**Alternative 3 3** – Approve entering into the EPA Order and proceed with proposed T25 South Restoration program design and permitting effort.

Cost Implications: Estimated \$10,000,000 for design effort.

Pros:

- (1) Addresses the Port’s contamination liability at T25 South.
- (2) Provides opportunity to efficiently combine required site cleanup with site improvements and future uses.
- (3) Provides Port ability to better manage design and construction schedules.
- (4) Consistent with the Port’s values of being responsible stewards of community resources and the environment.
- (5) Maintains established trust between the Port and state and federal environmental oversight agencies and tribes.
- (6) Minimizes long-term construction cost escalation.

Cons:

- (1) Uncertainty that mitigation obligation will be reached.
- (2) Potential additional design costs due to uncertainty of the executed agreement.

***This is the recommended alternative.***

**FINANCIAL IMPLICATIONS**

<b><i>Cost Estimate/Authorization Summary</i></b>	Capital	Expense	Total
<b>COST ESTIMATE</b>			
Original estimate	\$0	\$34,000,000	\$34,000,000
<b>AUTHORIZATION</b>			
Previous authorizations	\$0	\$0	\$0
Current request for authorization	\$0	\$10,000,000	\$10,000,000
Total authorizations, including this request	\$0	\$10,000,000	\$10,000,000
Remaining amount to be authorized	\$0	\$65,000,000	\$65,000,000

***Annual Budget Status and Source of Funds***

The project cost is included in the Annual ERL Authorization.

The funds for this work come from the Tax Levy. The Port actively works on cost recovery i.e. grants, insurance or payments from other 3rd parties to help support this work.

Meeting Date: February 8, 2022

***Financial Analysis and Summary***

Project cost for analysis	\$75,000,000
Business Unit (BU)	Maritime Environmental Services
Effect on business performance (NOI after depreciation)	N/A.
IRR/NPV (if relevant)	N/A
CPE Impact	N/A

**ATTACHMENTS TO THIS REQUEST**

- (1) Administrative Order on Consent and Statement of Work
- (2) Presentation

**PREVIOUS COMMISSION ACTIONS OR BRIEFINGS**

- November 9, 2021 – Commission approved Annual ERL Authorization  
November 10, 2020 – Commission approved Annual ERL Authorization  
November 5, 2019 – Commission approved Annual ERL Authorization