

PORTLAND HARBOR  
*Natural Resource Trustee Council*



**Portland Harbor Natural Resource Trustee Council  
Natural Resource Damage Assessment Restoration  
Request for Proposals**

**Background**

The Portland Harbor Natural Resource Trustee Council (Trustee Council) consists of federal, state, and tribal natural resource trustees that are acting under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) to assess injuries to natural resources in the Portland Harbor Superfund Study Area (Study Area) resulting from unpermitted releases of hazardous substances. As part of the natural resources damage assessment and restoration (NRDAR) provisions laid out under CERCLA, the Trustee Council is also charged with identifying and evaluating natural resource restoration actions that could compensate the public for harm to the injured resources. This assessment and restoration work is distinct from the remedial (i.e., clean-up) process. The restoration planning process culminates in a publicly-vetted restoration plan outlining the Trustee Council’s preferred restoration alternative.

In 2017 the Trustee Council published the final version of the Portland Harbor Programmatic Environmental Impact Statement and Restoration Plan (PEIS/RP), which focuses specifically on restoration to compensate for ecological injuries resulting from releases of hazardous substances (compensation for other types of injuries, such as to human use, will be dealt with separately). That document can be found online at [https://www.fws.gov/portlandharbor/sites/default/files/2018-12/201706\\_FINAL\\_PEIS.pdf](https://www.fws.gov/portlandharbor/sites/default/files/2018-12/201706_FINAL_PEIS.pdf) (this is Volume 1 of the PEIS/RP; Volume 2 contains the appendices and is found at [https://www.fws.gov/portlandharbor/sites/default/files/2018-12/201706\\_FINAL\\_PEIS\\_Appendix.pdf](https://www.fws.gov/portlandharbor/sites/default/files/2018-12/201706_FINAL_PEIS_Appendix.pdf)). The Final PEIS/RP evaluates several alternatives and outlines the Trustee Council’s preferred alternative for restoring natural resources injured by contamination in Portland Harbor: Integrated Habitat Restoration. Integrated Habitat Restoration focuses on the habitat needs shared by multiple fish and wildlife species potentially injured by hazardous substances released into and from the Portland Harbor Superfund Site, with a particular focus on juvenile Chinook salmon. The Final PEIS/RP describes the preferred alternative for restoration in broad terms, but also lays out in detail a process by which the Trustee Council will select specific restoration projects and the criteria by which they will be evaluated.

In the future, the Trustee Council anticipates having NRDAR settlement funds available for restoration. In the Final PEIS/RP, the Trustee Council explains that when settlement funds become available, the Trustee Council will evaluate options for converting those funds to ecological benefits, in this case quantified in terms of the ecological “credits” generated by a restoration project, or “restoration credits.” Options outlined in the Final PEIS/RP include:

- *Trustee-led restoration project implementation*, where the Trustee Council would use settlement funds to design and construct a restoration project themselves;
- *Partnering with non-Trustee entities who are implementing restoration*, where the Trustee Council would provide settlement funds to a third-party entity proposing to develop and implement a restoration project; and
- *Purchasing credits from restoration banks*, where the Trustee Council would purchase ecological benefits, in the form of credits, from a restoration bank.

The Trustee Council now intends to evaluate these three options as alternatives to determine which type of restoration arrangement will best meet the goals and objectives identified in the Final PEIS/RP, and generate a list of eligible projects.

### **Request for Project Proposals**

Consistent with the Final PEIS/RP, and to support development of the forthcoming Supplemental Restoration Plan (SRP), the Trustee Council invites proposals for ecological restoration projects representing any of the three options described above (i.e., Trustee-led, partnership, or restoration bank) within the Portland Harbor Superfund Study Area and Broader Focus Area (Figure 1) that will restore, or are in the process of restoring, key habitat types and benefit potentially injured natural resources, such as juvenile Chinook salmon, Pacific lamprey, bald eagle, mink, and others. To develop this analysis, the Trustee Council will review specific projects representing each of these alternatives to better understand the benefits and challenges of each alternative. Proposed projects must meet all of the eligibility criteria described below in Part B. The Trustee Council will then evaluate eligible proposals based on the selection criteria described in detail in the Final PEIS/RP and outlined below in Part C.

The alternatives will be analyzed, described, and published for public comment in a SRP. The analysis will identify a preferred alternative or alternatives (i.e., Trustee Council-led restoration project implementation, partnering with other entities who are implementing restoration, and purchasing credits from restoration bank projects), along with a list of projects that best meet the Trustee Council's requirements. The SRP will guide how the Trustee Council spends its first infusion of settlement funds recovered through the NRDAR. If additional settlement funds become available in the future, the Trustee Council may continue to rely on this SRP, issue another request for project proposals, or consider other restoration alternatives. Also, any eligible restoration project proposals that are submitted for the Trustee Council's consideration during this request for proposals may be added to the Trustee Council's restoration portfolio for consideration in the future.

### **Instructions to Respondents**

Each submitted project proposal should adhere to the following outline:

- A. Project overview
- B. Demonstration of Eligibility
- C. Documentation of Evaluation Standards

The information that should be included within each section is outlined below. Respondents should address each of the identified components in the order presented. In the event that a topic has been addressed previously (e.g., description of an eligibility criteria also responds to an evaluation standard), respondent should refer the reader to the section containing the relevant response (i.e., do not duplicate responses).

**A. Project Overview**

1. Project Name
2. Project Implementer
3. Project Category (Trustee-implemented project, partnership with a third party, or restoration bank).

**B. Eligible Projects**

To be eligible for consideration by the Trustee Council for funding, the proposed project must meet all of the following criteria. Please provide a description of how your proposed project addresses each of the identified criteria.

1. The proposed project must result in physical, on-the-ground restoration or improvement of those potentially injured natural resources identified in the Final PEIS/RP. Projects focused on providing other benefits such as public outreach, education, and recreation do not meet the Trustee Council’s restoration goals outlined in the Final PEIS/RP.
2. The project must meet one or more of the Trustee Council’s restoration goals, as stated in the Final PEIS/RP:
  - Move toward normative hydrology;
  - Restore floodplain function;
  - Reestablish floodplain and riparian plant communities;
  - Improve aquatic and riparian habitat conditions;
  - Improve river margin habitat; and
  - Restore habitat that provides ecological value in the landscape perspective.
3. The proposed project must be located within the Superfund Study Area or within the Broader Focus Area for restoration (Figure 1).
4. The proposed project must currently be generating ecological benefits or be expected to do so with a high degree of certainty within 2 years of the date of this request for proposals.
5. The proposed project’s habitat conditions prior to restoration and the habitat conditions achieved after restoration must be clearly demonstrable geospatially, using the habitat types included in the Trustee Council’s Habitat Equivalency Analysis and defined here: [https://www.fws.gov/portlandharbor/sites/default/files/documents/HabTermsHEA\\_0967.pdf](https://www.fws.gov/portlandharbor/sites/default/files/documents/HabTermsHEA_0967.pdf). The goal of this requirement is to ensure that the Trustee Council is able to quantify the ecological benefit of all projects using a common metric.

6. The proposed project's physical footprint and its ecological benefits must ultimately have permanent legal protection. The Trustee Council's preferred method for providing these protections is a conservation easement deed preserving relevant ecological functions.
7. The proposed project must be designed to meet reportable performance criteria that are relevant to Trustee Council goals and monitoring requirements. The project proponent must have conducted, or be willing to conduct, baseline, implementation, and a minimum of 10 years of effectiveness monitoring, consistent with the Trustee Council's monitoring and stewardship framework. The Trustee Council's monitoring requirements and example performance criteria are detailed in Appendix D of the Final PEIS/RP (Volume 2), available here: [https://www.fws.gov/portlandharbor/sites/default/files/2018-12/201706\\_FINAL\\_PEIS\\_Appendix.pdf](https://www.fws.gov/portlandharbor/sites/default/files/2018-12/201706_FINAL_PEIS_Appendix.pdf)
8. The proposed project must have a plan for long-term stewardship to ensure that the proposed project can be appropriately monitored and its ecological values maintained in perpetuity.
9. For restoration banks, credits used to resolve natural resource damages liability cannot be used for other purposes. Credits cannot be double-counted or be used to satisfy multiple legal obligations. For example, if a restoration bank is providing credits for both natural resource damages liability and for wetlands mitigation under Section 404 of the Clean Water Act there must be a clear accounting mechanism in place to ensure that each credit is only used once.
10. For projects that are not restoration banks, the proposed project is ineligible if it would be implemented regardless of the Portland Harbor NRDAR. For example, a proposed project would be ineligible if the entire project is required to satisfy some non-NRDAR legal obligation of the implementer (e.g., a project proponent that needs to conduct the project for Section 404 mitigation credits). This would result in double-counting of credits. Another example is a proposed project that would have been implemented by a government agency using public funds.

If a proposed project meets the eligibility criteria in Part B above, The Trustee Council will further evaluate the project using the selection criteria described in Part C below.

### **C. Selection Criteria**

In evaluating responses to this request, the Trustee Council will consider which restoration alternative (i.e., Trustee-led project, partnership with a third-party, or purchase credits from a restoration bank), and which specific restoration projects best meet its restoration objectives and criteria, as described in the Final PEIS/RP. A detailed description of the Trustee Council's restoration objectives and selection criteria can be found in the Final PEIS/RP, Sections 5 and 7. The section below outlines the standards the Trustee Council will use to evaluate proposed

projects. The respondent should provide a written response to each of the evaluation standards identified below. In the event that a particular question has been addressed under a previous section of the proposal, please refer the reader to the appropriate section.

### **Developer Qualifications and Project Status**

1. Project Proponent, including description of project proponent's qualifications and capacity;
2. Proposed project status (how much progress has been made in planning and/or implementation; projected date for completion of construction if not yet implemented; progress towards meeting performance criteria if already implemented).

### **Geographic Area**

3. Is the proposed project located in the Portland Harbor Superfund Study Area or Broader Focus Area for restoration? Specify which.
4. Provide a map of the proposed project area.

### **Ecological Benefits**

5. Describe the proposed project's ecological goals and objectives.
6. Describe the habitat types that exist before any restoration actions are taken (i.e., baseline) and the habitats that will be restored along with the acreage of each. See section 5 of the Final RP/PEIS for a list of the Trustee Council's key habitat types
7. Describe how the proposed project's ecological benefits can be quantified. A discounted service acre year (DSAY) metric is preferred, but not required. More information on DSAYs is available at <https://darrp.noaa.gov/economics/habitat-equivalency-analysis>.
8. Describe the baseline, implementation, and effectiveness monitoring planned or underway at the proposed project site.
9. Describe how the proposed project site's ecological benefits will be permanently legally protected.
10. Describe how the proposed project will be managed and maintained during the 10 year performance period.
11. Describe the proposed project implementer's plans for long-term stewardship for the proposed project.

### **Social Constraints/Feasibility**

12. Provide an estimate of the proposed project's cost per acre, per DSAY, or per other metric for which you have quantified benefits. Include a detailed accounting of the components included in your cost estimate.

13. Describe any forms of financial assurance in place to secure costs associated with construction, adaptive management, and contingencies.
14. Describe any remedial action or ongoing contamination on or adjacent to the proposed project site.
15. Describe how the proposed project will include or prohibit human uses from industrial/commercial, residential, and recreational activities.
16. Describe the proposed project's land ownership, including a description of any easements or other uses that may impact current or future ecological function within the proposed project's physical footprint.
17. Describe any existing or expected public support and involvement in the proposed project, or any specific challenges encountered, as well as public availability of information about the proposed project (including restoration plans, monitoring reports, and pertinent project updates). The Trustee Council is required to make all documents on selected projects available to the public.

#### **Rare and Unique Opportunities**

18. Does the proposed project represent an opportunity to protect or restore a unique, rare, or significant habitat type or feature within the geographic area?
19. Is the proposed project area under immediate threat of development or other non-restoration action that would preclude future restoration of the site?

#### **Submission Guidelines**

Please send responses to this request for proposals to [portlandharbor.nrda@gmail.com](mailto:portlandharbor.nrda@gmail.com), no later than 5:00 p.m. PST, March 2, 2020. Submissions must meet the following technical guidelines:

- The written portion of proposals (excluding drawings, graphics, photos, etc.) cannot exceed 15 pages of 12 point Times New Roman font, single-spaced.
- If available, the proposals should include designs, conceptual drawings, photos, or other materials that will help the Trustee Council evaluate the project. Up to 10 pages of additional materials may be provided, in addition to the maximum of 15 pages of written material.
- Proposals must provide sufficient information for the Trustee Council to fully evaluate the degree to which the proposed project meets the eligibility criteria and evaluation standards discussed above.
- Proposals must be submitted in PDF format.
- Total file size of all electronic materials submitted may not exceed 25 MB.

**Questions**

Any questions about this request for proposals must be sent to [portlandharbor.nrda@gmail.com](mailto:portlandharbor.nrda@gmail.com) by January 31, 2020. By February 14, 2020, the Trustee Council will respond in writing to all questions by means of a combined document posted on the Trustee Council's website: <https://www.fws.gov/portlandharbor/>

**Next Steps**

Responses to this request for proposals will be evaluated solely on the materials submitted, and no additional information will be solicited during the application or review periods to fill gaps within the proposal. After evaluating the submissions, the Trustee Council anticipates publishing a draft SRP that will propose one or more preferred restoration alternatives (i.e., Trustee Council-led restoration project implementation, partnering with other entities who are implementing restoration, and purchasing credits from restoration bank projects), and identify those projects that may receive restoration funding. After consideration of public comments on the draft SRP, the Trustee Council anticipates publishing a final SRP. The Trustee Council may ultimately request additional information from the project(s) included under the preferred alternative.

**Disclaimer**

This request for proposals is not a commitment of funds. The Trustee Council is not required to purchase credits or further develop restoration concepts submitted in response to this request for proposals. Inclusion of a submitted project under the preferred alternative(s) within the final SRP does not guarantee that the proposed project will be funded by the Trustee Council.

This request for proposals does not void the Trustee Council's "restoration pause" described in the following memorandum:

[https://www.fws.gov/portlandharbor/sites/default/files/documents/Restoration\\_Message.pdf](https://www.fws.gov/portlandharbor/sites/default/files/documents/Restoration_Message.pdf)

All materials submitted in response to this request for proposals will be considered public information and may be made available to the public through the SRP or other means.

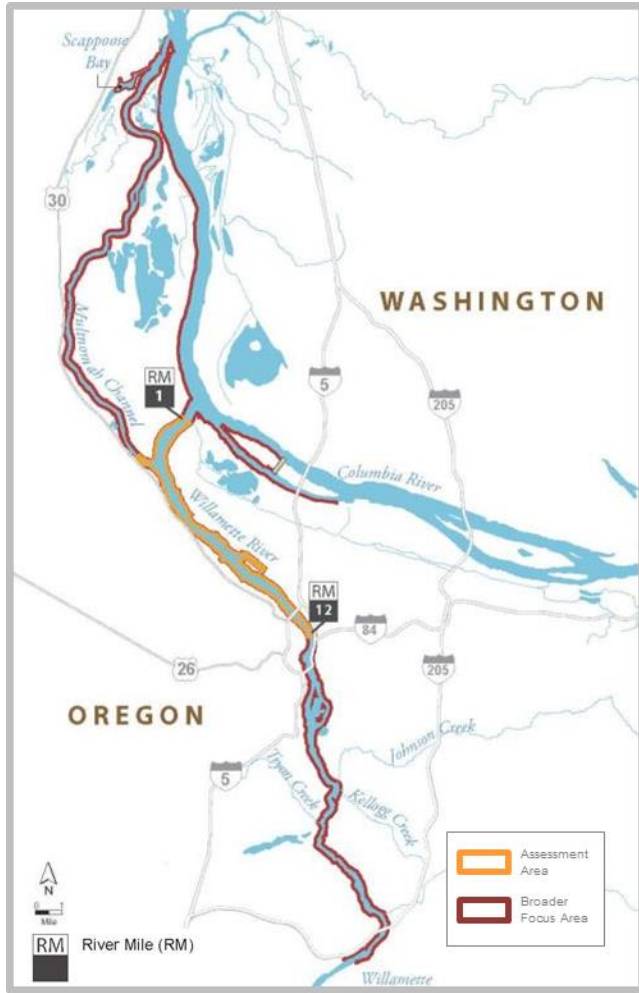


Figure 1. Map of the Trustee Council's Restoration Focus Area