



Portland Harbor Superfund Site: Natural Resource Recovery and Trustees

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Portland Harbor Superfund Site Background

The U.S. Environmental Protection Agency (EPA) listed the Lower Willamette River as a Superfund site in 2000. The affected area encompasses approximately 10 miles of the Willamette River in Portland, from the Broadway Bridge north to near the confluence of the Willamette and Columbia rivers. Contamination of this site came from multiple sources and occurred over more than 100 years of activities. Sources include agricultural and urban development, U.S. wartime activities (World War I, World War II, Korean War and postwar ship scrapping), industrial activities, combined sewer overflows and past and present storm water discharges. More than 150 Potentially Responsible Parties (PRPs) currently or historically involved with the site are potentially responsible for the contamination of sediment on the river bottom and for cleaning it up.

Natural Resource Recovery

Recovery of natural resource damages is part of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA), the law known as "Superfund", but is separate from the EPA-led process to study, plan, and implement Superfund site cleanup.

Determining damages and restoration alternatives for publicly held resources (water, air, sediment, and wildlife, for example) is the responsibility of the Natural Resource Trustees. The Trustees are appointed by federal and state governments as well as federally recognized tribal governments. Trustees represent public interests in resource damage claims.

The goal of the Natural Resource Damage Assessment (NRDA) process is to make the public "whole" for injury to, or loss of, natural resources from contamination.

The NRDA Process

Damage recovery is a four-phase process:

- Assess natural resource injuries
- Quantify those injuries
- Seek compensation from the parties responsible for the contaminants
- Use funds to restore, rehabilitate, and/or replace natural resources

Portland Harbor Natural Resource Trustee Council

- National Oceanic and Atmospheric Administration, acting on behalf of U.S. Department of Commerce
- U.S. Fish and Wildlife Service, acting on behalf of U.S. Department of the Interior
- Oregon Department of Fish and Wildlife, acting on behalf of State of Oregon
- Confederated Tribes of the Grand Ronde Community of Oregon
- Confederated Tribes of Siletz Indians
- Confederated Tribes of the Umatilla Indian Reservation
- Confederated Tribes of the Warm Springs Reservation of Oregon
- Nez Perce Tribe

The assessment phase determines the type and extent of natural resource injuries incurred. The technical information gained from this research forms the basis for deciding the need, type and scale of restoration. When the assessment nears completion, the Trustees develop a restoration plan, identify a reasonable range of alternatives and select a preferred alternative. The final restoration plan is presented to responsible parties who may then resolve their liability through court-approved settlements by which they execute the plan themselves or pay a cash settlement that the Trustees then use to fund implementation of the plan.

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Methodology

Trustees use a technical model known as the Habitat Equivalency Analysis (HEA) to evaluate the scope of the damages and restoration. Natural resource service damages are measured in “discounted service acre years” (DSAYs), or the number of acres that would have performed natural function in the absence of contamination, multiplied by the number of years they were contaminated (discounted by a natural recovery factor).

Trustees assign a dollar value per DSAY and responsible parties must either pay for their allocated share of DSAY liabilities, perform restoration projects equivalent to that number of DSAYs, or do a combination of both.

While the cleanup remedy will focus on the 10-mile Portland Harbor Superfund site, the Trustees have identified a broader area for restoration projects that will compensate for the natural resource damages at the site and benefit the entire Lower Willamette River ecosystem.

Early Settlement Process

Traditionally, responsible parties wait until the separate EPA-led Superfund cleanup process is complete to negotiate a settlement for Natural Resource Damages. However, with a Cooperative Assessment, an early settlement can be available. With an early settlement, responsible parties will settle their liability years before the cleanup phase has been completed. The advantages of early settlement are the ability to improve ecosystems and habitat earlier as well as lowered costs for restoration, legal tasks, and administration.

At Portland Harbor, some responsible parties are pursuing an early settlement with the Trustees. Several habitat restoration projects are already underway, including Alder Creek at the southern tip of Sauvie Island, and on the east side of the Willamette River near the old Linnton Plywood factory.

Bottom Line

The Superfund law recognizes that even after cleanup decisions are made and a remedy is implemented, some residual damage may remain to the natural resources in the affected area. While Portland Harbor provides a valuable resource to the community as a working harbor, it is also habitat for fish and wildlife. A fair assessment of the resource injury at the site can lead to significant restoration of the Portland Harbor ecosystem while preserving the economic value of the Willamette River.

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