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Hon. William L. Dwyer

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OCT 5 1999 MR

BY _____
WESTERN DISTRICT OF WASHINGTON DEPUTY

CC: TO JUDGE MR. G
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OCT 13 1999

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE.

AT SEATTLE
CLERK U.S. DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
BY _____ DEPUTY

UNITED STATES OF AMERICA,)
et al.,)
)
Plaintiffs,)
)
v.)
)
THE CITY OF SEATTLE, and)
MUNICIPALITY OF METROPOLITAN)
SEATTLE,)
)
Defendants.)

NO. C90-395WD
AMENDED
CONSENT DECREE

CONSENT DECREE

This Consent Decree is made and entered into by and between the United States of America, the State of Washington, the Suquamish Indian Tribe, the Muckleshoot Indian Tribe, the City of Seattle ("City") and the Municipality of Metropolitan Seattle ("Metro").

INTRODUCTION

The parties to this Consent Decree agree that settlement of the claims in this case against defendants the City and Metro is

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City of Seattle

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1 fair, adequate, reasonable, equitable and in the public interest
2 and is made in good faith and after arms-length negotiations, and
3 that entry of this Consent Decree is the most appropriate means
4 to resolve the matters covered herein.

5 RECITALS

6 A. The Department of Commerce acting through the National
7 Oceanic and Atmospheric Administration ("NOAA"), the United
8 States Department of the Interior ("Interior"), the Washington
9 Department of Ecology ("Ecology"), the Muckleshoot Indian Tribe,
10 and the Suquamish Indian Tribe have been designated pursuant to
11 Section 107(f) of the Comprehensive Environmental Response,
12 Compensation, and Liability Act of 1980, as amended ("CERCLA"),
13 42 U.S.C. Section 9607(f), and 40 C.F.R. Part 300, subpart G, to
14 act on behalf of the public as trustees for natural resources for
15 the assessment and recovery of damages for injury to, destruction
16 of, or loss of natural resources under their trusteeships.

17 B. Metro, pursuant to statutory authority, is responsible
18 for the construction, operation, and maintenance of trunk sewer
19 lines, pumping facilities, and treatment plants serving over one
20 million people including many industries and commercial
21 enterprises in the greater Seattle area. Metro treats
22 approximately 180 million gallons of wastewater per day at its
23 five wastewater treatment plants, and discharges the treated
24 effluent from a system of outfall pipes extending into Puget
25 Sound. As a part of that system, combined sewer overflows

1 ("CSOs") are located on and discharge to Elliott Bay and the
2 Duwamish River to handle extraordinary flows of storm water into
3 the system. Effective January 1, 1994, by the operation of law
4 the Municipality of Metropolitan Seattle (Metro) was consolidated
5 into King County, a home rule charter county of the State of
6 Washington. For a two-year transition period the functions
7 formerly performed by the Municipality of Metropolitan Seattle
8 were performed by King County through the Department of
9 Metropolitan Services. As of January 1, 1996, the metropolitan
10 water pollution control function formerly performed by Metro is
11 now performed by King County through its Department of Natural
12 Resources. Provisions herein regarding the rights and
13 obligations of Metro should be read to refer to King County.

14 C. The City, pursuant to statutory authority, owns and
15 maintains a basic collector sewer system which feeds into the
16 Metro trunk sewer lines, and also owns and maintains a storm
17 water system. The City pays Metro for sewage transmission,
18 treatment, and disposal services. As part of the sewer and storm
19 water systems, the City owns and maintains certain CSOs and storm
20 water outfalls that discharge to Elliott Bay and the Duwamish
21 River.

22 D. The United States on behalf of NOAA filed a complaint
23 in this action on March 19, 1990, under Section 107 of CERCLA, 42
24 U.S.C. § 9607(a), seeking, inter alia, recovery from Metro and
25 the City for damages for injury to, destruction of, and loss of

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1 natural resources resulting from releases of hazardous
2 substances, in particular chromium, cadmium, copper, lead, zinc,
3 pentachlorophenols (PCPs), polychlorinated biphenyls (PCBs),
4 polycyclic aromatic hydrocarbons (PAHs), and halogenated
5 hydrocarbons, into the environment in and around the Duwamish
6 River and Elliott Bay, for the costs of restoring, replacing or
7 acquiring the equivalent of the affected natural resources, and
8 for the costs of assessing the damage to the affected natural
9 resources.

10 E. The United States has alleged in its complaint in this
11 matter, prior to conducting a natural resource damage assessment
12 pursuant to 43 C.F.R. Part 11, that Metro and the City have
13 released hazardous substances into the environment, with
14 attendant injury to the United States' trust resources, and that
15 mitigation and remediation of substances Metro and the City are
16 alleged to have released would facilitate the recovery of such
17 resources.

18 F. Metro and the City maintain that effluent discharged
19 from their CSOs and storm water outfalls has presented little if
20 any potential for injury to the natural resources in Elliott Bay
21 and the Duwamish River; that their wastewater collection,
22 treatment and disposal programs have contributed substantially to
23 decreasing and/or minimizing injury and damage to natural
24 resources; that their water quality programs have made
25 improvements in the water quality of Elliott Bay and the Duwamish

1 River; that their pretreatment programs, along with on-site
2 monitoring, keep the contribution of industrial sources within
3 permitted discharge limits; and that the limited natural resource
4 damage from the CSOs and the storm water outfalls appears to have
5 originated equally from industrial, commercial, and residential
6 customers that discharge into the City and Metro systems.

7 G. Without admission or adjudication of any fact or issue
8 of law in this matter, except as between the United States, Metro
9 and the City as to the running of the statutes of limitation and
10 to certain interpretations of Section 13 of the Rivers and
11 Harbors Act, 33 U.S.C. § 407, in settlement of this action Metro
12 and the City have agreed to participate in a cooperative program
13 of restoration and replacement of natural resources in Elliott
14 Bay and the Duwamish River. In addition to the provision of
15 expertise through the contribution of in-kind services, Metro and
16 the City have agreed to provide funding for the operation of the
17 Panel (as defined below), the evaluation of natural resource
18 damages, the selection, design, and implementation of sediment
19 remediation and habitat development projects, and the
20 modification of planned source control programs.

21 H. This Decree contains terms embodying a cooperative
22 partnership among the United States, Metro, the City, the State
23 of Washington, the Muckleshoot Indian Tribe, and the Suquamish
24 Indian Tribe that will make improvements in Elliott Bay and the
25 Duwamish River and will allow these parties to make progress in

1 restoring and replacing damaged natural resources in the covered
2 area, as defined below.

3 I. Scientific research conducted on natural resources in
4 Elliott Bay and the Duwamish River indicates that the effects of
5 many urban and industrial activities, including CSOs and storm
6 water discharges, have contributed to the injury identified in
7 these studies. Based on this research, the parties have agreed
8 that, as to Metro and the City, no further natural resource
9 damage assessment is required to effectuate the purposes of this
10 Decree.

11 J. The programs and projects conducted pursuant to this
12 Decree standing alone are not intended, nor could they be
13 expected, to remedy all of the losses of or injuries to natural
14 resources in Elliott Bay and the Duwamish River. The parties
15 recognize the importance of dealing with the programs under this
16 Decree in a comprehensive manner and of coordinating the
17 activities undertaken pursuant to this Decree with actions by
18 these and other parties in the Elliott Bay and Duwamish River
19 area to maximize the benefits to the natural resources, as well
20 as the residents, of the area. This includes coordinating
21 ongoing Metro and City programs with efforts to maintain habitat
22 development projects established pursuant to this Decree.

23 K. The parties understand that the source control,
24 sediment remediation and habitat development efforts undertaken
25 pursuant to this Decree are not intended to substitute for any
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1 other efforts or obligations of these parties.

2 L. The parties recognize that the United States and the
3 State of Washington retain and reserve their authority that does
4 not relate to recovery of natural resource damages, including the
5 authority to issue orders requiring remedial action and to
6 recover costs associated with such orders pursuant to CERCLA and
7 the Model Toxics Control Act, Chapter 70.105D RCW, Chapter 90.48
8 RCW, and the authority to administer and enforce the State
9 Sediment Management Standards, Chapter 173-204 WAC.

10 M. The Trustees have determined that the actions and
11 expenditures of Metro and the City under this Decree are an
12 appropriate contribution to efforts to redress the natural
13 resource damages that are the subject of this proceeding. This
14 determination is based in major part upon the following
15 considerations:

16 1. Metro has made a substantial public investment in
17 water quality. For example, Metro spent \$2,244,000 over the
18 period 1977 through 1989 on its program of regulating
19 commercial and industrial discharges into those portions of
20 its sewerage system related to Elliott Bay and the Duwamish
21 River area. Metro has spent an additional \$38,000,000 since
22 1961 on other programs specifically designed to enhance
23 Elliott Bay and the Duwamish River area. In addition to
24 funds made available pursuant to this Decree, Metro will
25 spend \$54,500,000 (in 1988 dollars) for CSO control projects

1 through the year 2006.

2 2. The City has been actively engaged in programs to
3 increase protection of waters receiving urban runoff.
4 During the period 1970 through 1989, the City has expended
5 more than \$150,000,000 in capital projects and other
6 programs to enhance water quality in the Elliott
7 Bay/Duwamish River area. (This figure does not include fees
8 and charges paid to Metro, although the City has
9 historically contributed over one-half of Metro's operating
10 revenue.) The City's capital projects and other programs
11 have included controlling CSOs, identifying and reducing
12 sources of contaminants in storm drains, educating
13 commercial and industrial dischargers on storage and
14 handling practices of hazardous substances, and cleaning
15 streets, catch basins, and storm drain lines.

16 3. On April 17, 1991, the State of Washington adopted
17 Sediment Management Standards, Chapter 173-204 WAC, an
18 innovative program of sediment quality standards, source
19 control, and cleanup, applicable to sediments in Elliott Bay
20 and the Duwamish River.

21 In particular, the CSO control efforts undertaken by Metro and
22 the City, combined with the expected sediment quality benefits
23 from adherence with the Sediment Management Standards program,
24 provide a substantial foundation for the efforts contemplated
25 under this Decree.

1 NOW, THEREFORE, before the taking of any testimony, before
2 the adjudication of the merits of this case, and without
3 admission of any issue of law, fact, liability, or responsibility
4 by the City or Metro, IT IS HEREBY ORDERED, ADJUDGED, AND
5 DECREED:

6 JURISDICTION AND VENUE

7 1. The Court has jurisdiction over the subject matter of
8 this action and the parties to this Consent Decree pursuant to 28
9 U.S.C. §§ 1331 and 1345, and Section 113(b) of CERCLA, 42 U.S.C.
10 § 9613. This Court also has personal jurisdiction over the City
11 and Metro which, solely for the purposes of this Consent Decree,
12 waive all objections and defenses that they may have to
13 jurisdiction of the Court or to venue in this District and to
14 service of process.

15 APPLICABILITY OF CONSENT DECREE

16 2. The provisions of this Consent Decree shall apply to
17 and be binding on the parties to this Consent Decree, their
18 agents, successors and assigns. Changes in the organizational
19 form or status of a party shall have no effect on its obligations
20 under this Consent Decree.

21 DEFINITIONS

22 3. This Consent Decree incorporates the definitions
23 set forth in Section 101 of CERCLA, 42 U.S.C. § 9601. In
24 addition, whenever the following terms are used in this Consent
25 Decree, they shall have the following meanings:

1 a. "Covered area" means the embayment on Puget Sound
2 located between Alki Point and West Point and includes the
3 shoreline ten (10) meters upland from the mean high water line
4 ("Elliott Bay") and the Duwamish River from the point at which it
5 discharges into Elliott Bay to the head of navigation
6 (approximately river mile 10), including Harbor Island and the
7 East and West Waterways around Harbor Island ("Duwamish River").

8 b. "Covered matters" means any civil or
9 administrative liability to the United States, the State of
10 Washington, the Suquamish Indian Tribe and the Muckleshoot Indian
11 Tribe, for any claim under 42 U.S.C. § 9607(a), 33 U.S.C. § 407,
12 Chapter 70.105D RCW, Chapter 90.48 RCW, or any other federal,
13 state, or common law, except claims relating to treaties between
14 the United States and the Suquamish and Muckleshoot Indian
15 Tribes, for (1) natural resource damages within the covered area,
16 including the costs of assessing natural resource damages; and
17 (2) reimbursement of response costs incurred or to be incurred by
18 any Trustee (as defined below) with respect to its claims for
19 natural resource damages in the covered area, that could have
20 been adjudicated had United States v. City of Seattle and
21 Municipality of Metropolitan Seattle, Cause No. C90-395WD,
22 W.D. Wash. (Mar. 19, 1990), been prosecuted to final judgment;
23 "covered matters" shall also include any civil or administrative
24 liability to the United States, the Suquamish Indian Tribe, the
25 Muckleshoot Indian Tribe and the State of Washington for any

1 claims under 33 U.S.C. § 407 for injunctive and other equitable
2 relief that could have been adjudicated had said case been
3 prosecuted to final judgment. For the purpose of determining if
4 claims could have been adjudicated, reference shall be made to
5 the facts and allegations disclosed in the documents filed with
6 the Court in said case by the date of entry of this Decree.

7 "Covered matters" shall not be construed to include any authority
8 of the United States or the State of Washington that does not
9 relate to injunctive or equitable relief under 33 U.S.C. § 407 or
10 to recovery of natural resource damages, including the authority
11 to issue orders requiring remedial action and to recover costs
12 associated with such orders pursuant to CERCLA and the Model
13 Toxics Control Act, Chapter 70.105D RCW, Chapter 90.48 RCW, and
14 the authority to administer and enforce the State Sediment
15 Management Standards, Chapter 173-204 WAC.

16 c. "Habitat development" includes acquiring living
17 natural resources for the purpose of habitat restoration and
18 replacement and any program, technique, method, or other means of
19 creating or enhancing aquatic or benthic habitat in the Duwamish
20 River or Elliott Bay.

21 d. "Natural resource damages" means damages for
22 injury to, destruction of, or loss of any and all natural
23 resources caused in whole or in part by releases of hazardous
24 substances into the environment.

25 e. "Sediment remediation" includes, but is not

1 limited to, any program, technique, method, or other means of
2 dredging, removing, cleansing, isolating, immobilizing,
3 bioremediating, capping, or containing sediments beneath the
4 waters of the Duwamish River and Elliott Bay that contain
5 hazardous substances.

6 f. "Source control" means any program, technique,
7 method, or other means of restricting or eliminating the
8 discharge or other release of hazardous substances into Metro's
9 and the City's CSO and/or storm water outfall systems.

10 g. "Trustees" means NOAA, Interior, Ecology, the
11 Suquamish Indian Tribe and the Muckleshoot Indian Tribe.

12 DISTRICT COURT REGISTRY ACCOUNT

13 4. a. Metro and the City shall, pursuant to the
14 schedules and terms set forth herein, pay all financial
15 contributions under this Consent Decree by certified or bank
16 check. Each such check shall include on its face a statement
17 that it is a payment for natural resource damages in Civil Action
18 No. C90-395WD (W.D. Wash.), and, with the exception of those
19 funds identified in paragraph 32 below, shall be sent to:

20 Office of the United States Attorney
21 3600 SeaFirst Fifth Avenue Plaza
22 800 Fifth Avenue
23 Seattle, Washington 98104

24 The U.S. Attorney shall immediately deposit such funds with the
25 Registry of the Court. The party making payment shall cause
26 copies of each check and of any transmittal letter accompanying

1 the check to be sent to: Chief, Environmental Enforcement
2 Section, Department of Justice, P.O. Box 7611, Ben Franklin
3 Station, Washington, D.C. 20044; NOAA Damage Assessment Center,
4 WSC1 Room 212, 6001 Executive Boulevard, Rockville, Maryland
5 20852, Attention: Kathleen Anderson.

6 b. The Registry of the Court shall administer all
7 amounts paid for natural resource damages under this Decree in an
8 interest-bearing account ("Registry Account" or "Account") as
9 provided in the Order Directing the Deposit of Natural Resource
10 Damages Into the Registry of the Court ("Deposit Order") issued
11 by this Court pursuant to Rule 67 of the Federal Rules of Civil
12 Procedure, 28 U.S.C. § 2041, and Rule GR 6 of the Rules of the
13 United States District Court for the Western District of
14 Washington. The Deposit Order shall be attached to this Decree.

15 c. All funds and all interest accrued thereon in the
16 Registry Account shall be held in the name of the "Clerk, United
17 States District Court," for the benefit of the Trustees. Monies
18 in the Registry Account may be used to fund the planning,
19 implementing, and overseeing of actions to restore, replace, or
20 acquire the equivalent of natural resources that have been
21 injured, destroyed, or lost as a result of the release of
22 hazardous substances into the environment in the covered area, in
23 accordance with 42 U.S.C. § 9607(f)(1). The Panel shall use all
24 interest earned on funds paid into the Account for sediment
25 remediation only for expenses of project implementation for

1 no independent legal status and shall have only that authority
2 conferred upon it by this Decree.

3 6. Each member group of the Panel, as identified in the
4 preceding paragraph, may as necessary select in what ever manner
5 it deems appropriate one or more representatives from its
6 respective agencies or subgroups to serve collectively as its
7 Manager. Irrespective of the number of representatives from any
8 group, each of the groups identified in the preceding paragraph
9 shall have only a single vote on the Panel.

10 7. The terms in this paragraph shall apply only if the
11 Suquamish Indian Tribe, the Muckleshoot Indian Tribe and the
12 State of Washington all choose to continue their consent to this
13 Decree and to participation in this settlement. The Parties to
14 this Decree expect and intend that most issues for decision by
15 the Panel will be based upon objective criteria, and that most
16 decisions will be based on consensus. Where no consensus is
17 achieved, except as provided in paragraph 30 of this Decree, the
18 Panel will decide the issue by vote, with each member having one
19 vote, and the majority prevailing. The position of the majority
20 of the Trustees will prevail in the event of a tie vote. The
21 position of the United States will prevail in the event of a tie
22 vote in which the Trustees are evenly split. Any party may,
23 within thirty (30) days of notification of the results of voting,
24 petition the Court for review of any decision. The petitioner
25 shall bear the burden of proving that the decision is

1 inconsistent with the terms of this Decree. The Panel may adopt
2 in the form of bylaws any additional decision making procedures
3 it deems necessary.

4 8. The terms in this paragraph shall apply only if one or
5 more Trustees exercise their right to withdraw pursuant to
6 paragraph 53 of this Decree. Following entry of this Decree, the
7 Panel shall establish procedures for making decisions. Such
8 procedures shall conform to the following requirements:

9 (a) decisions shall if possible be based on consensus; (b) the
10 structure for deciding any issue by vote shall allow each group
11 to have a true voice in the process; (c) deference shall be given
12 to decisions by a majority of the trustee groups, even if they
13 are not in the numerical majority of the Panel on a given issue;

14 (d) any arrangement that would allow a group or groups to
15 deadlock voting shall be avoided; and (e) any aggrieved party
16 shall have the right to petition the Court for review of any
17 decision by the Panel. The Panel may adopt in the form of bylaws
18 any additional decision making procedures it deems necessary. If
19 the Panel fails to establish decision making procedures, which
20 conform to the requirements herein, within ninety (90) days of
21 entry of the Decree, any party to this Decree may immediately
22 petition the Court to establish such procedures.

23 9. For the purposes of this Decree, the Panel has the
24 authority to:

25 a. Establish such procedures and practices as are

1 necessary to the operation and deliberations of the Panel,
2 including, but not limited to, provisions for collecting and
3 disseminating information, convening and conducting meetings, and
4 resolving disputes;

5 b. Gather data in Elliott Bay and the Duwamish River
6 regarding damages to natural resources occasioned by releases of
7 hazardous substances into the environment that have resulted in
8 injury to, destruction of, or loss of natural resources;

9 c. Plan projects for sediment remediation and habitat
10 development in the covered area;

11 d. Establish source control goals to protect natural
12 resources and prevent recontamination of sites selected for
13 sediment remediation or habitat development in the covered area;

14 e. Review and comment upon actions proposed by Metro
15 and the City to achieve the Panel's source control goals,
16 determine if such actions are likely to achieve the Panel's
17 goals, and direct Metro and the City to take such actions
18 approved by the Panel;

19 f. Coordinate and provide for the dissemination of
20 information to the public on the selection and design of sediment
21 remediation and habitat development projects;

22 g. Ensure the collection from, and dissemination to,
23 each group that is a member of the Panel all information
24 necessary to an informed discussion and resolution of all issues
25 related to sediment remediation, habitat development and source

1 control;

2 h. Decide all issues related to selecting study
3 activities and other data gathering efforts, and to selecting,
4 planning, and managing sediment remediation and habitat
5 development projects, including establishing performance
6 standards and contingency plans for habitat development projects;

7 i. Develop guidelines for establishing the reasonable
8 and necessary reimbursable costs of salary and travel incurred by
9 the Trustees for their participation in the activities of the
10 Panel and of the technical working groups, formed pursuant to
11 paragraph 15 of this Decree; and

12 j. Perform any other activity specifically provided
13 for elsewhere in this Decree or as directed or approved by the
14 Court.

15 No action of the Panel may be inconsistent with the Trustees'
16 duties and responsibilities under 42 U.S.C. § 9607.

17 10. a. The parties to this Decree agree that the funds
18 paid by Metro and the City into the Registry Account shall be
19 used only for sediment remediation and habitat development, as
20 defined herein, and for expenses of Panel functions support and
21 planning and design support as specified below. No more than two
22 million dollars (\$2,000,000) shall be spent on expenses of Panel
23 functions support. The Panel shall apportion such expenses
24 between the sediment remediation and habitat development
25 programs. Expenses of Panel functions support include, but are

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1 not limited to, salary and overhead for an administrative
2 director; costs associated with administering the Registry
3 Account; costs of public review and participation; costs of
4 disseminating information; and costs of contracting for any
5 services necessary to the accomplishment of any of said tasks.
6 Expenses of Panel functions support also include the reasonable
7 and necessary costs, as determined on the basis of guidelines
8 established by the Panel, associated with participation by
9 personnel of the Trustees in Panel meetings and deliberations and
10 technical working groups, including salary and travel, provided
11 that such costs are not otherwise chargeable to Metro or the City
12 in connection with the review of any required permit, application
13 or other approval.

14 h. No more than three million dollars
15 (\$3,000,000) shall be spent on expenses of planning and design
16 support except as described in paragraph 4(d), and except that
17 unspent funds from the two million dollars (\$2,000,000)
18 authorized for Panel functions support under paragraph 10(a) may,
19 through the Panel's budget process, be reallocated to planning
20 and design support. The Panel shall apportion such expenses
21 between the sediment remediation and habitat development
22 programs. Expenses of planning and design support include, but
23 are not limited to, costs of studies needed to set goals and
24 establish priorities for sediment remediation, habitat
25 development, and source control projects; costs of analysis as

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1 required for comparison of candidate sites and site selection;
2 costs of site characterization as required to support detailed
3 technical/-engineering studies; costs of project design,
4 specifications, selection of equipment, materials, and
5 procedures; costs associated with NEPA/SEPA review, analysis, and
6 reporting; costs associated with permitting; costs of selection
7 of monitoring parameters and design of monitoring programs; costs
8 of technical support for the Suquamish and Muckleshoot Indian
9 Tribes; final report preparation; and costs of contracting for
10 any services necessary to the accomplishment of any of said
11 tasks.

12 c. The remaining funds paid by Metro and the City
13 into the Registry Account, plus any sums not expended pursuant to
14 the preceding two subparagraphs, shall be spent on expenses of
15 project implementation. Expenses of project implementation
16 include, but are not limited to, costs of all on-the-ground
17 operations, including acquiring, dredging, capping, filling,
18 contouring, placing, removing, transporting, treating, or
19 disposing of materials, other construction requirements, and
20 planting of vegetation; construction management and inspection;
21 costs of monitoring for the purpose of making project adjustments
22 and determining whether project success has been achieved;
23 acquiring sites for sediment remediation; and contracting for any
24 services necessary to the accomplishment of any of said tasks.

25 11. The Panel shall provide to Metro and the City within
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1 one hundred twenty (120) days of entry of this Decree an annual
2 budget for the calendar year 1992. By March 31 of each year
3 prior to a year in which Panel activities are contemplated, the
4 Panel shall provide to Metro and the City an annual budget for
5 the following calendar year (e.g., by March 31, 1992, for
6 calendar year 1993, etc.). The Panel must consider in each
7 year's budget any unspent funds from previous years and any
8 unspent interest earned on funds in the Account. The Panel may
9 include in each such budget a figure for contingency funds in an
10 amount of up to ten percent (10%) of the total amount budgeted,
11 so long as the sum of the total amount budgeted and the requested
12 contingency fund does not exceed the annual maximums set forth in
13 paragraphs 20 and 28 of this Decree.

14 11.5 The Panel has adopted a document titled "Elliott
15 Bay/Duwamish Restoration Program Final Scope, Schedule and
16 Budget" (copy attached hereto and incorporated by reference)
17 which addresses actions and expenditures for the remainder of
18 Panel activities. This document shall provide the basis for
19 Panel activities, with further refinements or alterations to be
20 made through the annual budget process as provided in paragraph
21 11.

22 12. The Panel shall implement an accounting mechanism to
23 track expenditures from the Registry Account. The Panel shall
24 cause an accounting report of such expenditures to be made at
25 least on an annual basis, which report shall be made available to

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1 all members of the Panel.

2 13. Except as provided in paragraph 34 regarding source
3 control efforts, the Panel may allow Metro and the City, if
4 either of them so chooses, to fulfill their respective financial
5 obligations by providing in-kind services. By September 30 of
6 each year beginning in 1992 and ending in 1996, Metro or the City
7 or both of them shall submit to the Panel a proposal describing
8 those tasks or portions of tasks, identified in the budgets
9 prepared pursuant to paragraph 11 of this Decree, that Metro or
10 the City or both of them propose to perform utilizing in-kind
11 services. The proposal shall identify by grade, title, salary
12 and level of benefits the employees who are to perform the
13 specified services, and shall provide an employee-specific
14 analysis of the work to be performed and the value of that work,
15 including allied costs. The Panel may accept any such proposal
16 in its entirety or, to the extent practicable, may accept a
17 portion of a proposal and not accept other portions. As a
18 condition of acceptance of such a proposal, the Panel shall
19 specify such conditions as are necessary to insure adequate
20 oversight by the Panel of the services to be provided and
21 appropriate coordination with the efforts of contractors and
22 others. The Panel shall notify Metro and the City in writing of
23 its decision and shall specifically identify the tasks,
24 identified in the budget the Panel has approved, to be performed
25 through in-kind services and those to be performed through cash

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1 payments, with a specific cost allocation to each. Within ninety
2 (90) days after the close of each calendar year in which such
3 in-kind services have been provided, Metro and the City shall
4 cause an accounting of such services to be prepared and made
5 available to all members of the Panel.

6 14. The Panel may elect to delegate the day-to-day
7 administrative affairs of the Panel to an administrative
8 director. Such an administrative director ("Director") shall be
9 qualified to perform all the tasks delegated to him/her by the
10 Panel and shall have only that authority specifically delegated
11 to the Director by the Panel. The Panel shall not delegate to
12 the Director the authority to disburse, expend, obligate, or
13 otherwise use funds from the Registry Account or perform any task
14 of the Panel as set forth in paragraph 9 of this Decree. The
15 Panel may direct that an account be established into which the
16 Panel may have funds placed for the day-to-day affairs of the
17 Panel. The Director may at his/her discretion disburse, expend,
18 obligate or otherwise use any funds placed into such an account
19 for the reasonable and necessary expenses incurred in performing
20 the administrative tasks assigned to the Director by the Panel.
21 The Director shall provide to the Panel in writing on a quarterly
22 basis a report of his/her activities and an accounting of all of
23 his/her expenses for that quarter. The Director shall serve at
24 the will and discretion of the Panel, and shall not, solely as a
25 consequence of his/her service as Director, be considered an

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28 CONSENT DECREE - 23

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1 employee or agent of any party to this Decree. Nothing in the
2 preceding sentence shall preclude a current employee of any party
3 to this Decree from serving as Director, to the extent consistent
4 with applicable laws and regulations.

5 15. The Panel may establish one or more technical working
6 groups to assist the Panel in planning and designing sediment
7 remediation and habitat development projects and in establishing
8 goals regarding Metro's and the City's source control programs.

9 The Panel shall give each of the following entities the
10 opportunity to participate in any such working group: NOAA,
11 Interior, EPA, the U.S. Army Corps of Engineers, the Muckleshoot
12 Indian Tribe, the Suquamish Indian Tribe, the Washington
13 Department of Ecology, the Washington Department of Fisheries,
14 the Washington Department of Wildlife, the Washington Department
15 of Natural Resources, the Washington Department of Health, the
16 Port of Seattle, Metro, the City, and the Seattle-King County
17 Department of Health. The Panel may also allow in any such
18 working group other qualified individuals. All participants in
19 any such working group shall be capable of contributing
20 particular expertise applicable to that working group's tasks.

21 The Panel shall decide the manner in which any such working group
22 will perform its tasks and shall provide sufficient oversight to
23 ensure that the terms of this Decree are achieved. The Panel may
24 for any such working group disburse, expend, obligate, or
25 otherwise use funds from the Registry Account, but such funds

1 shall be used only for the reasonable and necessary
2 administrative and clerical expenses of any such working group.
3 Except as provided in paragraph 10(a) regarding the participation
4 of the Trustees, no member of a working group shall in any way
5 receive directly or indirectly from the Registry Account any
6 salary or travel expenses for his/her participation in such a
7 working group.

8 16. The Panel shall provide to the Suquamish Indian Tribe
9 and to the Muckleshoot Indian Tribe sufficient funds to support
10 for each tribe one full-time equivalent (1.0 FTE) of technical
11 support annually for 1992 through 1997. The Tribes shall use
12 such funds only for technical support related to the source
13 control, sediment remediation and habitat development programs
14 conducted pursuant to this Decree.

15 17. The Panel shall cause to be erected or placed in a
16 prominent location a placard or sign to commemorate each sediment
17 remediation or habitat development project performed under this
18 Decree. Any such placard or sign shall indicate the financial
19 contributions of Metro and the City and the participation of
20 these Trustees.

21 18. The Panel shall provide for public participation in the
22 process by which the Panel selects and designs sediment
23 remediation and habitat development projects. Public
24 participation includes, but is not limited to, public review
25 pursuant to any required environmental review, and public review

1 of any application for a permit, license, or other approval.

2 REMEDIATION OF SEDIMENTS

3 19. Metro and the City each agree to pay into the Registry
4 Account established under paragraph 4 of this Decree:

5 a. The sum of six million dollars (\$6,000,000); or

6 b. As permitted by the Panel pursuant to

7 paragraph 13, a sum of funds that in combination with in-kind
8 services has a total value of six million dollars (\$6,000,000),
9 to be applied to the costs of sediment remediation. The Panel
10 shall use these funds and services only for sediment remediation,
11 which shall include administering, planning, designing,
12 implementing, and monitoring the results of sediment remediation
13 projects, in Elliott Bay and the Duwamish River, except as
14 specifically provided in paragraph 22 of this Decree. The sums
15 provided for herein shall be paid in accordance with paragraphs
16 20 and 21 of this Decree.

17 20. This Decree obligates Metro and the City each to pay
18 only up to the following amounts in each of the identified
19 calendar years for the costs of sediment remediation, except as
20 otherwise provided for in this paragraph:

21 1992 - \$ 500,000 - Five Hundred Thousand Dollars;

22 1993 - \$1,000,000 - One Million Dollars;

23 1994 - \$1,500,000 - One Million Five Hundred Thousand Dollars;

24 1995 - \$1,500,000 - One Million Five Hundred Thousand Dollars;

25 1996 - \$1,500,000 - One Million Five Hundred Thousand Dollars

26 ; and

27 1997 - Balance of Six Million Dollar contribution.

28 If Metro's or the City's annual payment in any given year is less

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1 than that year's annual maximum, its annual maximum in the
2 successive year may be increased by the difference between the
3 annual maximum and the annual payment from the preceding year.
4 Metro and the City may at their discretion waive any one or all
5 of their respective annual maximums by increasing the amount
6 paid. Any such payments in excess of the amounts shown above
7 shall in no way increase the sum total of amounts to be paid by
8 either Metro or the City beyond its respective six million dollar
9 (\$6,000,000) obligation.

10 21. Metro and the City agree to each pay a minimum sum of
11 one hundred fifty thousand dollars (\$150,000) into the Account on
12 January 15 and on July 15 in each of the years 1992, 1993, 1994,
13 1995 and 1996 for funding costs of sediment remediation. Such
14 payments shall constitute partial payment of the maximum amounts
15 as set forth in paragraph 19 of this Decree. Metro and the City
16 shall pay any additional amount for sediment remediation, over
17 and above the minimum sum referenced herein, only as the Panel
18 budgets for such expenses. Metro and the City shall pay any such
19 additional amount into the Account on January 15 of the calendar
20 year for which the Panel plans to incur such an expense.

21 22. The Panel may use funds paid into the Account for
22 sediment remediation for expenses of habitat development,
23 including costs of monitoring, if such habitat development is
24 incidental to sediment remediation projects, or is specifically
25 required as conditions of permits for sediment remediation

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1 projects. Such habitat development could include that resulting
2 from using sediment remediation projects as pilot projects for
3 techniques or other methodologies of habitat development.

4 23. The Panel shall, to the greatest extent practicable,
5 select sites for sediment remediation projects that are
6 geographically and physically associated with Metro or City CSOs
7 or storm drain outfalls.

8 24. The Panel shall use, if available, Ecology's list of
9 sites requiring sediment cleanup as a basis for selecting sites
10 for sediment remediation projects under this Decree, but shall
11 not be bound by any priorities developed by Ecology for
12 addressing the list of sites. Metro and the City shall provide
13 to Ecology all information in their possession useful and
14 relevant to Ecology's hazard assessment of station clusters of
15 potential concern.

16 25. For each sediment remediation project, the Panel shall
17 conduct a site cleanup study, determine the site-specific cleanup
18 standard, and select a site cleanup action. In no event shall
19 the Panel set a site specific cleanup standard for a project that
20 is less stringent than the minimum cleanup level as set forth in
21 the State of Washington's Sediment Management Standards,
22 Chapter 173-204 WAC, as that standard exists at the time the
23 Panel selects a project. In establishing site-specific cleanup
24 standards, the Panel shall, consistent with the purposes of this
25 Decree, set a cleanup objective of no adverse effects pursuant to

1 WAC 173-204-570(2). If the State of Washington's Sediment
2 Management Standards, Chapter 173-204 WAC, cease to exist or
3 otherwise become unenforceable, the Panel may use other
4 appropriate sediment standards or develop such standards for
5 sediment remediation as are necessary to carry out the terms of
6 this Decree.

7 26. The Panel may grant Metro and the City credit against
8 their respective financial obligations under paragraph 19 for the
9 Pier 53 sediment remediation project, so long as the site would
10 otherwise have been on Ecology's list of sites requiring sediment
11 cleanup, the site would otherwise have been selected as a site
12 for sediment remediation by the Panel, and the level of
13 remediation meets the cleanup standard selected by the Panel for
14 that site. If the Panel decides to grant credit, and after
15 review of detailed operational and financial information
16 regarding this project, the Panel shall determine the amount of
17 credit to be applied.

18 HABITAT DEVELOPMENT AND REAL ESTATE ACQUISITION

19 27. Metro and the City each agree to pay into the Registry
20 Account, established under paragraph 4 of this Decree:

21 a. The sum of two million five hundred thousand
22 dollars (\$2,500,000); or

23 b. As permitted by the Panel pursuant to
24 paragraph 13, a sum of funds that in combination with in-kind
25 services has a total value of two million five hundred thousand

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1 dollars (\$2,500,000), to be applied to the costs of habitat
2 development. The Panel shall use these funds and services only
3 for habitat development, which includes acquiring living natural
4 resources for the purpose of habitat restoration and replacement
5 and administering, planning, designing, constructing, and
6 monitoring the results of habitat development projects, in
7 Elliott Bay and the Duwamish River. Solely for the purposes of
8 habitat development, the Panel may consider the Duwamish River to
9 include tributaries to the Duwamish River. The sums provided for
10 herein shall be paid in accordance with paragraphs 28 and 29 of
11 this Decree.

12 28. This Decree obligates Metro and the City each to pay
13 only up to the following amounts in each of the identified
14 calendar years:

15 1992 - \$200,000 - Two Hundred Thousand Dollars;
16 1993 - \$200,000 - Two Hundred Thousand Dollars;
17 1994 - \$500,000 - Five Hundred Thousand Dollars;
18 1995 - \$800,000 - Eight Hundred Thousand Dollars;
19 1996 - \$800,000 - Eight Hundred Thousand Dollars; and
20 1997 - Balance of Two Million Five Hundred Thousand Dollar
21 contribution.

22 If Metro's or the City's annual payment in any given year is less
23 than that year's annual maximum, its annual maximum in the
24 successive year may be increased by the difference between the
25 annual maximum and the annual payment from the preceding year.
26 Metro and the City may at their discretion waive any one or all
27 of their respective annual maximums by increasing the amount
28 paid. Any such payments in excess of the amounts shown above

1 shall in no way increase the sum total of amounts to be paid by
2 either Metro or the City beyond its respective two million five
3 hundred thousand dollar (\$2,500,000) obligation.

4 29. Metro and the City agree to each pay a minimum sum of
5 sixty-two thousand five hundred dollars (\$62,500) into the
6 Account on January 15 and on July 15 in each of the years 1992,
7 1993, 1994, 1995 and 1996 for funding costs of habitat
8 development. Such payments shall constitute partial payment of
9 the maximum amounts as set forth in paragraph 27 of this Decree.
10 Metro and the City shall pay any additional amount for habitat
11 development, over and above the minimum sum referenced herein,
12 only as the Panel budgets for such expenses. Metro and the City
13 shall pay any such additional amount into the Account on
14 January 15 of the calendar year for which the Panel plans to
15 incur such an expense.

16 30. In addition to the contribution specified in
17 paragraph 27 of this Decree, Metro and the City each shall make
18 permanently available real property with a value of up to two
19 million five hundred thousand dollars (\$2,500,000) for use as
20 sites for habitat development projects selected by the Panel.
21 Metro and the City each shall receive credit toward its
22 respective maximum obligation under this paragraph for any
23 donation by Metro or the City of any right of access, lease,
24 easement, fee title, or any other real property interest,
25 sufficient to permanently secure a site for any habitat

1 development project under this Decree. The Panel shall attempt
2 to determine by consensus the value of any property interest made
3 available pursuant to this paragraph. If the Panel cannot so
4 determine the value of any such property, then the value of the
5 property shall be determined by the following procedure. The
6 Trustees and donor of the property shall each retain or select a
7 qualified real estate appraiser to determine the value of the
8 property. Within sixty (60) days thereafter, the two appraisers
9 shall attempt in good faith to reach agreement on the value of
10 the donated property. If these appraisers cannot agree, then
11 they shall within thirty (30) days select a third appraiser.
12 This third appraiser shall determine within thirty (30) days
13 which of the two appraisals most closely approximates the value
14 of the selected property and he or she shall select that
15 appraisal value as the value of the donated property. All
16 appraisers retained or selected shall be competent, impartial and
17 members of the American Institute of Real Property Appraisers (or
18 successor association or body of comparable standing). The
19 parties agree that the value established by this procedure shall
20 be final, and there shall be no further review or appeal. Full
21 public access to such areas shall be preserved to the maximum
22 extent practicable, except as restrictions are necessitated by
23 construction activities.

24 31. The Panel shall, to the greatest extent practicable
25 consistent with the goal of creating or enhancing aquatic or
26

1 benthic habitat for natural resources, select sites for habitat
2 development projects that are geographically and physically
3 associated with existing public facilities, such as parks and
4 fishing piers, in Elliott Bay and the Duwamish River.

5 32. Metro and the City each agree to pay NOAA the sum of
6 one hundred twenty-five thousand dollars (\$125,000) within sixty
7 (60) days of entry of this Consent Decree to reimburse NOAA for
8 the costs of natural resource damage assessment and habitat
9 restoration planning for Elliott Bay and the Duwamish River
10 incurred prior to the entry of this Decree. NOAA will provide
11 Metro and the City with documentation describing the manner in
12 which the funds are applied.

13 SOURCE CONTROL

14 33. The Panel shall establish source control goals to
15 protect natural resources and prevent recontamination of sites
16 selected for sediment remediation or habitat development in the
17 covered area. Metro and the City shall determine for their
18 respective source control programs what actions or changes, if
19 any, are needed in addition to, or from, their ongoing source
20 control programs to achieve such goals. Metro and the City shall
21 propose such additional actions or changes to the Panel for its
22 review, comment and approval. Metro and the City shall then take
23 such actions approved by the Panel. The Panel shall not require
24 Metro and the City to use or undertake any type or manner of
25 source control that is beyond Metro's and the City's authority,

1 or otherwise inconsistent with law.

2 34. Metro and the City each shall make available in-kind
3 services with a value of up to one million dollars
4 (\$1,000,000) to cover the costs of the additional actions or
5 changes needed to achieve the Panel's goals and to monitor the
6 effectiveness of such source control efforts. Metro and the City
7 each may fulfill its entire and respective obligation under this
8 paragraph by providing in-kind services. Within ninety (90) days
9 after the close of each calendar year in which such in-kind
10 services have been provided, Metro and the City shall cause an
11 accounting of such services to be prepared and made available to
12 all members of the Panel.

13 INDEPENDENT CONTRACTOR

14 35. It is understood and agreed that Metro, the City, and
15 the agents, officers, employees, and contractors of either of
16 them, in the performance of the work and services provided under
17 this Decree as in-kind contributions shall act as independent
18 contractors and not as agents or employees of any other party to
19 this Decree.

20 COVENANTS NOT TO SUE

21 36. Except as specifically provided in paragraphs 39 and
22 40, the United States, the State of Washington, the Suquamish
23 Indian Tribe and the Muckleshoot Indian Tribe covenant not to sue
24 or to take any other civil or administrative action against the
25 City or Metro for covered matters.

1 conditions resulting from a release of hazardous substances from
2 the CSO and/or storm water outfall systems after the effective
3 date of this Consent Decree and that are actionable under treaty,
4 federal, state or tribal law; (b) claims based on a failure by
5 Metro or the City to satisfy requirements of this Consent Decree;
6 and (c) claims for criminal liability.

7 40. Notwithstanding any other provision of this Consent
8 Decree, the State of Washington reserves its right to institute
9 proceedings against Metro and the City for claims pursuant to the
10 Model Toxics Control Act, Chapter 70.105D RCW, based, in whole or
11 in part, on factors not known at the time of entry of this
12 Consent Decree that indicate a previously unknown threat to human
13 health or the environment.

14 41. Notwithstanding any other provision of this Consent
15 Decree, Metro and the City reserve the right to institute
16 proceedings against the United States, the State of Washington,
17 the Suquamish Indian Tribe and the Muckleshoot Indian Tribe for
18 the following claims: (a) claims based on a failure by the
19 United States, the State of Washington, the Suquamish Indian
20 Tribe and the Muckleshoot Indian Tribe to fulfill their
21 obligations under this Decree; and (b) claims based on a
22 challenge to any decision by the Panel. Metro's and the City's
23 reservations of rights pursuant to this paragraph do not include
24 claims against the Trustees for monetary relief. Nothing in this
25 paragraph is intended to constitute a waiver of any sovereign

1 immunity defense that may be available to any of the Trustees.

2 42. The United States' consent to this Decree and
3 participation in this settlement is solely on its own behalf and
4 not as a trustee for any Indian Tribe.

5 CONTRIBUTION PROTECTION

6 43. The United States, the State of Washington, the
7 Suquamish Indian Tribe and the Muckleshoot Indian Tribe
8 acknowledge and agree that the payments to be made and commitment
9 of work by Metro and the City pursuant to this Decree represent a
10 good faith settlement and compromise of disputed claims and that
11 the settlement represents a fair, reasonable and equitable
12 discharge of liability for covered matters. Metro and the City
13 shall have the benefits of Section 113(f) of CERCLA, 42 U.S.C. §
14 9613(f), and any other applicable statute or other law limiting
15 or extinguishing their liability to persons not a party to this
16 Decree or affording them rights of contribution or other rights
17 to recover from such persons costs or damages.

18 44. The United States, the State of Washington, the
19 Suquamish Indian Tribe and the Muckleshoot Indian Tribe certify
20 that the payments to be made and the work to be undertaken by
21 Metro and the City pursuant to this Decree will be appropriate
22 actions necessary to protect and restore the natural resources
23 allegedly damaged by the release by Metro and the City of
24 hazardous substances in the covered area and that the payments
25 and work satisfy the requirements of Section 122(j)(2) of CERCLA,

1 42 U.S.C. § 9622(j)(2).

2 GENERAL

3 45. If for any reason the Court should decline to approve
4 this Consent Decree in the form presented, any statements made in
5 negotiation and the terms herein may not be used as evidence in
6 any litigation or administrative proceeding.

7 46. This Consent Decree shall not be construed in any way
8 to relieve the parties to this Decree or any other person or
9 entity from the obligation to comply with any federal, state or
10 local law.

11 47. This Consent Decree does not relieve or otherwise
12 satisfy any obligation or liability of any person or entity not
13 party to this Decree.

14 48. The Consent Decree may be executed in any number of
15 counterparts and each executed counterpart shall have the same
16 force and effect as an original instrument.

17 49. Each undersigned representative of the parties to the
18 Consent Decree certifies that he or she is fully authorized to
19 enter into the terms and conditions of the Consent Decree and to
20 legally execute, and bind such party to, this Consent Decree.

21 MODIFICATION

22 50. The terms of this Consent Decree may be modified only
23 by a subsequent written agreement by all of the parties signatory
24 hereto, and approved by the Court as a modification to this
25 Consent Decree.

1 51. If a court of competent jurisdiction finds unlawful any
2 provision of this Consent Decree, including subparagraphs a-c of
3 paragraph 4, the parties shall return the Decree to the Court for
4 reformation consistent with the intent of the parties at the time
5 they lodged the Decree with the Court.

6 PUBLIC COMMENT

7 52. This Decree will be subject to a 30-day public comment
8 period in accordance with Section 122(d)(2) of CERCLA, 42 U.S.C.
9 § 9622(d)(2), and 28 C.F.R. 50.7. The United States reserves the
10 right to withdraw its consent to the Decree if comments received
11 disclose facts or considerations which show that the Decree is
12 inappropriate, improper or inadequate. Metro and the City
13 consent to the entry of this Consent Decree without further
14 notice.

15 53. The Suquamish Indian Tribe, the Muckleshoot Indian
16 Tribe and the State of Washington each reserve the right to
17 withdraw their consent from this Decree and from participation in
18 this settlement if comments received during the public comment
19 period disclose facts or considerations which show that the
20 Decree is inappropriate, improper or inadequate as to the
21 Suquamish Indian Tribe, the Muckleshoot Indian Tribe and the
22 State of Washington, respectively. To exercise its right to
23 withdraw, each of these parties shall file with the Court a
24 written statement expressly indicating its intent to withdraw.
25 These parties must exercise their right to withdraw before the

1 United States Department of Justice files its motion to enter
2 this Decree with the Court. Withdrawal by any one or all of
3 these parties shall not in any way affect the rights and
4 obligations of any other party to this Decree. If any one or all
5 of these parties withdraws, any and all references to such a
6 party or parties in the Decree, except those in paragraphs L,
7 M(3), 15, 24, 25 and 26, shall by implication be stricken from
8 the Decree and shall have no meaning or bearing on the operation
9 of any term of this Decree. Withdrawal by any of these parties
10 shall not impose any obligation on any other party to also
11 withdraw nor shall any inference be made as to the propriety of
12 any other party's continued consent to this Decree and
13 participation in this settlement. If either or both the
14 Suquamish Indian Tribe or the Muckleshoot Indian Tribe withdraws,
15 the continued participation by the United States in this
16 settlement is not intended to nor shall it constitute a
17 settlement or waiver of any rights under statute, treaty or
18 common law of such Tribe or Tribes.

19 VOIDABILITY

20 54. If for any reason the Court should decline to approve
21 this Decree in the form presented, this Decree and the settlement
22 embodied herein shall be voidable at the sole discretion of any
23 party and the terms herein may not be used as evidence in any
24 litigation.

1 EFFECTIVE DATE

2 55. This Consent Decree shall be effective upon the date of
3 its entry by the Court.

4 DENIAL OF LIABILITY

5 56. Metro and the City both deny each of the allegations of
6 the complaint filed by the United States and further deny
7 responsibility for the natural resources damages and any other
8 costs or relief sought by the Trustees. The parties agree that
9 actions undertaken by the City and Metro in accordance with this
10 Consent Decree do not constitute an admission of any violation of
11 treaty, federal or state law or an admission of any liability by
12 the City or Metro to the United States, the State of Washington,
13 the Suquamish Indian Tribe and Muckleshoot Indian Tribe. Nor
14 shall this Consent Decree be used as evidence or as collateral
15 estoppel against any party to this Decree in any action or
16 proceeding other than an action or proceeding to enforce the
17 terms of this Consent Decree.

18 RETENTION OF JURISDICTION

19 57. The Court shall retain jurisdiction of this matter for
20 purposes of entering such further orders, direction, or relief as
21 may be appropriate for the construction, implementation, or
22 enforcement of this Decree.

23 58. By signature below, all parties consent to this
24 Decree.

For King County

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Pam Bissonette

Pam Bissonette
Director
King County Department of Natural Resources
400 Yesler Way, Room 700
Seattle, WA 98104

Date 4/26/99

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1 FOR THE CITY OF SEATTLE

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4 Mark H. Sidran
5 Mark H. Sidran
6 City Attorney
7 City of Seattle
8 Municipal Building, 10th Floor
9 600 Fourth Avenue
10 Seattle, Washington 98104

April 19, 1999
Date

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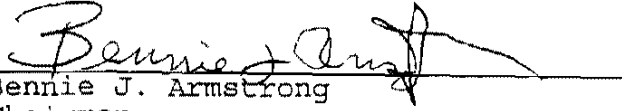
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1 FOR THE SUQUAMISH INDIAN TRIBE

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Bennie J. Armstrong
Chairman
Suquamish Tribal Council
15838 Sandyhook Road
P.O. Box 498
Suquamish, Washington 98392

24 May 1999
Date

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28 CONSENT DECREE - 44

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1 FOR THE MUCKLESHOOT INDIAN TRIBE

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John Daniels, Jr.

4/23/79

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John Daniels, Jr.
Chairman
Muckleshoot Indian Tribe
39015 172nd Avenue S.E.
Auburn, Washington 98002

Date

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CONSENT DECREE - 45

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1 FOR THE STATE OF WASHINGTON

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4/23/99

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Jim Pendowski
Program Manager
Toxics Cleanup Program
Washington Department of Ecology
P.O. Box 47600
Olympia, Washington 98504-7600

Date

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4/19/99

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Tanya Barnett
Assistant Attorney General
Attorney General of Washington
Ecology Division
629 Woodland Square Loop SE, Lacey
P.O. Box 40117
Olympia, Washington 98504-0117

Date

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1 FOR THE UNITED STATES OF AMERICA

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4 Lois J. Schiffer Date 9/16/99

5 Assistant Attorney General
6 Environment and Natural Resources Division
7 U.S. Department of Justice
8 Washington, D.C. 20530

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8 James L. Nicoll Date 10/7/99

9 Senior Attorney
10 Environmental Enforcement Section
11 Environment and Natural Resources Division
12 U.S. Department of Justice
13 c/o NOAA GC/DOJ Damage Assessment Center
14 7600 Sand Point Way N.E.
15 Seattle, Washington 98115-0070

14 Brian C. Kipnis Date 10/7/99

15 Assistant United States Attorney
16 3600 SeaFirst Fifth Avenue Plaza
17 800 Fifth Avenue
18 Seattle, Washington 98104

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So ordered.
Oct. 13, 1999.
William L. Royer
U.S. District Judge

ATTACHMENT

Elliott Bay/Duwamish Restoration Program Transition Management Plan

Vision: A Program Management Plan to provide for the efficient and successful implementation of the selected habitat development, sediment remediation and source control projects.

Objective: To efficiently manage the final steps to complete the implementation of the restoration, remediation, and source control projects identified under the Program.

Background: In a lawsuit against the City of Seattle and Metro (now King County), the National Oceanic and Atmospheric Administration (NOAA) alleged that the City and County had caused some injury to the natural resources of Elliott Bay and the lower Duwamish River by releasing hazardous substances from sewerage systems. The parties to the lawsuit agreed to cooperate in the formation of the Elliott Bay/Duwamish Restoration Program (Program). This agreement was embodied in a Consent Decree (United States, et al. v. City of Seattle and Municipality of Metropolitan Seattle, Case No. C90-395WD (W. D. Wash.)). The intent of this decree is to maximize benefits to the area's natural resources and residents by coordinating the actions of the Consent Decree parties and other governments and agencies. The Consent Decree provides for a combined maximum of \$24 million for sediment remediation, habitat development and pollution source control projects.

Program Goal: The primary goal of the Program is to restore natural habitat associated with combined sewer overflows and storm drains and remediate contaminated sediments in Elliott Bay and the lower Duwamish River.

Sediment remediation projects will each use one or more methods to remove or isolate contaminated sediments within the project area. Habitat development projects will include one or more methods to restore, replace, rehabilitate, or acquire the equivalent of estuarine habitat injured as a result of the release of hazardous substances. Source control efforts will be evaluated and amended to protect natural resources and prevent recontamination of project sites.

The Administration: The following groups and positions constitute the advisory, administrative, and managerial arms of the Program:

Elliott Bay/Duwamish Restoration Program Panel:

- * Establishes procedures;
- * Determines how funding will be spent;
- * Gathers data;
- * Identifies, plans and approves projects;
- * Establishes source control goals; and
- Reviews, comments on and approves proposals.

The Administrative Director:

- * Maintains Administrative Record;
- * Responsible for day-to-day administrative management of the Panel;
- * Ensures all Panel documentation is sufficient to support claims for reimbursement.

The Public Participation Committee: Advises the Panel on opportunities for public involvement and education in all program activities.

The Budget Committee: Assists the Panel in analysis and evaluation of program finances.

The Habitat Development Technical Working Group: Advises the Panel on technical issues with respect to habitat development projects.

The Sediment Remediation Technical Working Group: Advises the Panel on technical issues with respect to sediment remediation projects.

Performance Monitoring:

Each project approved by the Panel will be assigned a project coordinator to facilitate successful completion of the project by the project manager. The project coordinator and the Panel will gauge the success and progress of each project based upon the following decision measures.

- * Delivery of the specific items called for in the scopes and related contract documents;
- * Efficient use of time, funds, and resources;
- * Good quality;
- * Performance in a timely fashion;
- * Performance within budget;
- * Completion of the projects; and
- * Meeting the goals of the program.

Roles and Responsibilities:

The Project Manager The project manager is responsible for ensuring that the entire scope of the project is completed within the specified schedule and budget. The project manager is also responsible for tracking the project in enough detail to provide monthly and quarterly progress reports to the project coordinator and Panel, respectively, and ensure that the rate of expenditure and progress towards completion is commensurate with the overall budget. As long as these conditions are met, the project manager is delegated the authority to make any and all day-to-day management decisions. Minor changes to the scope, schedule, and budget are authorized as follows:

Budget: Minor increases to the budget (less than 1/3 of the original contingency) are authorized, provided there are sufficient contingency funds to cover the expense and provided they are reported in the monthly report. Expenditures that exceed the contingency available, or which are likely to cause the contingency to be exceeded at some future date, cannot be made without Panel approval, because the Panel must identify a source of additional funds within the constraints of the Consent Decree.

Schedule: Minor changes in the schedule that do not extend the original schedule by more than three months are authorized. Proposed schedule extensions beyond three months must be authorized by the Panel in advance.

Scope: Minor increases in the scope of the project may be made by the project manager, provided that they can be accomplished without significantly affecting the schedule or the budget (see above), including safeguarding sufficient contingency for future elements of the project. Such increases in scope should be commensurate with the intent of the project and will generally arise from unanticipated circumstances (for example, encountering unexpected debris requiring removal during cleanup, cost savings in one part of a habitat restoration project allowing additional enhancement in other areas). Larger increases or changes to the scope of a project should be posed to the Panel for approval, along with an explanation of how they will be funded.

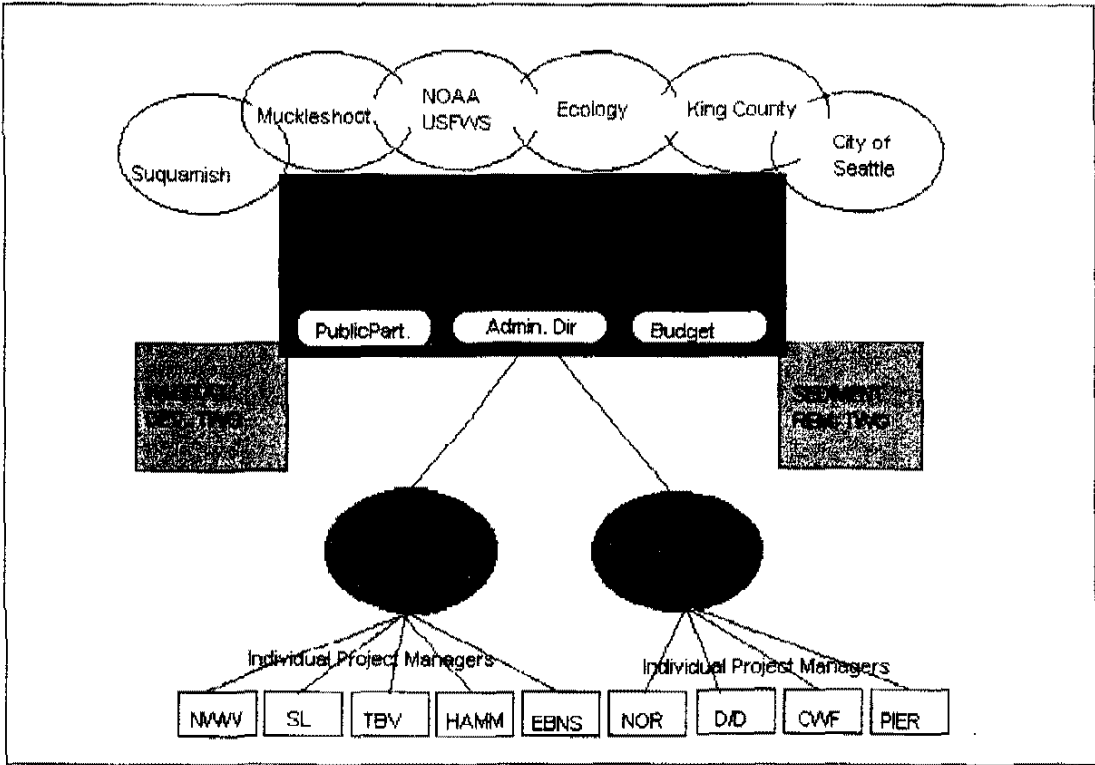
The project manager is not authorized to decrease the scope of a project without Panel approval. Decreases in the scope of permitted cleanup projects are generally not possible due to regulatory and permit requirements. The project manager is required to track the budgets of such projects in a timely manner to ensure that the remaining funds will be adequate to complete the entire scope. Since the project manager's agency will be the permit holder, that agency will be responsible for completing the project should the project manager not ensure that sufficient funds are available within the allocated Panel budget for that project.

Nothing in this plan prevents the project manager from taking any emergency action necessary to protect human health or the environment, or comply with permit conditions, due to unforeseen events or conditions in the field. Under such circumstances, the project manager or field supervisor shall take such emergency actions as are necessary and shall notify the project coordinator at the earliest possible opportunity of the situation, as well as its potential impact on the schedule and budget. If necessary, the project coordinator will then convene the Panel at the earliest possible opportunity to discuss the situation and make such scope, schedule and budget adjustments as are necessary in a timely manner.

Project managers make written requests for payment (or in-kind credit) to the project coordinator who is responsible for reviewing, evaluating, and ensuring that all supporting documentation has been provided, and makes a recommendation to the Panel. The Panel then approves the submission, granting credit for in-kind services or reimbursement from the Court. Reimbursement requests are transmitted from the Administrative Director to the Department of Justice for approval by the Court.

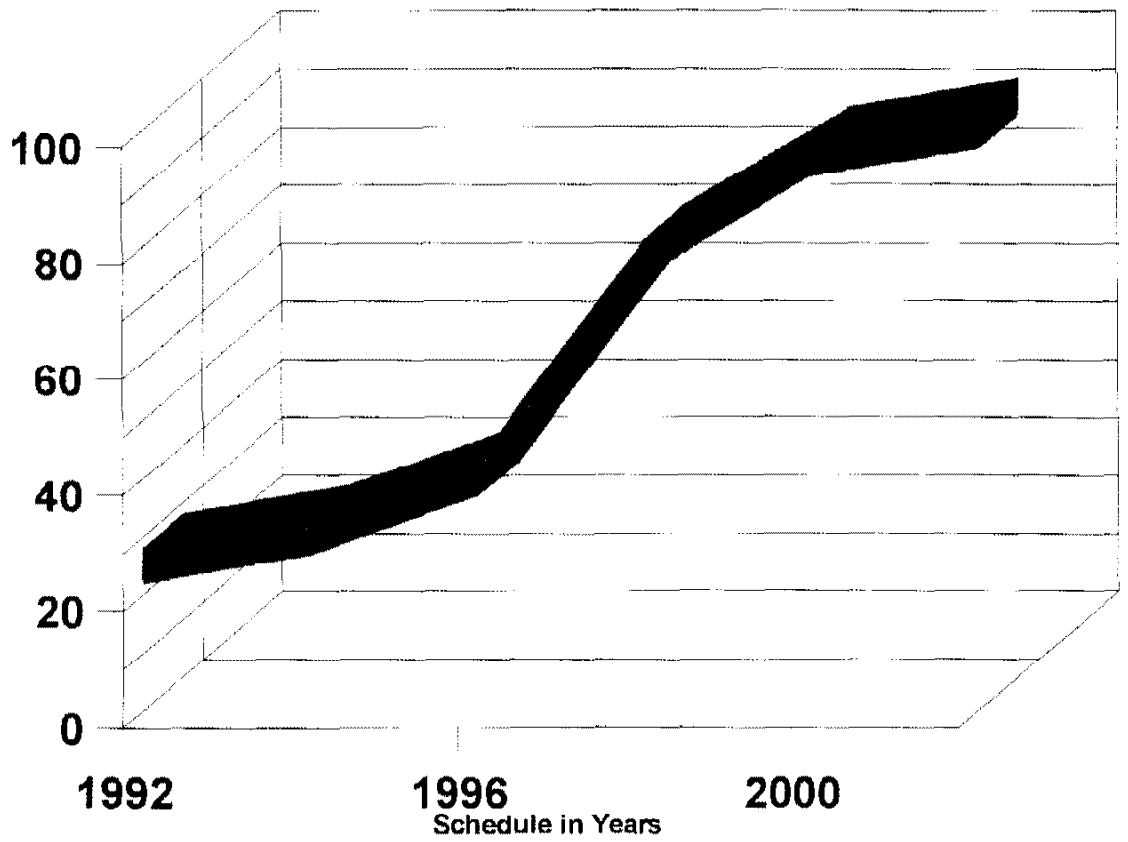
The Project Coordinator. The Project Coordinators provide both the administrative and technical oversight of project management. The general duties include:

- * Serves as day-to-day liaison for the project manager, technical working groups, and Panel;
- * Serves as the initial reviewer of the progress of the projects and performance;
- * Responds to questions or situations which develop in the field, informing and providing recommendations to the Panel as appropriate;
- * Focuses and frames policy issues and decisions for the Panel consideration.



Elliott Bay / Duwamish Restoration Program Organizational Diagram

Elliott Bay/Duwamish Restoration Program Panel Resource Allocation



■ % Settlement Dollars Anticipated to be Expended

**4.0 Project Descriptions:
A Summary of Scope, Schedule and Budget**

Habitat #	1992/3	1994	1995	1996	1997	1998	1999	2000+	Project Total
SEABOARD PROJECT									
Real Property									
Site Analysis					122,500.00				122,500.00
Land Acquisition		50,000.00			2,118,000.00				2,168,000.00
Project Management					31,000.00				31,000.00
Real Property Subtotal	0.00	50,000.00	0.00	0.00	2,269,500.00	0.00	0.00	0.00	2,319,500.00
Planning and Design									
Design					214,300.00				214,300.00
Environmental Compliance					85,000.00				85,000.00
Project Management					73,530.00				73,530.00
Planning and Design Subtotal	0.00	0.00	0.00	0.00	352,830.00	0.00	0.00	0.00	352,830.00
Implementation									
Construction Contract					1,500,000.00				1,500,000.00
Project Management					176,000.00				176,000.00
Monitoring						120,000.00			120,000.00
Stewardship									0.00
Implementation Subtotal	0.00	0.00	0.00	0.00	1,676,000.00	120,000.00	0.00	0.00	1,796,000.00
SEABOARD PROJECT TOTAL	0.00	50,000.00	0.00	0.00	4,298,500.00	120,000.00	0.00	0.00	4,418,500.00
NORTH WIND WIER									
Real Property									
Land Acquisition					328,700.00				328,700.00
Real Property Subtotal	0.00	0.00	0.00	0.00	328,700.00	0.00	0.00	0.00	328,700.00
Planning and Design									
Site Analysis					32,742.00				32,742.00
Design					63,444.00				63,444.00
Environmental Compliance					11,563.00				11,563.00
Project Management					0.00				0.00
Planning & Design Subtotal	0.00	0.00	0.00	0.00	107,749.00	0.00	0.00	0.00	107,749.00
Implementation									
Construction Contract					299,800.00				299,800.00
Project Management					97,000.00				97,000.00
Monitoring						48,000.00			48,000.00
Stewardship						9,000.00			9,000.00
Implementation Subtotal	0.00	0.00	0.00	0.00	396,800.00	57,000.00	0.00	0.00	453,800.00
NORTH WIND PROJECT TOTAL	0.00	0.00	0.00	0.00	725,500.00	57,000.00	0.00	0.00	782,500.00
TURMING BASH VICINITY									
Real Property									
Land Acquisition					225,000.00				225,000.00
Real Property Subtotal	0.00	0.00	0.00	0.00	225,000.00	0.00	0.00	0.00	225,000.00
Planning and Design									
Site Analysis					33,500.00				33,500.00
Design					28,800.00				28,800.00
Project Management					28,800.00				28,800.00
Real Property Subtotal	0.00	0.00	0.00	0.00	258,500.00	28,800.00	0.00	0.00	287,300.00
Planning and Design									
Design					72,967.00				72,967.00
Permitting					27,000.00				27,000.00
Project Management					28,800.00				28,800.00
Planning and Design Subtotal	0.00	0.00	0.00	0.00	128,767.00	0.00	0.00	0.00	128,767.00
Implementation									
Construction Contract						530,000.00			530,000.00
Project Management						14,400.00			14,400.00
Monitoring							100,000.00		100,000.00
Stewardship									0.00
Implementation Subtotal	0.00	0.00	0.00	0.00	0.00	544,400.00	100,000.00	0.00	644,400.00
T.B.V PROJECT TOTAL	0.00	0.00	0.00	0.00	258,500.00	544,400.00	100,000.00	0.00	1,000,400.00
CITY LIGHT NORTH									
Real Property									
Acquired					5,000.00				5,000.00
Land Acquisition					705,000.00				705,000.00
Real Property Subtotal	0.00	0.00	0.00	0.00	705,000.00	0.00	0.00	0.00	705,000.00
Planning and Design									
Site Analysis/Design									0.00
Project Management					5,100.00				5,100.00
Planning and Design Subtotal	0.00	0.00	0.00	0.00	5,100.00	0.00	0.00	0.00	5,100.00
Implementation									
Construction Contract						300,000.00			300,000.00
Project Management							47,000.00		47,000.00
Monitoring									0.00
Stewardship									0.00
Implementation Subtotal	0.00	0.00	0.00	0.00	0.00	300,000.00	47,000.00	0.00	347,000.00
CITY LIGHT PROJECT TOTAL	0.00	0.00	0.00	0.00	705,000.00	300,000.00	47,000.00	0.00	1,057,100.00
ELLIOTT BAY NEARSHORE									
Real Property Subtotal	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Planning and Design									
Site Analysis				###	38,800.00				101,800.00
Design					2,800.00				2,800.00
Project Management					24,800.00				24,800.00
Permitting						14,000.00			14,000.00
Planning and Design Subtotal	0.00	0.00	0.00	###	68,000.00	14,000.00	14,000.00	0.00	143,000.00
Implementation									
Construction Contract					138,800.00				138,800.00
Project Management					117,800.00				117,800.00
Monitoring						32,800.00			32,800.00
Stewardship									0.00
Implementation Subtotal	0.00	0.00	0.00	0.00	256,600.00	32,800.00	0.00	0.00	289,400.00
EB NEARSHORE PROJECT TOTAL	0.00	0.00	0.00	###	256,600.00	32,800.00	14,000.00	0.00	432,000.00
Real Property Total									3,638,500.00
Planning and Design Total									737,848.00
Implementation Total									3,530,000.00
Habitat Program Total									7,906,148.00

4.1 Habitat Development Projects

4.1.1 North Wind Weir:

Location/Description and Background:

King County, through the Department of Natural Resources' Water Pollution Control Division and the Department of Parks and Recreation and Cultural Resources would like to develop intertidal habitat along the Duwamish at the North Wind Weir site. The 3 acre site is part of the County's Green River Trail system and the openspace program to be used for habitat and openspace purposes. Improvements include trails, shoreline stabilization, plantings, construction of approximately one acre of intertidal area, and providing an interpretive feature highlighting the site's cultural significance to Native Americans. The Water Pollution Control Division would provide funding for design and construction and Parks through King County's Department of Construction and Facility Management would provide project management and development services.

The North Wind Weir Openspace is located along the Duwamish River at about 11004 West Marginal Place. The site is about 3.1 acres of openspace surrounding a bike trail at the present time. A restroom facility will be constructed during 1997. All housing has been removed from the site. There are some substantial trees which exist on site and would probably remain. The site consists of 500 linear feet of river frontage and ranges between approximately 6 and 15 feet above the low water mark along the river from south to north respectively.

Scope:

Goals:

- 1) The purpose of the project is to provide and enhance habitat. Specifically, the intent and the purpose of the project goals would:
- 2) Provide estuarine habitat and associated vegetative buffers for the benefit of fish and wildlife resources.
- 3) Facilitate public understanding of and support for Duwamish River Habitat resources, and;
- 4) Improve understanding of estuarine habitat restoration methods.

Objectives:

- 1) The objectives and elements for the project include:
- 2) Providing interpretive/educational facilities for natural and cultural resources;
- 3) Implementing long-term monitoring to evaluate project results;
- 4) Documenting project performance relative to provisions of fish and wildlife habitat;
- 5) Meeting the success criteria for the function of an estuarine habitat;
- 6) Developing intertidal area(s) and providing vegetative buffers, and;
- 7) Providing for public access.

Benefits: The primary benefits would be the provision of an intertidal habitat design to assist migrating salmonids acclimate on their way downstream. The intertidal habitat design would also act as a catalyst for the promulgation of upland bird and animal species. Shoreline stabilization and selected plantings on the site and along the shoreline would substantially improve riparian conditions.

Performance Work Statement: Please see the draft North Wind Weir Project Budget which includes necessary tasks and associated schedule.

Schedule:

The project consists of a three-year design and development program and some form of monitoring plan and long term monitoring and maintenance program. The facility would be completed in 1999. Please see the draft North Wind Weir Project Budget which includes necessary tasks and associated schedule.

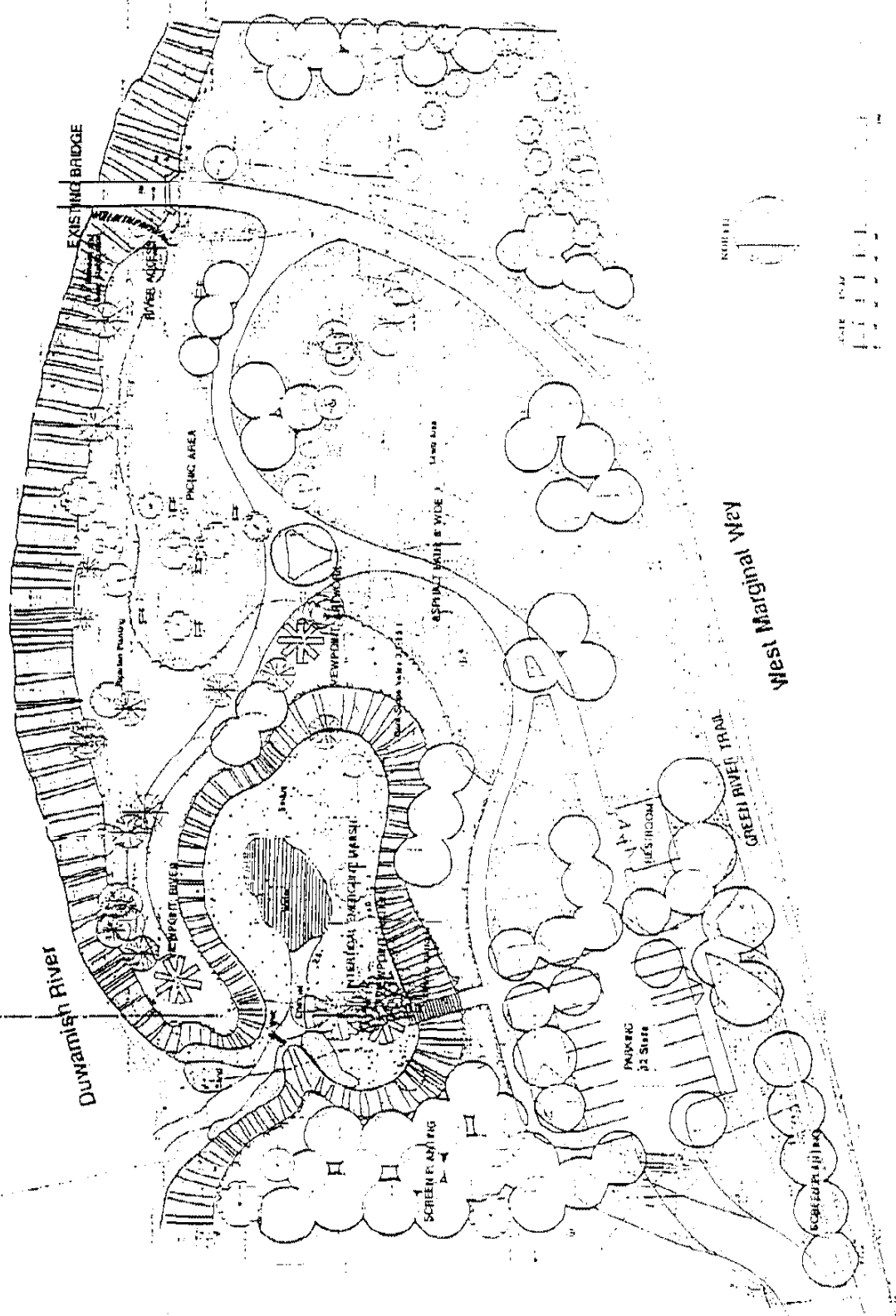
Budget:

Project costs have been allocated not to exceed \$925,649.00. Please see the draft North Wind Weir Project Budget which includes necessary tasks and associated schedule.

Draft North Wind Weir Project Budget											
Date:	10/9/96										
ID	TASK NAME	SCHEDULE		BUDGET BY QUARTER							
		Start	Finish	To date	4th Qtr. 96	1st Qtr. 97	2nd Qtr. 97	3rd Qtr. 97	4th Qtr. 97	1st Qtr. 98	2nd Qtr. 98
SITE ACQUISITION											
	Land Purchase				\$108,900						
Sub Total											
PLANNING AND DESIGN											
	Pre-design	8/1/96	2/28/97	\$1,800							
1	Site Analysis	1/15/97	2/28/97								
2	Geotechnical analysis	1/15/97	2/28/97			\$10,742					
3	Contaminants survey	1/15/97	2/28/97			\$22,000					
Design and Review		9/15/96	1/15/98								
4	Schematic	9/15/96	1/15/97								
10	Draft Design Development	1/15/97	3/1/97			\$15,411	\$15,411	\$15,411			
14	Environmental Compliance	5/1/97	9/1/97								
15	SEPA/NEPA Draft Doc. Prep	5/1/97	6/1/97					\$11,563			
23	JARPA Application	6/1/97	10/1/97								
18	Construction Documents	6/1/97	1/15/98								
19	90%	6/1/97	1/15/98						\$7,706		
22	100%	11/1/97	1/15/98							\$7,706	
Sub Total											
CONSTRUCTION											
28	Construction Contract	7/1/98	11/1/98								
31	Construction Phase Mgmt.	3/15/98	12/1/98								\$36,375
Sub Total											
POST CONSTRUCTION											
33	Monitoring	2/15/99	8/15/09								
34	Stewardship/maintenance	12/1/98									
Sub Total											
TOTAL BY QUARTER				\$1,800		\$48,153	\$15,411	\$26,974	\$7,706	\$7,706	\$36,375

No Contingency - ? \$10,000

Draft North Wind Weir Project Bud						
Date:	10/9/96					
ID	TASKNAME	3rd Qtr. 98	4th Qtr. 98	1999+	Sub Total	TASK TOT
SITE ACQUISITION						
	Land Purchase				\$108,900	
	Sub Total					\$108,900
PLANNING AND DESIGN						
	Predesign				\$1,800	
1	Site Analysis					
2	Geotechnical analysis				\$10,742	
3	Contaminants survey				\$22,000	
	Design and Review					
4	Schematic					
10	Draft Design Development				\$46,233	
14	Environmental Compliance					
15	SEPA/NEPA Draft Dec. Prep				\$11,563	
23	JARPA Application					
18	Construction Documents					
19	90%				\$7,706	
22	100%				\$7,706	
	Sub Total					\$107,749
CONSTRUCTION						
28	Construction Contract	\$277,500	\$277,500		\$555,000	
31	Construction Phase Mgmt.	\$36,375	\$24,250		\$97,000	
	Sub Total					\$652,000
POST CONSTRUCTION						
33	Monitoring			48000	\$48,000	
34	Stewardship/maintenance			9000	\$9,000	
	Sub Total					\$57,000
TOTAL BY QUARTER		\$313,875	\$301,750	\$57,000	\$925,649	\$925,649



NORTH WIND WEIR PARK

Schematic Plan: Option 1
 OCTOBER 4, 1992

4.1.2 Duwamish/Hamm Creek (City Light North):

Location/Description and Background: The shoreline is riprap, but a fairly large intertidal bench is present below the toe of the slope. West Marginal Way Southwest is beyond Marginal Place Southwest to the west of the site. The small tributary, Hamm Creek, flows through a forested area southwest of the site, crosses under the highway just south of the site, then flows the length of the site in an adjacent ditch along the roadway. Delta Marine boatyard borders the site.

Scope:

Goals: The project will improve habitat conditions in the Turning Basin vicinity
by:

- 1) Increasing the amount and availability of vegetated (marsh) and unvegetated (mudflat) intertidal habitat.
- 2) Provide surface water connection between Hamm Creek and the Duwamish River.

The project will improve estuary habitat needed to help salmonid transition from freshwater to a saltwater environment. The project will provide off-river habitat along the south fork of Hamm Creek for rearing, refuge, and spawning.

Objectives:

- 1) Improve fish passage and reduce potential for blockages by upgrading Hamm Creek culverts under West Marginal Way.
- 2) Create a new stream channel from the point where Hamm Creek enters the project area to a new connection with the Duwamish River. The channel will mimic, to the best degree possible, features found in streams not altered by human community development, to include pools, riffles, diverse habitat using logs, boulders and stumps. The channel will be fish-passable throughout its length.
- 3) Provide attributes associated with marsh and mudflat habitats at levels comparable to appropriate reference sites by removing fill material, regrading to intertidal elevations, and establishing marsh vegetation at suitable locations.
- 4) Establish buffers along the margins of aquatic (stream, marsh, mudflat) habitat by the creation of riparian areas using native trees and shrubs.
- 5) Allow for non-consumptive human use and enjoyment of the site in a manner compatible with the habitat objectives of the project.

The Panel will partner this project with King County and the U.S. Army Corps of Engineers, contributing roughly one-third of the funds (\$250,000.00 for construction and \$700,000.00 for acquisition) which presents the intertidal estuary component of the project.

Performance Work Statement:

To accomplish this project, King County Surface Water Management will develop plans, specifications, and obtain permits according to the following:

- 1) **Project Management and Coordination:** Provide quarterly schedule and budget reports. Coordinate with project stakeholders, designers and the public. Conduct two public meetings to review the project.

- 2) Solicit Alternative Project Funding: Prepare necessary documents for obtaining U.S. Army Corps of Engineers Section 1135 funding and Section 22 analysis support through the U.S. Army Corps of Engineers.
- 3) Property Acquisition: Assist the Panel in the acquisition of the site through the resolution of permit issues. Acceptance by the King County Council and the Seattle City Council will probably be necessary.
- 4) Preliminary Design: Develop a preliminary design with rough details and major features. Conduct preliminary hydraulic analysis. Provide a report describing the project components, concerns and analysis. This report must be approved by the Panel before proceeding with design.
- 5) Provide NEPA and SEPA documentation: Complete mitigated SEPA checklist and corresponding Environmental Assessment for NEPA. Provide notification and advertisement to complete the initial environmental review to a point of determination of significance or non-significance.
- 6) Obtain permits: Acquire Tukwila Shoreline, Corps 401, 404 and State HPA, grading permits, and water quality waiver. Develop hydraulic, wetland, and stream reports necessary to acquire permits.
- 7) Soil Survey and Groundwater Monitoring: Construct up to five wells to determine the quality of soils and monitor groundwater levels.
- 8) Topographic Survey: Develop a topographic map of the site and adjacent shoreline and riverbed.
- 9) Provide Plans and Specifications: From the preliminary design report, develop detailed plans and specifications ready for advertisement and bidding. Complete final engineering and ecological analysis.
- 10) Advertise, Bid, and Award the contract.
- 11) Provide Construction Services: King County will provide construction management and monitoring of the project. This work will include the monitoring of the contractor, issuing of pay estimates, review and approval of shop drawings and change orders, and coordination with permit agencies, public and private stockholders.
- 12) Post Construction Monitoring: King County will monitor the project and make necessary adjustment of features and the replacement of plant material.

Schedule:

Task:	Duration	Start	End	Est. Cost
1. Notice to Proceed	0d	07/01/96	07/01/96	\$ 0.00
2. SWM Proj. Coord.	448d	07/01/96	04/14/98	150,000.00
3. Negotiate ROW	180d	09/26/96	03/31/97	25,000.00
4. Review Process	90d	07/01/96	09/25/96	0.00
5. Feasibility Study	180d	09/26/96	03/31/97	170,000.00
6. Project Design	240d	04/01/97	11/26/97	200,000.00
Environmental Review				
7. Permit Acquisition	240d	04/01/97	11/26/97	40,000.00
8. Approval	0d	11/26/97	11/26/97	0.00
9. Obtain ROW	14d	11/27/97	12/12/97	1,000,000.00*
10. Construction	150d	04/15/98	09/11/98	1,662,000.00*

* Partial funding is requested from the Elliott Bay/Duwamish Restoration Panel

Budget: Funding the project involves multiple sources.

U.S. Army Corps of Engineers Section 1135 Program	\$1,643,000.00
Elliott Bay/Duwamish Restoration Program	1,000,000.00
King County Future Funding Initiative	500,000.00
<u>King County Surface Water Management</u>	<u>104,000.00</u>
TOTAL	\$3,247,000.00

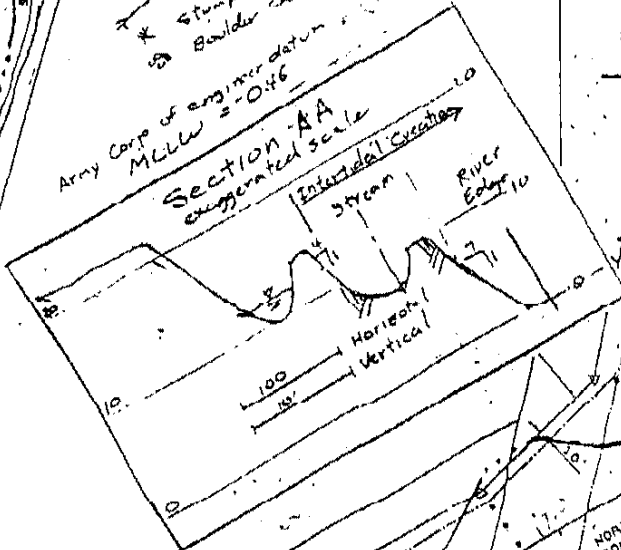
* The Elliott Bay/Duwamish Restoration Panel has obligated (by Resolutions 1994-13, 1995-08, 1995-10, 1995-18, and 1995-27 up to \$10,100.00 of planning and design funds).

DUWAMISH WATERWAY

PROPERTY LI

midst 1-2% introduced
5% boulder, mudflow
excavation down
10 0.
2x longitudinal
width left 20m.

DELTA MARINE
LEASE AREA
4.5 ACRES
197,851.2 SQ. FT.

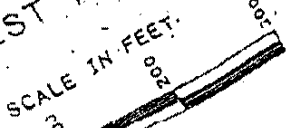


PROPERTY LINE
N 80° 12' 49" E
191.87'

SOUTH 96TH STREET

NORTH LINE SECTION A

WEST MARGINAL WAY PL. SOUTH



Perimeter Restoration
Proposal
Duwamish / Hamm Ck

THE AREA BOUNDED BY THE
FENCE OF SUBSTATION, THE
PROPERTY LINE, THE NORTH
LINE AND THE CONDUCTOR
LINE = 4.8 ACRES.

NORTHERLY
CONDUCTOR
230KV
TRANS. LINE

STEEL TRANSMISSION
POLE

ELECTRIC
VAULT

DUWA
SUBS

CHAIN
LINK
FENCE

more of
ditch
buffer
has

2% grade

100 ft
but
by
water

N 122° 18' 0"
61,956.193' 01

Ordinary
122-122

Invert of
132 at
Point

Army Corp of engineering
MCLW 5-0116

THE
LINE
THEREFROM
RECTANGULAR
31 778.54
14.6

12'
100'
1-50'

NO. MON. IN CASE
16.55

N 42° 58' 00" W
262.24'

EASTERLY CONDUCTOR
230KV. 0187' LINE

NORTHERLY
CONDUCTOR
230KV
TRANS. LINE

17'
100'
315.34'

4.1.3 Seaboard Lumber:

Location/Description and Background:

The City of Seattle is currently in the process of acquiring the site of the former Seaboard Lumber Mill at 4540 West Marginal Way SW for the Seattle Department of Parks and Recreation's 1995-2000 Capital Improvements Program. The purpose of this project is to restore intertidal marine habitat in the lower Duwamish River estuary.

The Seaboard site totals approximately 5.7 acres of uplands and 10 acres of tidelands along the Duwamish River at river mile 2 above Elliott Bay. The tidelands include a portion of the last remaining oxbow of the former Duwamish River and lie just north of Kellogg Island, a highly modified substantial remnant of the once extensive wetlands that characterized the mouth of the Duwamish River. The Seaboard Lumber Mill closed nearly 12 years ago and the mill structure has been removed. The vacant industrial site is largely paved, or has large concrete foundation pads as well as pile-supported pier foundations of other structures that were previously removed. The Shoreline is composed of rubble revetment, below which are the mudflats that extend toward the river channel and Kellogg Island. The Port of Seattle has set aside Kellogg Island for fish and wildlife habitat.

The City proposes to restore the estuarine wetland that once existed at the Seaboard site. The City will necessitate removal of existing foundations and pavements, extensive upgrading, and establishment of native plantings to expand existing non-vegetated tidal flats and create a mosaic of emergent marsh, shrub swamp and upland riparian areas on the balance of the site. Aquatic habitat in the Duwamish River should be significantly improved as a result of such restoration and other similar projects that are now planned.

A very preliminary illustrative plan for such aquatic habitat restoration at Seaboard has been prepared by the Elliott Bay/Duwamish Restoration Panel's Habitat Technical Working Group. The U.S. Army Corps of Engineers provided a thorough site evaluation and analyses.

Scope:

Goals: The purpose and goal of this project is to restore intertidal marine habitat in the lower Duwamish River estuary.

Objectives: The intent of this project is to restore aquatic habitat in order to protect critical fish and wildlife resources in the Duwamish River system. Public access to the Duwamish River is also provided as a secondary intent. Included with this intent should be public education relative to natural resources that will be enhanced at the site. The general parking access component should be limited to parking, trail, and viewpoint areas.

Performance Work Statement:

The following must be incorporated into the design project:

Demolish the remnants of the existing pier at the north end of the shoreline and remove all other unnecessary piling.

Excavate the shoreline to increase the size of the intertidal area of the site. Remove unnecessary debris along the shoreline that presently functions as a makeshift rip rap revetment. Regrade to allow for development of a brackish marsh or slough that will extend inland. Reuse, if possible, certain excavation spoils to create berms along West Marginal Way SW to allow for development of an upland planting buffer.

Provide for appropriate wetland plantings of native species along the upper edges of the slough that will be created. The design of such plantings will be based upon tidal elevations created from the grading activity that must replicate an appropriate transition from the intertidal slough to the upland buffer.

Provide for a richly vegetated upland buffer using native species that can create a scrub/shrub edge to the intertidal slough. Some forest species should be incorporated into this buffer as well.

Provide for a small parking area adjacent to West Marginal Way SW to accommodate approximately 15-20 cars at a small trailhead type of development. Allow for the installation of portable toilets and provide for bicycle parking and park furniture as may be appropriate.

Provide for a trail to one or two designated viewpoints for park visitors. Such viewpoints should allow for an overview of the intertidal slough, the nearby Kellogg Island, and industrial marine activities on the Duwamish. Interpretive signage may be appropriate at such viewpoints.

Consider designing the site to allow for only a small opening of the slough to the Duwamish River to allow for a spit that could provide both wave protection and one of the viewpoints mentioned above.

For a further listing of the task breakdown please refer to the scope, schedule, and budget spreadsheets attached.

Schedule:

The proposed schedule for Seaboard is currently being updated, as it was originally based upon the achievement of a Purchase and Sale Agreement by 06/01/95.

Budget:

The purchase price of the property is still in negotiation. The construction budget for this project is \$1,640,000.00. The budget is the expected cost of construction and does not include construction contingencies, Washington State Sales Tax, and other associated costs. See the following draft budget for the Seaboard Lumber site.

- Revision # 7

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23

Draft -- Budget for Seaboard Scope
August 7, 1996

ID	TASK NAME	BUDGET BY QUARTER					
		To Date	3rd qtr 96	4th qtr 96	1st qtr 97	2nd qtr 97	3rd qtr 97
1	SITE ACQUISITION						
	Costs to Date						
	Appraisal	20,000					
	Herrera II	47,000					
	Sampling Plan	6,500					
2	Site Analysis - Phase III		16,200	32,800			
	Project Management During Acquisition	3,100	6,200	6,200	6,200	6,200	3,100
4	Site Anal Review/Revise						
5	Negotiate Clean-up Plan						
6	Negotiate Land Sale						
7	Panel Approval						
8	City Council Review/Approval						
	Land Purchase						2,166,000
	Sub Total						
9	DESIGN						
	Costs to Date						
	Holland	5,500					
	Corps Phase 1	45,000					
3	Conceptual Design		6,600	13,400			
	Project Design						31,200
11	Preliminary Design						
17	Final Design						
20	Revise Final Design						
14	Environmental Review						
	Permits						
15	Master Use Permit						
16	Shoreline Permit						
	Project Management During Design		8,170	8,170	8,170	8,170	8,170
10	Negotiate Design Contract						
12	Public Review I						
13	Panel/Public Review II						
18	Panel/Public Review III						
	Design Administration						
	In-house Design Review						
	Sub Total						
21	CONSTRUCTION						
25	Construction Contract						
	Project Management During Construction						
22	Advertise and Bid						
23	Review and Award						
24	Notice to Proceed						
	Construction Management						
	Construction Inspection						
	Interdepartmental Work Orders						
	Sub Total						
26	POST CONSTRUCTION						
27	Post Construction Monitoring						
28	Re-planting						
	Sub Total						
TOTALS BY QUARTER		127,100	57,170	50,570	14,370	14,370	2,208,470

*50

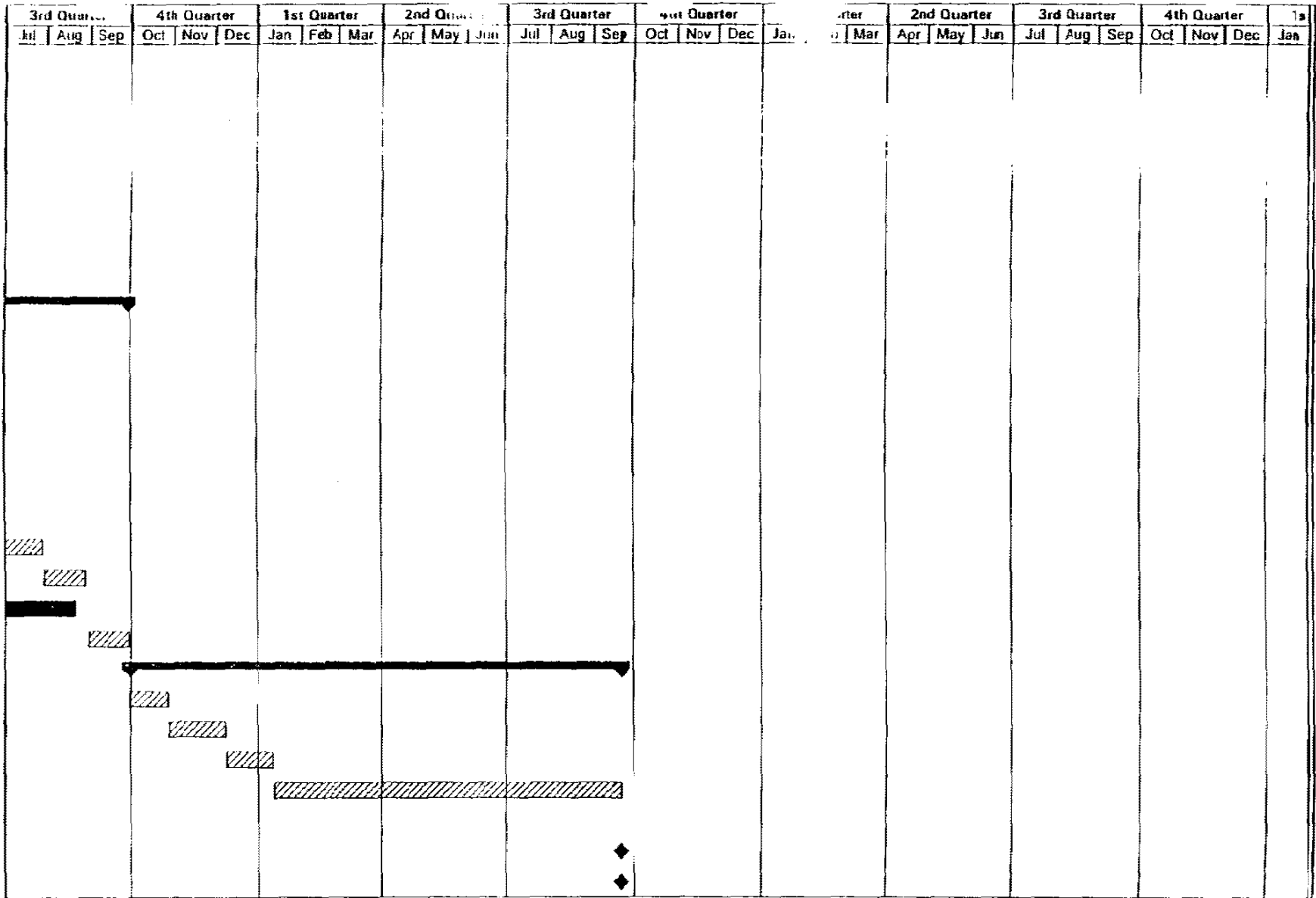
								TASK TOTAL
4th qtr 97	1st qtr 98	2nd qtr 98	3rd qtr 98	4th qtr 98	1st qtr 99	2nd qtr 99	3rd qtr 99	
								20,000
								47,000
								6,500
								49,000
								31,000
								2,166,000
								2,319,500
								5,500
								45,000
								20,000
24,100	41,570	41,570	41,560					100,000
								5,500
8,250	16,750							25,000
6,700	13,300	13,300	6,700					40,000
								5,500
8,170	8,170	8,170	8,170					73,500
								389,000
					500,000	500,000	500,000	1,500,000
				35,000	35,000	35,000	35,000	140,000
								1,640,000
							120,000	120,000
								120,000
47,220	79,790	63,040	56,430	35,000	535,000	535,000	535,000	120,000 4,468,530

#	Name	Duration	Quarter			4th Quarter			1st Quarter			2nd Quarter			3rd Quarter			4th Quarter			1st Quarter			2nd Quarter		
			Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	
1	Site Acquisition	250d	[Critical Path]																							
2	Site Analysis - Phase III	110d	[Hatched]			[Hatched]			[Hatched]			[Hatched]			[Hatched]			[Hatched]			[Hatched]			[Hatched]		
3	Conceptual Design	110d	[Hatched]			[Hatched]			[Hatched]			[Hatched]			[Hatched]			[Hatched]			[Hatched]			[Hatched]		
4	Site Analysis Review/Re	44d	[Hatched]			[Hatched]			[Hatched]			[Hatched]			[Hatched]			[Hatched]			[Hatched]			[Hatched]		
5	Negotiate Clean-up Plan	80d	[Hatched]			[Hatched]			[Hatched]			[Hatched]			[Hatched]			[Hatched]			[Hatched]			[Hatched]		
6	Negotiate Land Sale	110d	[Hatched]			[Hatched]			[Hatched]			[Hatched]			[Hatched]			[Hatched]			[Hatched]			[Hatched]		
7	Panel Approval	0d	[Hatched]			[Hatched]			[Hatched]			[Hatched]			[Hatched]			[Hatched]			[Hatched]			[Hatched]		
8	City Council Review/App	30d	[Hatched]			[Hatched]			[Hatched]			[Hatched]			[Hatched]			[Hatched]			[Hatched]			[Hatched]		
9	Design	561d	[Critical Path]																							
10	Negotiate Design Contra	70d	[Hatched]			[Hatched]			[Hatched]			[Hatched]			[Hatched]			[Hatched]			[Hatched]			[Hatched]		
11	Preliminary Design	70d	[Hatched]			[Hatched]			[Hatched]			[Hatched]			[Hatched]			[Hatched]			[Hatched]			[Hatched]		
12	Public Review I	0d	[Hatched]			[Hatched]			[Hatched]			[Hatched]			[Hatched]			[Hatched]			[Hatched]			[Hatched]		
13	Panel/Public Review	22d	[Hatched]			[Hatched]			[Hatched]			[Hatched]			[Hatched]			[Hatched]			[Hatched]			[Hatched]		
14	Environmental Review	62d	[Hatched]			[Hatched]			[Hatched]			[Hatched]			[Hatched]			[Hatched]			[Hatched]			[Hatched]		
15	Master Use Permit	130d	[Hatched]			[Hatched]			[Hatched]			[Hatched]			[Hatched]			[Hatched]			[Hatched]			[Hatched]		
16	Shoreline Permit	90d	[Hatched]			[Hatched]			[Hatched]			[Hatched]			[Hatched]			[Hatched]			[Hatched]			[Hatched]		
17	Final Design	175d	[Hatched]			[Hatched]			[Hatched]			[Hatched]			[Hatched]			[Hatched]			[Hatched]			[Hatched]		
18	Panel/Public Review	22d	[Hatched]			[Hatched]			[Hatched]			[Hatched]			[Hatched]			[Hatched]			[Hatched]			[Hatched]		
19	Corps Permit (404)	130d	[Hatched]			[Hatched]			[Hatched]			[Hatched]			[Hatched]			[Hatched]			[Hatched]			[Hatched]		
20	Revise Final Design	22d	[Hatched]			[Hatched]			[Hatched]			[Hatched]			[Hatched]			[Hatched]			[Hatched]			[Hatched]		
21	Construction	255d	[Critical Path]																							
22	Advertise and Bid	20d	[Hatched]			[Hatched]			[Hatched]			[Hatched]			[Hatched]			[Hatched]			[Hatched]			[Hatched]		
23	Review and Award	30d	[Hatched]			[Hatched]			[Hatched]			[Hatched]			[Hatched]			[Hatched]			[Hatched]			[Hatched]		
24	Notice to Proceed	25d	[Hatched]			[Hatched]			[Hatched]			[Hatched]			[Hatched]			[Hatched]			[Hatched]			[Hatched]		
25	Construction	180d	[Critical Path]																							
26	Post Construction	0d	[Critical Path]																							
27	Post Construction Monit	0d	[Critical Path]																							
28	Re-planting	0d	[Critical Path]																							

Project:
Date 8/5/96

Critical [Hatched] Progress [Solid] Summary [Dashed]
Noncritical [Solid] Milestone [Diamond] Rolled Up [Diamond]

32
67



Project:
Date: 8/6/96

Critical  Progress  Summary 
 Noncritical  Milestone  Roiled Up 

26

4.1.4 Turning Basin Vicinity Project:

Location/Description and Background:

Turning Basin Vicinity, Turning Basin No. 3. The Turning Basin is located at the head of navigation on the Duwamish Waterway. Portions of the area are currently being restored by federal agencies and the Port of Seattle under the Coastal America Partnership.

Scope: The precise tasks associated with the project proposal are somewhat dependent on the option selected (see Section 2 for a full description of the two options). Briefly, Option 1 includes property acquisition and demolition; Option 2 includes property acquisition, demolition, and habitat development.

The tasks associated with Option 1 are as follows:

- 1) **Property acquisition.** The task encompasses all real estate activities and negotiations to sale and transfer of title to the United States in trust for the Muckleshoot Indian Tribe. As stipulated in the project description, transfer of the title from the current owner to the tribe would be dependent on the presence of no on-site contamination or other environmental violations. This task would be coordinated by the Muckleshoot Indian Tribe. Estimated timeframe: approximately 3 months.
- 2) **Demolition and Restoration Permitting.** This task includes obtaining any necessary permits for the demolition of existing structures and piers on the property, as well as those required for regrading the property and revegetating activities. This task will be coordinated by the Muckleshoot Indian Tribe and the U.S. Army Corps of Engineers. Estimated timeframe; 6 to 9 months.

INTERNAL DRAFT -- FOR DISCUSSION PURPOSES ONLY

Draft Turning Basin Vicinity Project Budget											
Date: 10/2/96											
ID	TASK NAME	SCHEDULE		BUDGET BY QUARTER							
		Start	Finish	To date	1th Qtr. 96	1st Qtr. 97	2nd Qtr. 97	3rd Qtr. 97	4th Qtr. 97	1st Qtr. 98	
1	Site Acquisition	10/30/96	12/1/97								
2	Site analysis - Phase II	10/30/96	12/31/96		\$33,500						
3	Conceptual design (20%)	10/30/96	12/31/96		\$23,940						
4	Site analysis review	1/1/97	2/28/97								
5	Negotiate purchase	3/3/97	6/3/97								
6	Tribal Council review	10/1/97	12/1/97								
	Land purchase								\$225,000		
	Acquisition proj. mgmt. (40%)				\$5,760	\$5,760	\$5,760	\$5,760	\$5,760		
7	Design	7/1/97	10/15/98								
8	Negotiate design contract	7/1/97	9/1/97								
9	Preliminary design (20%)	9/2/97	10/31/97						\$23,940		
10	Panel/public review	11/3/97	12/15/97								
11	Environmental review	12/1/97	1/30/98								
12	Tribal permit	2/2/98	1/1/98								
13	Final design (60%)	2/2/98	4/1/98							\$71,820	
14	Panel/public review	4/2/98	5/15/98								
15	Corps/JAFPA permits	3/16/98	8/14/98								
16	Revise final design	9/15/98	10/15/98								
	Design proj. mgmt. (40%)							\$4,800	\$4,800	\$4,800	
17	Construction	10/16/98	8/15/99								
18	Advertise and bid	10/16/98	11/15/98								
19	Review and award	11/16/98	12/15/98								
20	Notice to proceed	12/16/98	1/15/99								
21	Construction	1/18/99	8/15/99								
	Construction proj. mgmt. (20%)										
22	Post Construction	8/15/99									
23	Monitoring	2/15/00	8/15/10								
24	Stewardship/maintenance	8/15/99									
TOTAL BY QUARTER						\$63,200	\$5,760	\$5,760	\$10,560	\$259,500	\$76,620

Project Name: [Blank] - [Blank]

ID	Task Name	Duration (Working Days)	Start	Finish	Gantt Chart															
					6	Qtr 4, 1996	Qtr 1, 1997	Qtr 2, 1997	Qtr 3, 1997	Qtr 4, 1997	Qtr 1, 1998									
					Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	
1	Sub-Activity Review	15d	10/10/96	11/15/96																
2	Concept Development	20d	10/10/96	11/30/96																
3	Sub-Activity Review	10d	11/02/96	11/12/96																
4	Design Development	60d	11/02/96	01/01/97																
5	Sub-Activity Review	10d	11/02/96	11/12/96																
6	Design Development	30d	11/02/96	12/02/96																
7	Concept Development	45d	11/02/96	12/17/96																
8	Sub-Activity Review	10d	11/02/96	11/12/96																
9	Design Development	30d	11/02/96	12/02/96																
10	Sub-Activity Review	10d	11/02/96	11/12/96																
11	Design Development	40d	11/02/96	12/12/96																
12	Sub-Activity Review	10d	11/02/96	11/12/96																
13	Design Development	40d	11/02/96	12/12/96																
14	Sub-Activity Review	10d	11/02/96	11/12/96																
15	Design Development	100d	11/02/96	02/01/97																
16	Sub-Activity Review	10d	11/02/96	11/12/96																
17	Construction	185d	10/16/96	04/09/97																
18	Sub-Activity Review	10d	11/02/96	11/12/96																
19	Design Development	20d	11/16/96	12/06/96																
20	Sub-Activity Review	10d	11/16/96	11/26/96																
21	Design Development	190d	11/16/96	05/14/97																
22	Construction	1305d	01/15/97	04/01/98																
23	Sub-Activity Review	10d	01/15/97	01/25/97																
24	Design Development	1305d	01/15/97	04/01/98																

Task Summary

Progress

Milestone

Roll Up Progress

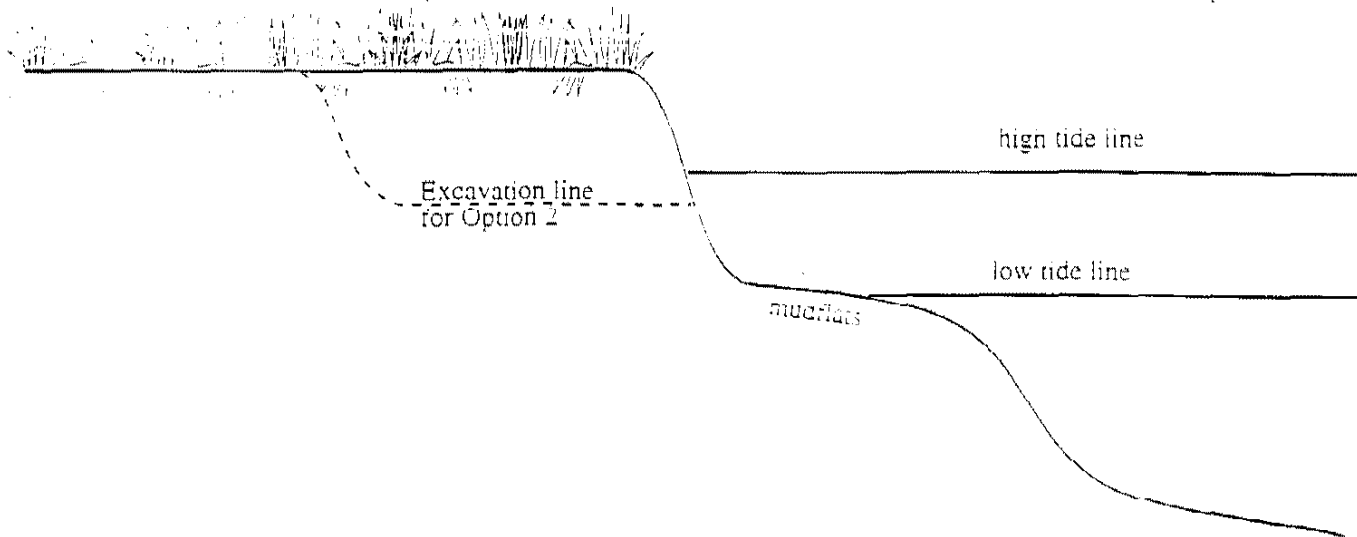
Roll Up Task

Roll Up Milestone

Figure 2. Summary of Proposed Options

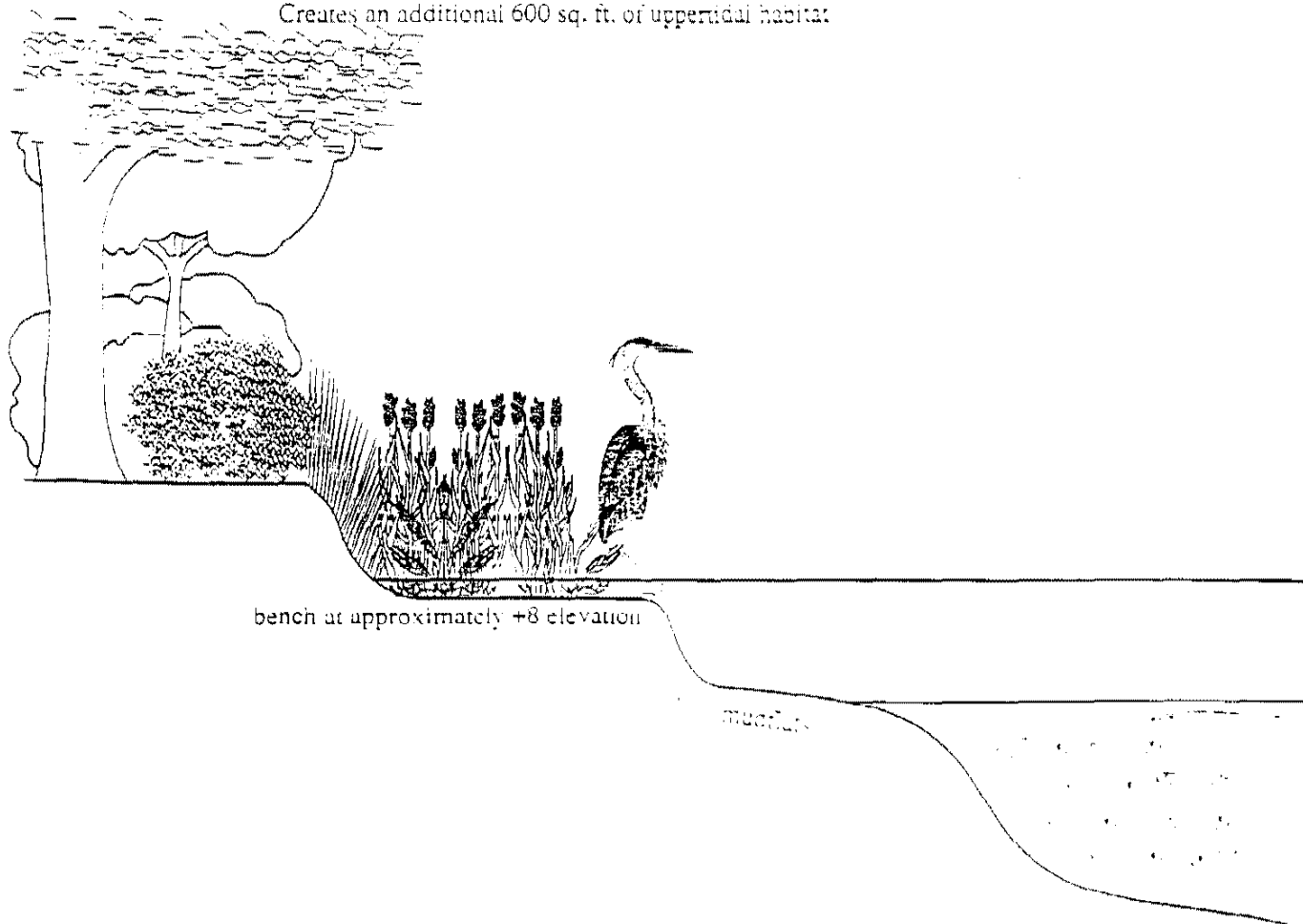
OPTION 1. Profile of Existing Contours

Removes asphalt, concrete and commercial structures to maximize existing habitat potential



OPTION 2. Property After Construction/Habitat Restoration

Creates an additional 600 sq. ft. of upper tidal habitat



4.1.5 Elliott Bay Nearshore:

Location/Description and Background:

The West Seattle shoreline of Elliott Bay with a southern boundary north of Salty's restaurant to a point west of the Duwamish Head light; various types of habitats will be considered from the upper intertidal to a depth of approximately 50 feet.

King County Department of Natural Resources' Water Resources unit has been selected as the project manager.

Scope:

Goal: The goal of the Elliott Bay Nearshore Habitat Substrate Enhancement project is to improve nearshore marine habitat conditions by enhancing productivity of epibenthic fauna, increasing the distribution and density of macroalgae and other primary producers, and improving the attributes that support resident and migratory marine and estuarine fish species.

Objectives:

- 1) Increase diversity of bottom substrates.
- 2) Increase the area of limiting hard bottom substrates.
- 3) Provide intertidal substrates at proper horizons for eelgrass.
- 4) Increase the volume of physical protective structures for juvenile and adult resident invertebrates and fishes.
- 5) Increase hard structure surfaces for macroalgae.
- 6) Remove undesirable bottom debris.
- 7) Provide substrate improvements that are compatible with commerce, navigation, tribal and sport fishing and recreational shoreline uses.
- 8) Provide public education and involvement opportunities.
- 9) Provide information useful to subsequent substrate enhancement projects.
- 10) Design improvements to be sustainable.

Performance Work Statement:

King County has assembled a core team to assist the Panel in:

Assessing, mapping and documenting shoreline, tidal and substrate areas for existing potential, and historical biodiversity and biological functions. (A great deal of this information has been attained by the Panel through the Washington State Department of Fisheries)

Selecting several specific locations to construct the substrate enhancement meeting the above objectives.

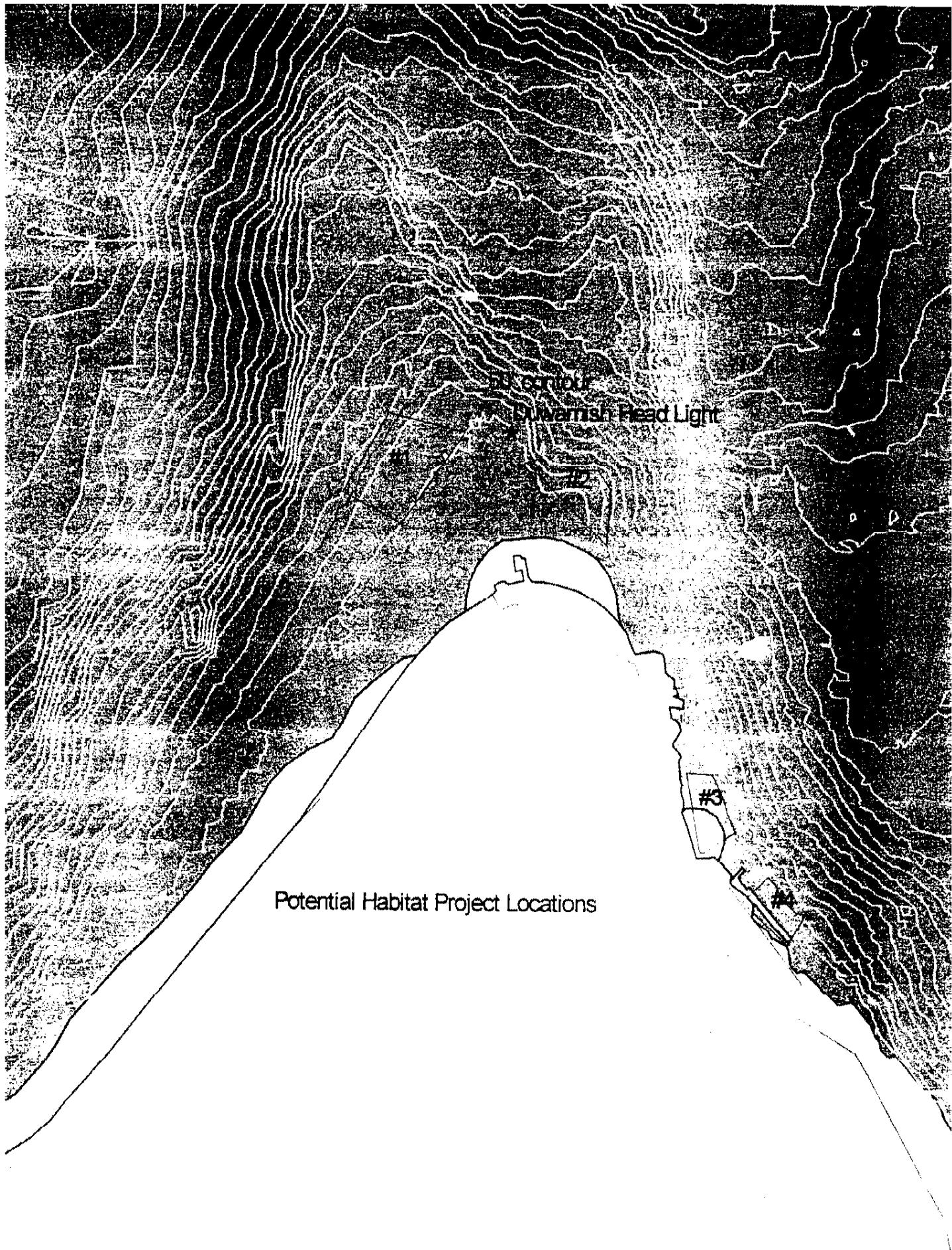
Identifying alternative methods to construct, place or locate, seed and promulgate substrate environs;

Designing long term habitat monitoring and maintenance program;

Developing and implementing a public and agency coordination process;

Providing a public education and participation process (stewardship) in evaluating and assessing the project area, including project design and development; and

Project cost accounting, coordination and scheduling.



Potential Habitat Project Locations

OPTION C: TASK DETAIL

	Basic Proposal <u>Recommendations</u> *	<u>Add Ons</u>
SITE CHARACTERIZATION		
Select Sites See attached map: proposed sites	Three Sites	Additional
Characterize Sites (3-4)		Additional
Parameters		
Project boundaries	X	
Site/control site boundaries (4)	Shuman Map GPS	
Current Substrate	PSD, Buckley Shuman	
Depth	Map X	
Slope	Arc. Info/Student Shuman, Buckley	
Sediment Contamination	3 Composites, Ecol, Shuman/ Buckley	
Eel grass beds	General, Stark	
Water Quality	ETS, Stark	
Waves/Currents	Buckley, EBM EIS	
Biota	Species list from video	
Property ownership	Maps(DNR, Sea.Kroll)	
Constraints, e.g Utilities, navigation, fishery	Diving, Metro/Seattle maps tribes, CG	Other parameters
Obtain Information		Lit. Review Local, Beyond Consultant
Project Constraints	Hab. Group, Maps	
Project Experience	Review local studies Hab. Group brainstorm	
location		
design		
species to encourage	Objectives	
juvenile fish		
salmonids		
prey epibenthic species		

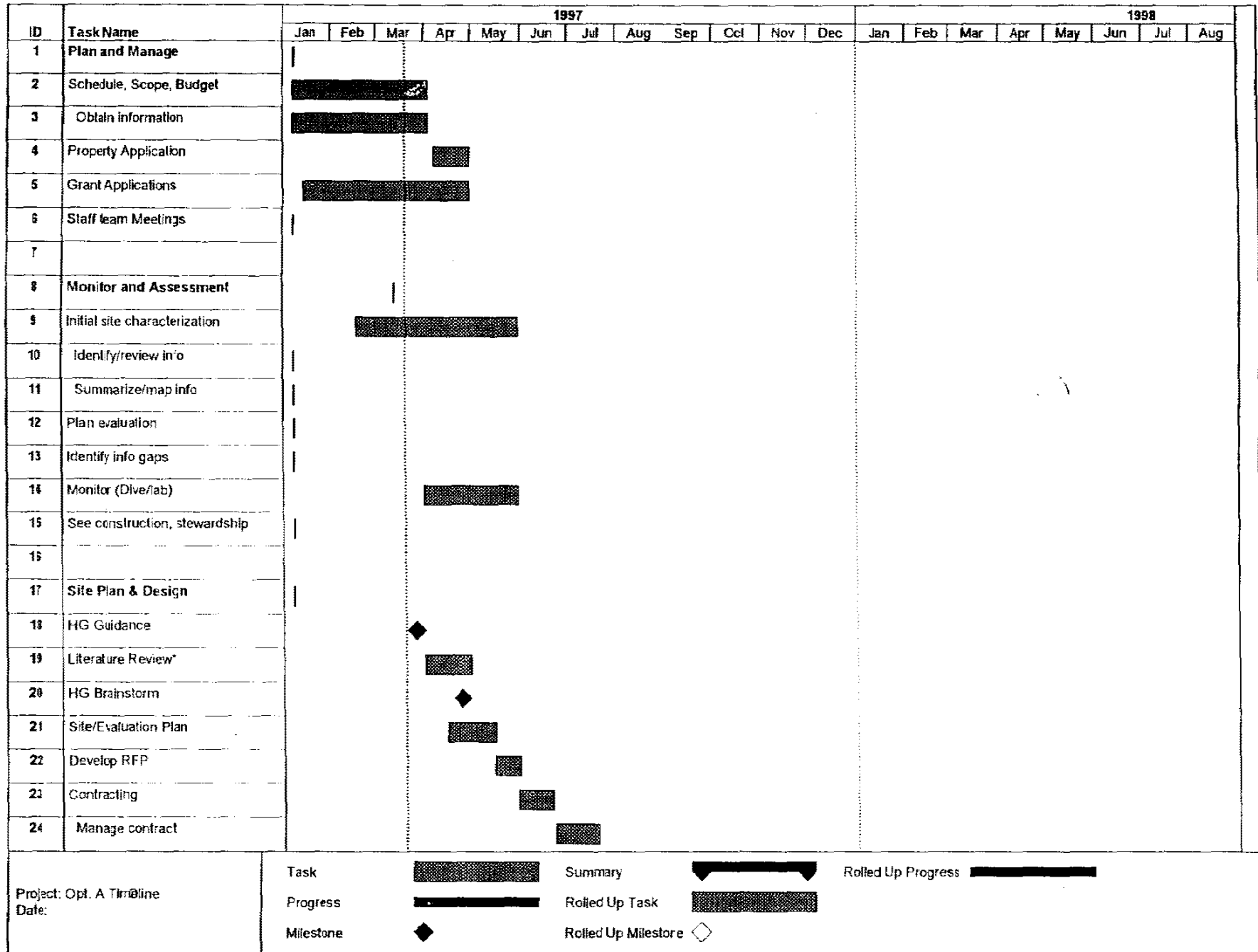
*Source of information or recommendation		
substrate	Coarse, cobble, boulder	Other, e.g shells, cement
depth	30-50 ft. (60 DHW)	
stability (currents, slope)	Velocity/direction	Deposition
eel grass	Beyond 20-30 ft.	
effects on unimpacted area	Design spaces	Add study

ANALYSIS AND DESIGN






<u>Tasks</u>	<u>Basic</u> Staff recommendations based on info, Hab.Group brainstorm	<u>Add-on</u> Consultant develop alternatives
Id suitable sites w. controls re. above eg. depth, slope, current, size, constraints, eel grass, uses	e.g. 20-50ft.	additional sites
Rec. configuration/placement	e.g. E shape, bands Map	add. specifics
Determine target species	Objectives, see above resident salmonids juvenile epibenthic prey (selected)	non-prey
Identify new substrate, e.g.	E.g. cobble & boulder Bay balls, if grant Art, if grant, parameters Bay balls, if grant	Substrate other types specifics
Recommend evaluation plan (See below)	Staff/Hab Group	Consultant
Site plans/map	Map	More detail
Review and comment	Limited consultant Hab. Group/EBDRP	Consultant
Environmental Review		
Permits and checklist		More if EIS
Public Meeting	Site, substrate o.k. (earlier?)	

IMPLEMENTATION

	<u>Basic</u>	<u>Add On</u>
Decision making		
One public meeting/public notice	Staff presentation Pub. Involve Group	Additional
Two EBDRP decision points SSB Design selection		Additional
Construction	3 sites (1.5+ ac.)	Additional if bid or grant allow
<u>Tasks</u>		
Price substrate materials options Mixed coarse, Cobble and boulders Recycled materials, if no extra cost		
Purchase/Load/Transport/ Place Coordinate w. Bay Balls, art	If within budget	If grant funds cover costs. construction storage transport
Stewardship		
<u>Tasks</u>	<u>Basic</u> None	<u>Add-On</u> Apply for additional grants
Bay Balls and/or art Apply for/manage grant Construct, Store, transport Bay Balls Publicize Coordinate with construction location (e.g. intertidal, West)size		
Interpretive signs Apply for grant, implement		
Long term monitoring Volunteer diving/video Counts / Volunteers Analysis and Reporting		



ID	Task Name	1987												1988							
		Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug
25	Obtain/review info						■														
26	Consultant Recommendations/HG						◆														
27	Design/RFP report						◆														
28																					
29	Review & Alternative Selection																				
30	EIS/NEPA checklist							■	■	■											
31	Permits							■	■	■	■	■	■	■	■						
32	Public Meeting/Notice							■	■												
33	Final Design Approval												◆								
34																					
35	Construction																				
36	Construction RFP/Contracting													■	■	■	■	■	■	■	■
37	Monitoring Contract																				
38	Volunteer Project(s)*																				
39	Pre construction monitor/report																				
40	Construction/Contract Managemnt																				
41	Construction monito/report																				
42																					
43	Stewardship																				
44	Post Monitor & Assessment 4/99																				
45	Awareness/Education, if grants																				
46	Long term Monitoring 4/03																				

Project: Opt. A Timeline Date:	Task		Summary		Rolled Up Progress	
	Progress		Rolled Up Task			
	Milestone	◆	Rolled Up Milestone	◇		

BUDGET ESTIMATE/OPTION C		1997	1998	Total	Additions*/ Modifications
Planning & Design					
Site Analysis					
12 FTE @1 FTE@\$62,000		8,040			8,040
.25@\$45,000		11,250			
100% overhead		19,310			8040
Monitoring*		6,000			
Analysis & Design					
Consultant Contract		2,600			15,000
Contracting					1000
Permitting					
SEPA/NEPA		3,000	3,000		
.05 FTE /yr.					
Permits		5,000			
Project Planning					
2 FTE@ \$62,000		12,400			
overhead @ \$62,000		12,400			
Sub Total		80,000	3,000	\$83,000	
Implementation					
Construction					
Contract			133,600		Add, if grant
Contracting			5,000		
Property Right of Entry			0		2000
Project/Contract Management					
4 & .55 FTE & @\$62,000		24,800	34,100		
100% overhead		24,800	34,100		
Monitoring					
Pre/Post monitoring		6,000	2,000		5000 +/-
Analysis/Reporting					
.15 FTE			9,300		
100% overhead			9,300		
0+12 Evaluation			6,000		5000 +/-
Sub Total		55,600	233,400	289,000	
Contingency		0	0	0	10%
Grand Total				\$372,000	
*Proposed, if additional sources of funds					

4.2 Sediment Remediation Projects

SEDIMENT REMEDIATION \$ w/o Amendment									
	1992/1993	1994	1995	1996	1997	1998	1999	2000+	Project
Central Waterfront								Monitoring	Total
Site Investigation									
Recontamination Study			412,000.00						412,000.00
Clean-up Study Documents			30,000.00						30,000.00
Sample Collection/Analysis				91,800.00					91,800.00
Consultant Selection				15,000.00					15,000.00
Consultant Contract (CDE \$322,000)									0.00
Design									0.00
Permitting/Env. Process									0.00
Project Management									0.00
Planning and Design Subtotal			442,000.00	106,800.00	0.00	0.00	0.00		548,800.00
Unencumbered Implementation Funds*									2,958,500.00
TOTAL									3,405,100.00
Diagonal Duwamish									
Screening	43,800	7,000.00	4,500.00						55,300.00
Site Investigation	28,000	128,000.00	51,000.00	119,000.00					324,000.00
Clean-up Plan		8,000.00	48,000.00	180,000.00	128,950.00				345,950.00
Permitting									0.00
Planning & Design Subtotal	71,800	141,000.00	104,500.00	279,000.00	128,950.00				724,250.00
Unencumbered Implementation Funds*									3,943,000.00
TOTAL									4,568,250.00
Norfolk									
Screening									
Site Investigation	18,000.00	58,000.00	95,000.00						169,000.00
Clean-up Plan		5,000.00	25,000.00	122,000.00					152,000.00
Permitting				41,000.00	50,000.00				91,000.00
Planning and Design Subtotal	18,000.00	71,000.00	120,000.00	163,000.00	50,000.00				423,000.00
Construction				10,000.00	1,152,000.00				1,162,000.00
Monitoring							180,000.00		180,000.00
Management					16,000.00				16,000.00
Subtotal				10,000.00	1,168,000.00		180,000.00		1,278,000.00
TOTAL									1,701,000.00
Pier 53-55									
Site Investigation	56,000.00								56,000.00
Clean-up Plan									0.00
Permitting	18,000.00								18,000.00
Planning and Design Subtotal	74,000.00								74,000.00
Construction									62,000.00
Monitoring	184,000.00	500.00		84,000.00			82,000.00		330,500.00
Management									
Subtotal	228,000.00	500.00		84,000.00			82,000.00		392,500.00
TOTAL									466,500.00
Planning & Design Total									1,770,850.00
Implementation Total									8,470,000.00
Sediment Program Total									10,240,850.00

* Can not be spent w/out the availability of additional planning and design funds.

4.2.1 Pier 53/55 Sediment Cap and Natural Recovery Area

Location/Description and Background:

In March 1992, contractors for the U.S. Army Corps of Engineers placed 22,000 cubic yards of clean sand offshore of Piers 53, 54, and 55 in Elliott Bay on Seattle's downtown waterfront, capping 4.5 acres of chemically contaminated bottom sediments. This action, known as the Pier 53/55 Project, was the culmination of 4 years of study and planning by many agencies, including the City of Seattle Department of Engineering, the King County Department of Metropolitan Services (County), the U.S. Army Corps of Engineers (Corps), the Washington State Department of Ecology (Ecology), the Washington State Department of Natural Resources (DNR), the Washington State Department of Fisheries, and the U.S. Environmental Protection Agency (EPA).

The project site is an east-west-trending rectangular and trapezoidal area located offshore of Piers 53, 54, and 55. This site is west and slightly north of the intersection of Madison Street and Alaskan Way in downtown Seattle. The project consists of a 3-foot-thick sediment cap covering 2.9 acres farthest offshore and an experimental 1-foot-thick enhanced natural recovery area (ENR) covering 1.6 acres nearshore.

Planning for a remediation project along the Seattle waterfront began as part of the County's (formerly Metro) Toxic Sediment Remediation Program, which was formed to coordinate and plan multiagency planning efforts to clean up contaminated sediments in Elliott Bay and the lower Duwamish Estuary.

Planning for remediation was suspended when the National Oceanic and Atmospheric Administration (NOAA) filed a lawsuit against the City of Seattle and Metro in 1990. After the lawsuit was settled, planning for a remediation project in Elliott Bay was revived. The Pier 53 site was chosen when the City of Seattle expressed a willingness to take the lead in implementing a capping project at the site and the Corps was willing to provide capping sand from routine maintenance dredging in the Duwamish River.

No effort was made to reassemble the interagency committee. Instead, the City of Seattle and Metro decided to develop plans and coordinate agencies during the permit process. The Corps was committed to complete dredging in the Duwamish River by the end of 1992 and would dispose of the sand at the open water disposal site in Elliott Bay if no beneficial capping project was possible.

After the Pier 53 sediment cap was installed, the project was presented to the Panel. The Panel reviewed the project and, after deciding it met the Panel's criteria for a sediment remediation project, declared that the project was eligible for in-kind credit toward the settlement. (Resolution 1992-20). The management of the Pier 53 project then proceeded under the direction of the Panel, with the City of Seattle as the project sponsor. Metro (King County) agreed to conduct the monitoring program, which was established during the permitting process.

The purpose of the monitoring program is to define how stable the cap is, how well it is functioning to isolate the contaminated sediments, whether the cleanup continues to meet the state sediment standards, and how the cap is biologically repopulated. It is also a means to evaluate the rate of possible recontamination. Monitoring will continue through 2002.

Scope:**Objectives for the Monitoring Plan:**

Provide baseline taxonomic data.

Guide and document the sediment placement, thickness, and long term stability.

Document how well the three foot cap and the enhanced natural recovery area function to isolate contaminated sediments from migrating upwards into the cap, and to document the extent of that contamination if it occurs.

Identify whether chemicals accumulate on the remediation site such that they indicate migration of materials from off-site.

Determine the amount and type of benthic recolonization that occurs on the project site and determine whether there are differences in the character and rate of recolonization between the three foot cap and the one foot thick enhanced natural recovery area.

Review and evaluate the monitoring data with the regulatory agencies to determine 1) if the three foot cap is functioning as expected to isolate contaminated sediments; 2) if a one foot layer of sediment will function as expected such that biological mixing occurs to enhance natural recovery; 3) whether further actions are warranted for either the capping site or the enhanced natural recovery area.

To provide data that may inform and assist the NOAA panel and other agency teams in developing future clean up plans for Elliott Bay.

Performance Work Statement (Tasks) and Schedule: see following pages

Table I. Summary Schedule of Monitoring Activities for Pier 53 Capping

DESCRIPTION OF ACTIVITY	Construction Phase	Ten Year Plan Post Cap Monitoring										
	1992	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002*
Set Bottom Stakes	X	X										
Bottom stake measurements by diver	X	May	August			August						August
Sediment cores for chemistry, 5 stations total:												
3 stations on 3' cap (5 depth segments)		May	August			August						August
2 stations on enhanced natural recovery area (2 or 3 depth segments)		May	August			August						August
Surface grabs for chemistry - adjacent to site, 6 stations (3 stations top 2 CM + too 6 CM) (3 stations top 2 CM only)		May										
Surface grabs for chemistry, 7 stations on project site (top 2 cm)		May	August			August						August
Surface grabs to document taxonomy prior to project work, 2 stations	X											
Surface grabs for taxonomy:												
2 stations on enhanced natural recovery area		August	August			August						August
2 stations on 3' cap		August	August			August						August
REMOTS camera survey		August	August			August						August
Monitoring report for given year (due January of following year)		X	X			X						X
Monitoring review meetings		X	X			X						X
Four year project review												X

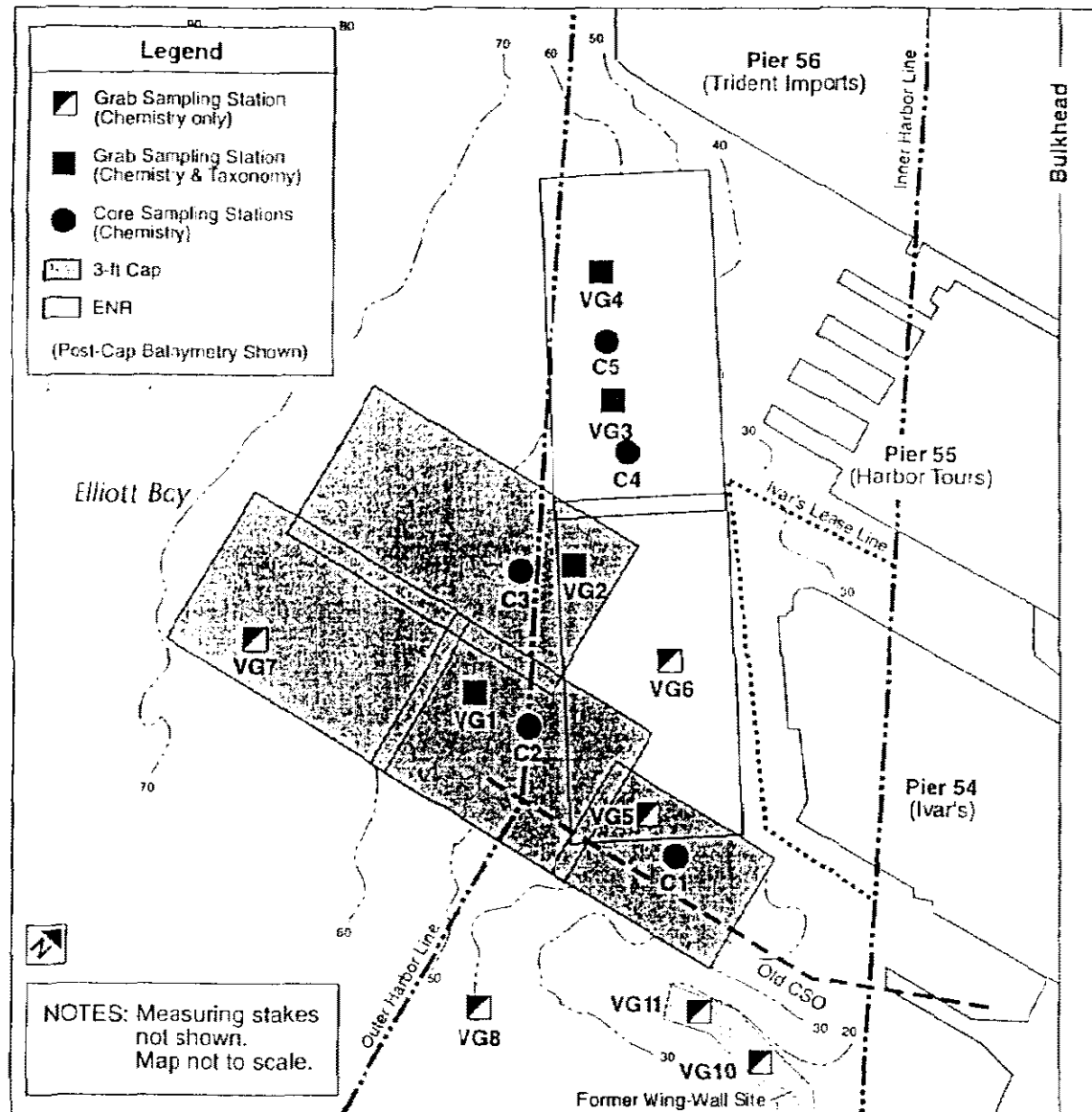
NOTES:

- a) Baseline sampling will be conducted as soon as practical within the first three months after cap placement.
- b) Monitoring review meetings may be held within the first two months of subsequent year.

- c) *Decision to sample in 2002 will be based on meeting in 1998.
- d) Sampling targeted for August may also be completed in September, if necessary.

The Pier 53-55 Sediment Cap 1993 Monitoring Costs

Monitoring Report (Draft and Final)			
	Hours	Rate	Cost
Data analysis, data interpretation, research, writing			
Scientist	460	42.00	19,320.00
Illustrations			
Illustrator	175	48.00	8,400.00
Editing			
Editor	93	55.00	5,115.00
Project manager Review			
Scientist	25	44.00	1,100.00
Printing (15 draft copies 25 final copies)			757.00
		Report Costs. Reso 94-01	34,692.00
Stake Measurement			
	Days	Rate	Cost
Vessel and crew of 3	1	1500.00	1,500.00
Diver and support boat	1	1200.00	1,200.00
Core Samples			
Field sampling (5 cores plus replicate)			
Vessel and crew of 4	2	2000.00	4,000.00
Diver and support boat	2	1200.00	2,400.00
Core tubes			1,800.00
Surface Grab Samples			
Field sampling (10 stations plus replicate)			
Vessel and crew of 3	2	1500.00	3,000.00
Benthic Taxonomy			
4 stations @ 5 reps Vessel and crew of 4	1	2000.00	2,000.00
Total Station (includes preparation and data reduction)	4.5	500.00	2,250.00
Analytical			
	Samples	Rate	Cost
Conventionals	24	106.00	2,544.00
Organics	24	600.00	14,400.00
Metals	24	175.00	4,200.00
Benthic Taxonomy Screening Preserving and Shipping	20	200.00	4,000.00
Benthic Taxonomy Identification	20	200.00	4,000.00
Quality Assurance Review			
	Hours	Rate	Cost
Data Reduction			
QA officer	20	50.00	1,000.00
QA Narrative			
QA officer	10	50.00	500.00
Project manager Review			
Scientist	8	40.00	320.00
		Subtotal Sampling Costs	49,114.00
		Total	\$83,806.00



Norfolk CSO

Location? Description and Background:

The Norfolk outfall is located in the Duwamish River above Turning Basin No. 3, south of Seattle in the City of Tukwila and Parallels the southern boundary of the Boeing Development Center and Boeing Field. The City of Seattle's 84-inch-diameter overflow outfall originates at the King County Norfolk Regulator Station that receives sewage from the Norfolk drainage basin. Recent modeling efforts have determined that the estimated annual average overflow volume is 70 MG per year and will be reduced to about 7 MG per year when the new Henderson Diversion structure is fully operational in 1997.

In 1994, a four document Cleanup Study Plan was prepared consisting of the Work Plan, the Sampling and Analysis Plan, the Health and Safety Plan, and the Public Participation Plan. These documents underwent Public review and were approved by the EBDP Panel. Three Phases of Site Assessment sampling were conducted from 1994 to the end of 1995 to define chemical conditions in surface sediments and at depth below the surface. This information was presented in a draft Site Assessment report that identified the following 4 chemicals of concern: Mercury, PCBs, Bis (2-Ethylhexyl) phthalate and 1,4-Dichlorobenzene. A preliminary sediment remediation site boundary was developed based on the composite boundary of where any of the 4 chemicals exceeded the Sediment Quality Standard (SQS). Ultimately the site boundary was expanded beyond the SQS boundary and out to where PCBs were not detected in the sediment samples except at the downstream boundary where a wood piling wing wall provided a physical boundary.

Scope:

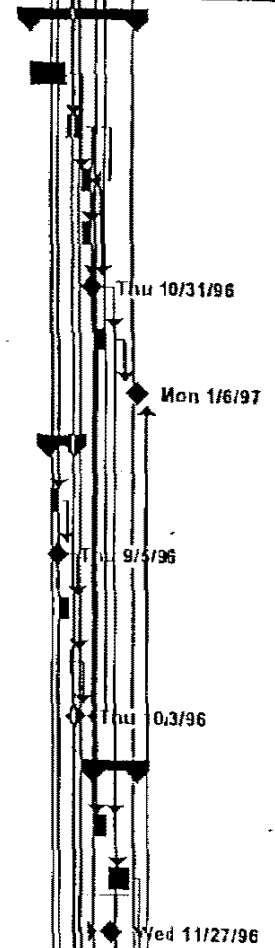
Goal:

The Norfolk project will remove from aquatic life and human exposure the contaminated sediments associated with the site boundaries.

A preferred approach for sediment remediation was selected after evaluating several potential options and was presented in the Norfolk CSO Sediment Cleanup Study Report issued in October 1996. The preferred alternative was mechanical dredging with a clamshell bucket. Dredged sediment would be placed on a barge for dewatering and transported down river to where the sediment would be offloaded directly into lined containers for shipment to one of three possible disposal sites. The preferred disposal option is heat processing and recycling of the material at Holnam Cement Plant. However, some material with PCB values between 20 to 50 ppm will need to go to a class D hazardous waste landfill and a small amount with PCB values above 50 ppm will need to go to a dangerous waste landfill. After completing the dredging, the excavation area would be back filled to the original grade with sediment of similar characteristics to rapidly restore habitat. The estimated total volume of dredging is 7,200 cubic yards.

Ecology evaluated the clean-up proposal and wrote a draft Sediment Management Standards, Cleanup Action Decision document that approved the preferred option. Both the Ecology Decision and the Norfolk Clean-up study report underwent public review and were finalized as proposed. The NEPA and SEPA environmental review processes were completed and the U. S. Army CORPS obtained authorization for the project under the Nation 38 permit for remediation projects. The Shoreline permit was issued by City of Tukwila and access agreements were requested of the property owners Boeing and Washington Department of Natural Resources. Dredging is scheduled for the last part of 1997.

ID	Name	Dur	SchedStart	SchedFinish	Predecessors	1994			1995				1996				1997			
						Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4
139	Environmental Review	119d	Thu 7/25/96	Mon 1/6/97																
140	Prepare EA	40d	Thu 7/25/96	Tue 9/17/96																
141	EA Review by Panel	22d	Wed 9/18/96	Thu 10/17/96	140															
142	Prepare Checklist	11d	Thu 10/17/96	Thu 10/31/96	140,141FF															
143	Revise EA	10d	Fri 10/18/96	Thu 10/31/96	141															
144	Final EA and Checklist to Panel	0d	Thu 10/31/96	Thu 10/31/96	141,142															
145	Public Comment on Checklist	15d	Fri 11/1/96	Thu 11/21/96	144															
146	Issue FONSI	0d	Mon 1/6/97	Mon 1/6/97	145,157															
147	Monitoring Plan	30d	Fri 8/23/96	Thu 10/3/96																
148	Prepare Plan	10d	Fri 8/23/96	Thu 9/5/96	135															
149	Draft Plan to Metro & SRTWG	0d	Thu 9/5/96	Thu 9/5/96	148															
150	SRTWG Review & Panel Approval	15d	Fri 9/6/96	Thu 9/26/96	149															
151	Plan Revision	5d	Fri 9/27/96	Thu 10/3/96	150															
152	Plan Submittal to Panel	0d	Thu 10/3/96	Thu 10/3/96	151,138FF															
153	Public Comment Period	47d	Fri 11/1/96	Mon 1/5/97																
154	Prepare for PC on EA & SA/AE	15d	Fri 11/1/96	Thu 11/21/96	138,144															
155	Public Comment Period	24d	Fri 11/23/96	Wed 12/18/96	154															
156	Hold Public Meeting	0d	Wed 11/27/96	Wed 11/27/96	155FS-21d															
157	Response on EA & SA/AE	8d	Thu 12/26/96	Mon 1/5/97	155															



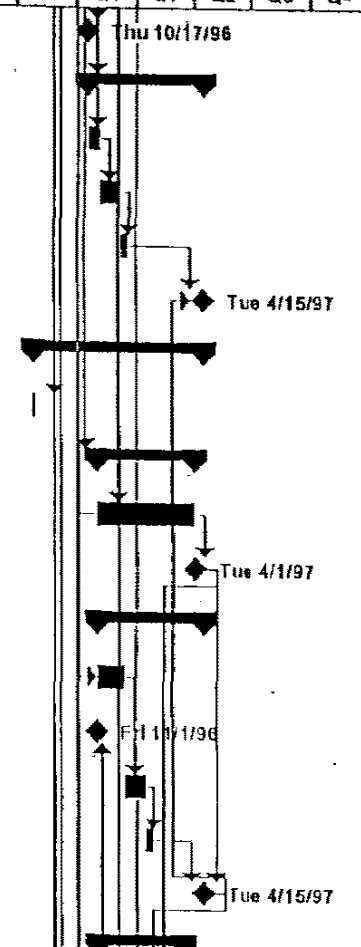
<p>Norfolk Site Tue 10/1/98 DRAFT</p>	Task		Rolled Up Task	
	Progress		Rolled Up Milestone	
	Milestone		Rolled Up Progress	
	Summary			

05

Norfolk CSO Sediment Remediation Site

Schedule Version: Tue 10/1/96

ID	Name	Dur	SchedStart	SchedFinish	Predecessors	1994			1995				1996				1997			
						Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4
158	Panel Recom'ds Pref. Alternative	0d	Thu 10/17/96	Thu 10/17/96	141															
159	Cleanup Decision - Ecology	128d	Fri 10/18/96	Tue 4/15/97	141															
160	Ecology Prepares Draft Cleanup Decision	13d	Fri 10/18/96	Tue 11/5/96	141															
161	Panel reviews Draft Cleanup Decision	23d	Wed 11/6/96	Fri 12/6/96	160															
162	Ecology revises Cleanup Decision	9d	Mon 12/9/96	Thu 12/19/96	161															
163	Cleanup Decision Revisited	0d	Tue 4/15/97	Tue 4/15/97	162,174															
164	Permits	190d	Thu 7/25/96	Tue 4/15/97																
165	Begin permitting process	1d	Thu 7/25/96	Thu 7/25/96	134															
166	Shoreline Permit	108d	Fri 11/1/96	Tue 4/1/97	134															
167	Final Checklist avail for Shoreline	108d	Fri 11/1/96	Tue 4/1/97	144															
168	Issue Shoreline Permit	0d	Tue 4/1/97	Tue 4/1/97	167															
169	Individual Permit	118d	Fri 11/1/96	Tue 4/15/97																
170	Prepare Corp Permit	30d	Fri 11/1/96	Thu 12/12/96	167SS															
171	Shoreline Permit Drawings Available	0d	Fri 11/1/96	Fri 11/1/96	185															
172	PC Period for Permit & CAD	22d	Fri 12/13/96	Mon 1/13/97	170															
173	Resp. to Com'ts for Permit & CAD	10d	Tue 1/14/97	Mon 1/27/97	172															
174	Issue Corp Permit	0d	Tue 4/15/97	Tue 4/15/97	173,168FS+10d															
175	W.Q. Certification	96d	Fri 11/1/96	Mon 3/17/97																



Norfolk Site
Tue 10/1/96
DRAFT

Task		Rolled Up Task	
Progress		Rolled Up Milestone	
Milestone		Rolled Up Progress	
Summary			

Norfolk CSO Sediment Remediation Site Schedule Version: Tue 10/1/96

ID	Name	Dur	SchedStart	SchedFinish	Predecessors	1994			1995				1996				1997			
						Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4
176	Begin Permit prep.	22d	Fri 11/1/96	Mon 12/2/96	144															
177	Cert. issued	0d	Mon 3/17/97	Mon 3/17/97	174FS-22d														◆	Mon 3/17/97
178	Dept. of Fisheries HPA	96d	Fri 11/1/96	Mon 3/17/97																
179	Prep HPA	22d	Fri 11/1/96	Mon 12/2/96	144															
180	HPA Issued	0d	Mon 3/17/97	Mon 3/17/97	179, 174FS-22d														◆	Mon 3/17/97
181	DNR Right of Entry Agreement	167d	Mon 8/12/96	Tue 4/1/97																
182	DNR Agreement	90d	Mon 8/12/96	Fri 12/13/96	134															
183	Sign DNR Agreement	0d	Tue 4/1/97	Tue 4/1/97	177, 180, 168														◆	Tue 4/1/97
184	Contract Document Preparation	209d	Fri 8/23/96	Wed 6/11/97																
185	Prepare 60% Bid Submittal	45d	Fri 8/23/96	Thu 10/24/96	135															
186	Prepare 90% Bid Submittal	30d	Wed 4/2/97	Tue 5/13/97	183															
187	Prep of Division 0 Forms	30d	Wed 4/2/97	Tue 5/13/97	183															
188	Completion of 100% Document	21d	Wed 5/14/97	Wed 6/11/97	186															
189	Bid Advertisement & Award	139d	Thu 6/12/97	Mon 12/22/97																
190	Prepare bid package	5d	Thu 6/12/97	Wed 6/18/97	188															
191	Advertisement	23d	Thu 6/19/97	Mon 7/21/97	190															
192	Contractor Selection/Approval	45d	Tue 7/22/97	Mon 9/22/97	191															
193	Notice to Proceed	0d	Sat 11/1/97	Sat 11/1/97	192FS+30d															
194	Construction	36d	Mon 11/3/97	Mon 12/22/97	193															◆

<p>Norfolk Site Tue 10/1/96 DRAFT</p>	Task		Rolled Up Task	
	Progress		Rolled Up Milestone	◆
	Milestone	◆	Rolled Up Progress	
	Summary			

Norfolk Project Planning and Design									
	1992/1993	1994	1995	1996	1997	1998	1999	2000 +	Total
Site Investigation									
Study Plan	19								19
Phase 1 Sampling		57							57
Phase 2 Sampling			72						72
Phase 3 Sampling			13						13
Project Management		9	10						19
Sub Total	19	66	95						180
Clean-Up Plan									
Contracting and Amendment		4	15	10					29
Ecochem				78					78
Contract Management			6	12					18
Project Management		1	4	22					27
Sub Total		5	25	122					152
Permitting									
EA				24					24
Ecochem				5	5				10
Right-of-Way				7	8				15
Shoreline					5				5
Easement					15				15
Contract Management					4				4
Project Management				10	8				18
Contingency									0
Sub Total				46	45				91
P&D Sub Total	19	71	120	168	45				423

Norfolk Project Construction Budget			
	1997	2000+	Total
Bid Documents			
Ecochem	48		48
Contract Management	6		6
Engineering and Divisional Review	6		6
Construction Review	4		4
Sub Total	64		64
Construction			
Dredging Contractor	700		700
Bonding (10%)	70		70
Profit (10%)	77		77
Ecochem Support	37		37
Construction Oversight	16		16
Contract Management	16		16
Contingency	182		182
Sub Total	1048		1098
Construction Sub Total			1162
Monitoring			
Post-Construction		100	100
Project Management	16		16
Construction and Monitoring Sub Total			1278
Total Project			1701

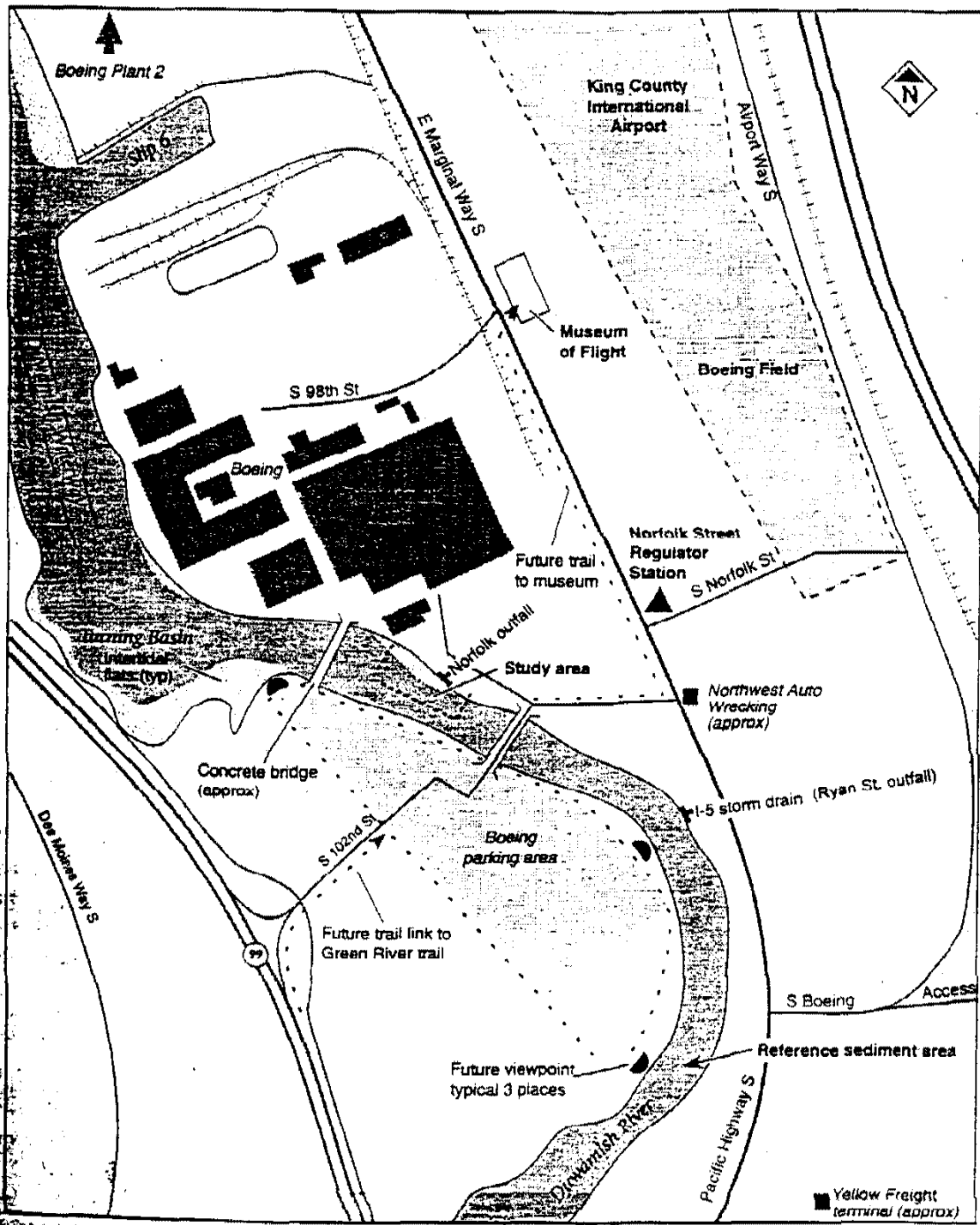


Figure 2-2

Norfolk CSO Sediment Cleanup Study
SITE MAP

USGS, 1973; USGS, 1983; Tanner, 1991; Boeing, 1994.

Diagonal/Duwamish CSO

Location/Description and Background:

The Duwamish and Diagonal outfalls are located in the lower portion of the Duwamish River Waterway upstream of Harbor Island and immediately downstream of Kellogg Island and originate from the east bank. The King County Duwamish outfall is submerged, but recent modeling indicates that overflows have not occurred for many years and should not in the future under normal operating conditions. The City of Seattle Diagonal outfall has a 12 foot diameter outfall structure visible on the shoreline. This outfall currently receives mostly stormwater from both the Diagonal and Hanford drainage basins with a combined average annual volume of about 685 MG per year. Low flow diversion structures were installed in the new storm system to divert low storm flows to the King County collection system for treatment. A CSO control project in 1987 was estimated to reduce the CSO volume from over 300 MG per year down to about 7 MG per year. However, recent data indicate the actual volume is larger and may be 50 - 70 MG per year. Monitoring is proceeding to verify the actual volume.

In 1994, a four document Cleanup Study Plan was prepared consisting of the Work Plan, the Sampling and Analysis Plan, the Health and Safety Plan, and the Public Participation Plan. These documents underwent Public review and were approved by the EBD RP Panel. Three Phases of Site Assessment sampling were conducted from 1994 to the end of 1995 to define chemical conditions in surface sediments and at depth below the surface. This information was presented in a Site Assessment Report that identified the following 4 chemicals of concern: Mercury, PCBs, Bis (2-Ethylhexyl) Phthalate and Butyl Benzyl Phthalate.

The primary chemical driving the cleanup boundary for the site was Bis (2-Ethylhexyl) Phthalate, which appears to have values exceeding the Cleanup Screening Level (CSL) extending for a long distance both upstream and downstream of the discharge pipes. The strategy developed to close the upstream and downstream boundary was to conduct bioassay testing at a few stations and these were established to be non-toxic. The offshore boundary was set at the edge of the dredged channel.

Scope:

Goals:

The Diagonal/Duwamish project will remove from aquatic life and human exposure the contaminated sediments associated with the boundaries.

The cleanup alternatives for this project have not been evaluated yet because work was suspended due to lack of planning and design funds for sediment projects.

Duwamish/Diagonal Project Planning and Design									
	1992/1993	1994	1995	1996	1997	1998	1999	2000 +	Total
Site Screening									
Sediment Sampling	12		4						16
Bathymetry	26	3							29
Project Management	6	4							10
Sub Total	44	7	4						55
Site Investigation									
Study Plan	28								28
Phase 1 Sampling		111							111
Phase 1.5 Sampling			37						37
Phase 2 Sampling				109					109
Project Management		15	14	13					39
Sub Total	28	126	51	119					324
Clean-Up Plan									
Contracting and Amendment		6	23						29
Ecochem				122	199				321
Contract Management			12	15	10				37
Project Management		2	14	23	11				50
Sub Total		8	40	160	220				437
Permitting									
EA					15				15
Contract Amendment					13				13
Ecochem					20				20
Right-of-Way					7	8			15
Shoreline Permit						7			7
Easement						15			15
Project Management					10	3			13
Contingency					10	14			24
Sub Total					75	47			122
P&D Sub Total									938

Duwamish/Diagonal Project Construction Budget			
	1998	2000+	Total
Bid Documents			
Ecochem	65		65
Contract Management	10		10
Engineering and Divisional Review	7		7
Construction Review	5		5
Sub Total	87		87
Construction			
Remediation Contract	3000		3000
Ecochem Support	60		60
Construction Oversight	32		32
Contract Management	20		20
Contingency	520		520
Sub Total	3632		3632
Construction Sub Total			3727
Monitoring			
Post-Construction		200	200
Project Management	24		24
Construction and Monitoring Sub Total			3943
Total Project			4881

OPTIONS FOR HANDING THE ECOCHEM CONTRACT WITHIN P & D CAP

The P & D cap allocated to sediment projects is insufficient to complete the Alternatives Evaluation (AE) Report under the Ecochem contract. Consequently, KCDNR is seeking direction from the SRTWG and Panel for a preferred course of action. One of the three options listed below would allow work to continue on schedule while two of the three involve suspending work for about 9 months until the Consent Decree Amendment is approved to allocate more P & D funds to sediment projects.

OPTION 1: Authorize KCDNR to incur P & D expenses that total \$ 111,000. 00 beyond the current sediment project allocation and consider this a loan from the Habitat P & D allocation until the Consent Decree Amendment is approved. This authorization would allow completion of the AE report plus Environmental review and keep the project on schedule for about another 6 months past February and up through the end of August 1997.

Advantages: -- Avoids stopping the project and delaying construction for one year which could result in increased project costs of about \$ 168,000.

Disadvantages: -- Takes a risk that if the amendment did not pass that one or more Habitat projects would be without P & D funds
 -- The \$ 111,000. authorization requested now will keep the project going for about 6 months after which time another P & D authorization of \$ 118,000. will be needed to complete the permitting and keep the project on schedule for construction in late 1998

OPTION 2: Suspend work on AE report for 9 months until amendment is approved, but first complete a minimum amount of work to get agreement on the cleanup options to be evaluated when work resumes. Ecochem work on DU/DI would be suspended the first part of March 1997.

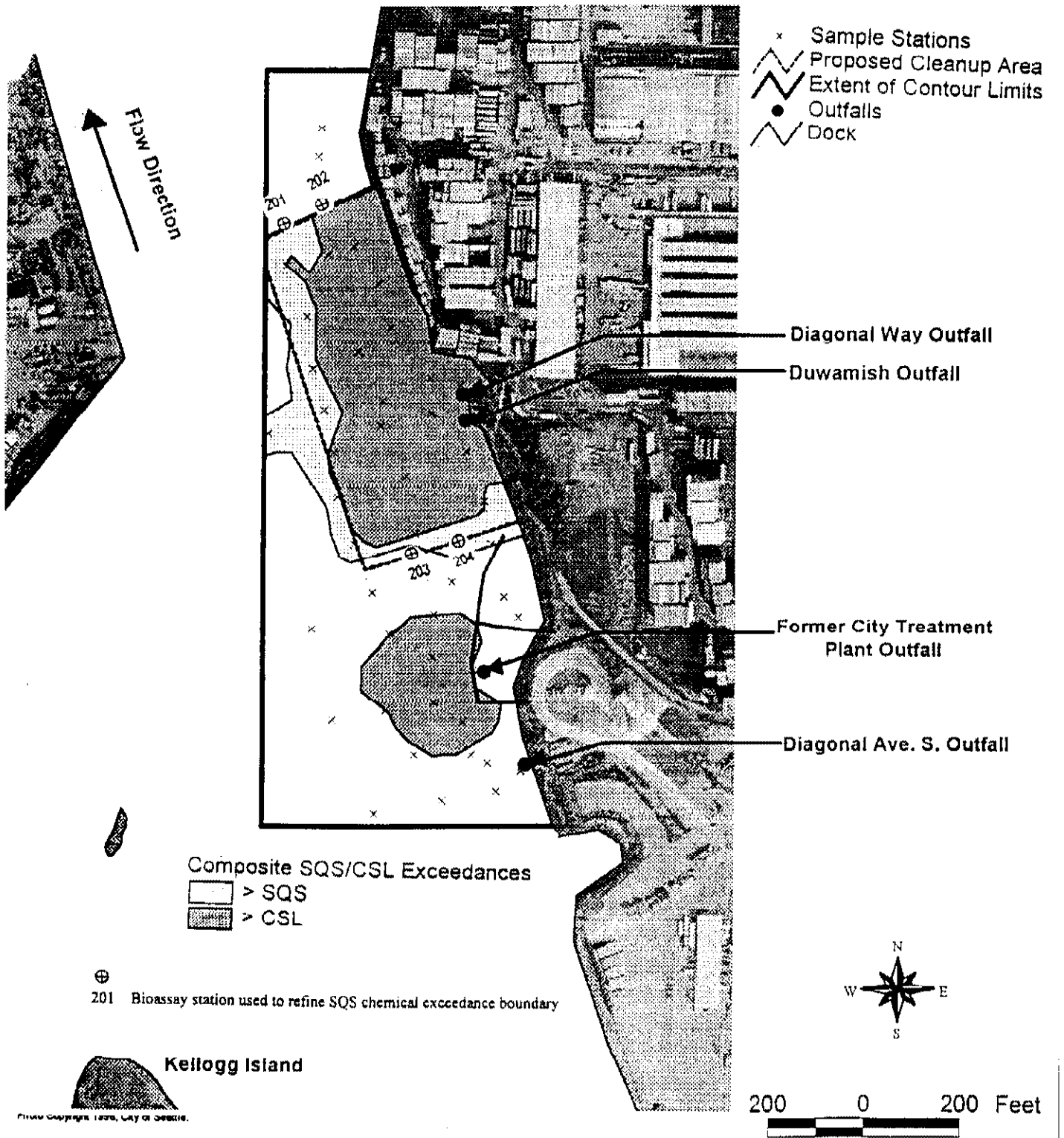
Advantages: -- Stays within current sediment P & D allocation
 -- Allows cleanup alternatives to be set while SA report is fresh in everyone's mind before suspending work

Disadvantages: -- Delays construction one year that can increase construction costs by \$ 157,000. due to a 4.2 % inflation on the construction budget of \$ 3,743,000.
 -- Added Ecochem costs of \$ 11. 45 K for work suspension (\$ 6. 5 K stop & start costs, plus added insurance of \$ 4. 95 K due to loss of cost sharing with Norfolk project)
 -- SA report stays as draft for an additional 9 months until AE report is finalized

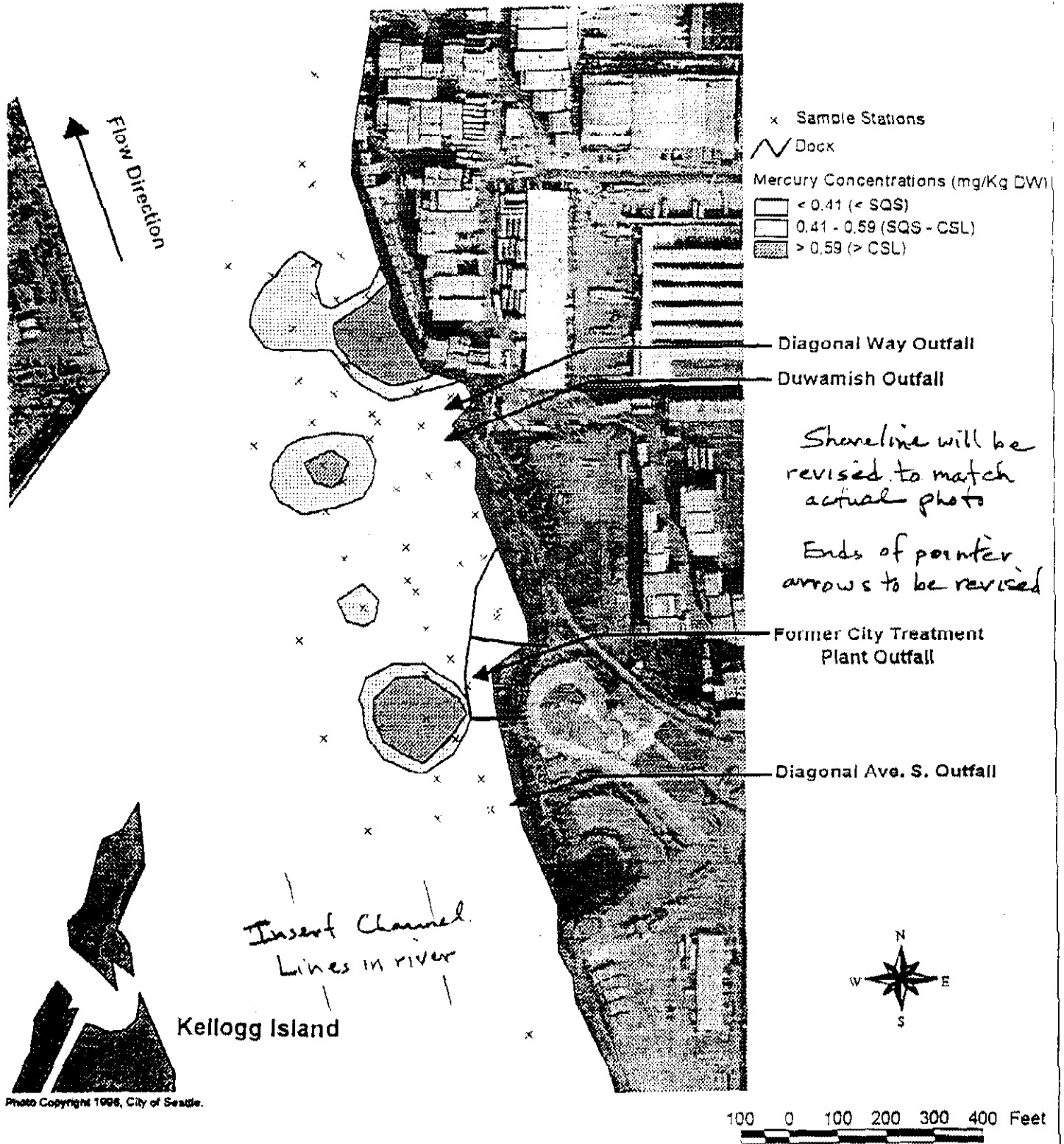
OPTION 3: Suspend work on AE report for 9 months, but first complete the first 3 chapters of the draft AE report (Applicable Laws and Regs; ID and selection of technologies; and Screening of Alternatives) and also produce a finalized SA report that includes revisions relative to SRTWG and Panel review. This work can be accomplished within the current amount allocated for sediment project P & D. The forth and final chapter of the AE report (Detailed evaluation of alternatives and their costs) will be postponed until additional funds are available to resume work after the amendment is approved. Ecochem work on DU/DI would be suspended mid May 1997.

Advantages: -- Stays within current sediment P & D allocation
 -- Completes several chapters of draft AE report
 -- Provides a finalized SA report as a product before suspending work

Disadvantages: -- Delays construction one year that can increase construction costs by \$ 157,000. due to a 4.2% inflation on the construction budget of \$ 3, 743,000.
 -- Added Ecochem costs of \$ 11. 45 K for work suspension (\$ 6. 5 K stop & start costs, plus added insurance of \$ 4. 95 K due to loss of cost sharing with Norfolk project)



EcoChem Team	Duwamish Diagonal Sediment Cleanup Study	FIGURE 5-9
	Composite SQS/CSL Exceedance Areas	



coChem Team	Duwamish Diagonal Sediment Cleanup Study	FIGURE 1
	Concentration Contours of Total Mercury (mg/Kg DW) in Surface Sediments (0 - 10 cm)	

* What about sediment chemistry numbers and bottom contour lines

4.2.4 Central Waterfront Cleanup

Location/Description and Background:

Recent studies have identified levels of contamination in sediments along the waterfront which exceed the state sediment standards. Mercury and petroleum products showed the greatest exceedences of state standards. Previous studies, conducted by the EPA, Metro (County), Ecology and Hart Crowser (consultants), identified contaminants of concern in the surface sediments along the waterfront, specifically mercury, silver, PAHs, benzyl alcohol, butyl benzyl phthalate, phenol, and benzoic acid.

The full extent to which certain marine organisms are directly affected by the pollutants is unknown. However, it is generally understood that the accumulation of pollutants in the sediment has impaired the habitat value for some life forms. In cases where bottom-feeding fish or shellfish accumulate certain pollutants in their bodies, there may also be a risk to humans who consume these organisms.

Performance Work Statement:

A workplan has been developed and is filed in the Panel's Administrative Record, it is not included here for the sake of brevity.

Please Refer to the next several pages for Scope, Schedule and budget

ELLIOTT BAY/DUWAMISH RESTORATION PROGRAM

CENTRAL SEATTLE WATERFRONT REMEDIATION PROJECT EXECUTIVE SUMMARY

January 23, 1996

The Elliott Bay/Duwamish Restoration Program is a cooperative, intergovernmental program established to help restore natural resources injured by pollution in Elliott Bay and the Lower Duwamish River. The Elliott Bay/Duwamish Restoration Program Panel (Panel) is comprised of representatives from National Oceanic and Atmospheric Association (NOAA), Washington State Department of Ecology (Ecology), U.S. Fish and Wildlife, Muckleshoot Tribe, Suquamish Tribe, the City of Seattle (City) and the King County Department of Metropolitan Services (Metro). The Panel is responsible for implementing the requirements of a consent decree that settled a 1990 lawsuit filed by the U.S. Department of Commerce acting through NOAA against the City of Seattle and Metro. The decree established funds (\$24 million) to be paid equally by Metro and the City for alleged damages to the natural resources of Elliott Bay and the Duwamish River from combined sewer overflows and storm drain discharges.

The Panel established a Sediment Remediation Technical Working Group to identify and prioritize potential sediment cleanup and habitat development projects. Working with the public, the group established an initial list of possible projects, developed criteria and ranked the projects.

The results of the evaluation process, which was partially based on the Washington State Sediment Management Standards (SMS) adopted by Ecology in 1991, ranked three central Seattle Waterfront outfalls (Madison Street, Washington Street and University Street) as high priority project sites.

These sediment standards identified specific contaminant levels below which no adverse effects would be observable in benthic communities, which is the group of organisms that live on or within the top layer of aquatic sediments. This threshold value is called a Sediment Quality Standard (SQS) and varies for different contaminants. The SMS also established Cleanup Screening Levels (CSLs) which represent the upper limit of allowable minor effects on biological resources.

Recent studies have identified levels of contamination in sediments along the waterfront which exceed state sediment standards. Mercury and petroleum products showed the greatest exceedences of state standards. Previous studies, conducted by the EPA, Metro, Ecology and Hart Crowser, identified

contaminants of concern in the surface sediments along the waterfront, specifically mercury, silver, PAHs, benzyl alcohol, butyl benzyl phthalate, phenol and benzoic acid.

These studies found that metal concentrations were fairly low with the exception of mercury, which exceeded Ecology's Cleanup Screening Level (CSL) over a large portion of the site. Organic contaminant concentrations in suspended particulates were found to vary along the waterfront. Vertical profiles in bottom cores in the northern portion of the study area indicate that peak concentrations of most contaminants were located below the surface.

The full extent to which certain marine organisms are directly affected by pollutants is unknown. However, it is generally understood that the accumulation of pollutants in the sediment has impaired the habitat value for some life forms. In cases where bottom-feeding fish or shellfish accumulate certain pollutants in their bodies, there may also be some risk to people who consume these organisms.

Recontamination Study

As the first step in potentially conducting a cleanup along the waterfront, the Panel sponsored a Waterfront Recontamination Study in 1993. The goal of this study was to determine the feasibility of conducting sediment cleanup along the waterfront. The study area focused on the portion of Elliott Bay along the Seattle Waterfront from Pier 46 to Pier 59. The Recontamination Study included a year long field investigation designed to evaluate sources of contamination, transport and circulation patterns, and depositional rates. The study findings include:

- Currents along the waterfront appear to be affected by the ferries idling at Colman Dock and converge from the north and south of the ferry terminal, where water is moved offshore.
- Most ongoing point sources of pollution from outfalls were adequately controlled; however, nonpoint sources may pose some long-term risk to a successful cleanup, and
- Resuspension of existing contaminated surface sediments is the most likely ongoing source for recontamination in the study area.

Based on the current patterns, two large cleanup areas were recommended, one extending from Pier 46 to the south end of Colman Dock (Pier 52) and one extending from the north end of Colman Dock to Pier 59. To prevent recontamination of a cleanup project due to resuspension of nearby

contaminated bottom sediments, the study recommended that any areas that are connected by circulation patterns should be remediated as a whole.

Based on the conclusions and recommendations of the Study that the potential for a successful long-term cleanup was good, the Panel has decided to focus on a cleanup project limited to the waterfront between Piers 52 and 59.

Cleanup Process

The cleanup will follow the guidelines established by Washington State for marine sediment cleanups. A Cleanup Study Plan will be completed, reviewed by the public and approved by the Washington State Department of Ecology. The plan is made up of four documents: the Workplan, the Sampling and Analysis Plan, the Health and Safety Plan, and the Public Participation Plan. The draft Workplan and draft Public Participation Plan are available at this time. The remaining documents will be available in March.

Workplan

The purposes of the tasks described in this Workplan are as follows:

- To determine the plan and approach for a cleanup study investigation;
- To determine the nature and extent of contamination;
- To determine which areas of the site need to be cleaned up; and
- To develop and evaluate a set of feasible cleanup alternatives for cleanup of identified contamination.

The Workplan includes the following main elements: project management and staffing plan, site characterization, source investigation summary, site investigation plan, approach for alternatives assessment and a schedule.

Public Participation Plan

The objectives of the Central Seattle Waterfront Sediment Remediation Project's Public Participation Plan are to:

- Involve the public in project development and implementation to ensure the best project results;
- Inform the public about the cleanup site, studies, alternatives selection, implementation and monitoring; and to
- Encourage public comment about the studies, alternatives selection, implementation and monitoring as these elements are being developed.

At appropriate times during project development, the public will receive notice of public comment/review opportunities. Public notices will be posted

in the following newspapers: the *Seattle Times* and the *Daily Journal of Commerce*. Announcements will be made available to the general news media and to those individuals and groups on the Central Seattle Waterfront project mailing list. Notice of the contract bidding process will be published in the *Daily Journal of Commerce*.

The documents listed above will be available for review at:

- Seattle Public Library -- Downtown Branch (Government Documents Section)
- Seattle Drainage and Wastewater Utility 710 Second Avenue, Suite 660, Seattle
- Washington State Department of Ecology, Northwest Regional Office 3190 160th Avenue Southeast, Bellevue
- National Oceanic and Atmospheric Administration's Damage Assessment and Restoration Center Northwest, Building No. 1, 7600 Sand Point Way Northeast, Seattle

Schedule

The following draft schedule highlights important milestones in the cleanup process. A detailed schedule is included in the Workplan.

Task	Time
Clean Up Study Documents	
Preparation	January - March, 1996
Public Review	March 4 - April 3, 1996
Ecology Approval	April 1996
Sampling and Analysis	
Sample Collection	May/June 1996
Sample Analysis	Summer/Fall 1996
Site Assessment Report	Fall 1996
Feasibility Report	
Assemble and Evaluate Cleanup Alternatives	Fall/Winter 1996
Environmental Assessment	Winter 1996/97
Public Meeting	Spring 1997
Selection of Best Alternative(s)	Spring 1997
Ecology Cleanup Decision	Spring 1997
Permitting	Summer/Fall 1997
Prepare Construction Documents	Fall/Winter 1997/98
Construction	Winter/Spring 1998
Long-term Monitoring	1998 to 2008

Once the Cleanup Plan is completed a Cleanup Study will be completed, which includes conducting the sampling and analysis and selecting the best alternative for cleaning up the project area. Construction and long-term monitoring will then follow

For more information

Please contact Chris Woelfel, project manager, at the Seattle Drainage and Wastewater Utility, 684-7599.

REVISED

Waterfront Clean Up: Project Plan

Prior to conducting any additional sampling along the Waterfront, it is necessary for us to write a Clean Up plan and submit the plan for public review and Ecology approval. The Clean Up plan is comprised of four documents: Work Plan, Sampling and Analysis Plan, Health and Safety Plan and a Public Participation Plan.

I anticipate that all four documents will be ready for public review in March. The proposed budget is shown below.

Task	Staff	Hours	Cost/hr	Total	Total with overhead
Write Work Plan	city C.W.	80	\$20	\$1,600	\$3,488
Write Sampling & Analysis Plan (SAP)*	Metro	*	*	*	*
Write Health & Safety Plan (to be discussed at SRTWG)		*	*	*	*
Write Public Participation Plan	city C.W.	5	20	100	218
Graphics for Work Plan & SAP	city	40	20	800	1,744
Review time for all documents, (5-6 staff members)	city & metro	75	30	2,250	4,905
Incorporate revisions/final editing	city C.W.	20	20	400	872
Printing costs (except SAP)	city				1,000
Meetings: includes prep for 8 SRTWG, 3 Panel and 1 public mtg.	city C.W.	40	20	800	1,744
Project management	city C.W.	40	20	800	1,744
TOTAL		260 hr			\$15,715

* to be submitted at a future meeting

Update on previous budget requests:

8/31/95 84 hours to develop Project Plan. Completed in < 60 hours.

8/31/95 131 hours to develop consultant scope of work. The consultant scope of work has been postponed. It's been determined that the Cleanup documents (this budget request) are more critical to the project timeline than the consultant scope.

City of Seattle
Budget Request for Selecting a Consultant for the Central Seattle Waterfront Project
June 6, 1996

Evaluate Army COE option vs. consultant	500
Evaluate proposals (includes review & mtg time)	9,000
Interview (includes prep & mtg time)	4,000
Misc. project manager time	1,000
Printing/advertising/postage costs	500
	<hr/>
	15,000

WATERFRONT BUDGET ESTIMATES - 4/11/96
 Estimates based on 3/28/96 information

PLANNING AND DESIGN COSTS					
Task	Spent	Proposed '96	Proposed '97	Proposed '98	Total
Site Investigation:					
Recontam. Study	\$432,000				
Cleanup study documents	\$22,000				
Sample collect'n & anal (3/28)		\$120,000			
Total	\$454,000	\$120,000	\$0	\$0	\$574,000
Cleanup Study:					
Consultant selection		\$15,000			
Consultant contract (pre design)		\$250,000	<i>rough estimate</i>		
Design costs		\$125,000	<i>rough estimate</i>		
Total	\$0	\$390,000	\$0	\$0	\$390,000
Permits/Lease:					
Total - includes labor and fees			\$15,000		\$15,000
Project Management (3/96 - 12/97)					
20 hr/wk for 1.75 yr @ \$55/hr		\$43,000	\$57,000		\$100,000
<i>This includes all city staff time.</i>					
Total for above sections					\$1,079,000

CONSTRUCTION & MONITORING COSTS					
Construction: <small>These numbers are average values from earlier estimate worksheets</small>					
Capping				\$1,350,000	
Dredge/disposal				\$700,000	
Inspect'n/Managm't/Const. Monitor	<i>15% of construction</i>			\$300,000	
Contingency	<i>15% of above items</i>			\$350,000	
Total				\$2,700,000	\$2,700,000
Long-term Monitoring:					
Rough estimate				\$250,000	\$250,000
Total for above sections					\$2,950,000

TOTAL COSTS	
Design, construction and monitoring	\$4,029,000

These estimates reflect design costs of: 37%

WATERFRONT BUDGET ESTIMATES - 4/11/96
Proposed major cuts to reduce P&D costs -- See attached sheet for details

PLANNING AND DESIGN COSTS					
Task	Spent	Proposed '96	Proposed '97	Proposed '98	Total
Site Investigation					
Recontam. Study	\$432,000				
Cleanup study documents	\$22,000				
Sample collect'n & anal. (4/11)		\$60,000	cut all cores, 2 bioassays and 1 surface chem		
Total	\$454,000	\$60,000	\$0	\$0	\$514,000
Cleanup Study					
Consultant selection		\$15,000			
Consultant contract (pre design)		\$125,000	assumes cap is only option - rough esdm.		
Design costs		\$100,000	assumes COE designs cap - rough esdm.		
Total	\$0	\$240,000	\$0	\$0	\$240,000
Permits/Lease					
Total - includes labor and fees			\$15,000		\$15,000
Project Management (3/96 - 12/97)					
15 hr/wk for 1.75 yr @ \$55/hr		\$29,250	\$39,000		\$68,250
This includes all city staff time.		This shows a reduction of 20 hr/month.			
Total for above sections					\$837,250
			SAVINGS		\$241,750

CONSTRUCTION & MONITORING COSTS					
Construction <small>These numbers are average values from earlier estimate worksheets</small>					
Capping				\$1,350,000	
Dredge/disposal				\$700,000	
Inspection/Managmt/Constr. Monitor	15% of construction			\$300,000	
Contingency	15% of above items			\$350,000	
Total				\$2,700,000	\$2,700,000
Long-term Monitoring					
Rough estimate			estimate	\$250,000	\$250,000
Total for above sections					\$2,950,000

TOTAL COSTS	
Design, construction and monitoring	\$3,787,250

These estimates reflect design costs of: 28%

ATTACHMENT A.**AMENDED BYLAWS
OF
ELLIOTT BAY/DUWAMISH RESTORATION PROGRAM PANEL****ARTICLE I
NAME**

The "Panel of Managers" created under the Consent Decree entered in United States, et al. v. The City of Seattle and Municipality of Metropolitan Seattle, Case No. C90-395WD, shall hereafter be referred to as the "Elliott Bay/Duwamish Restoration Program Panel."

**ARTICLE II
MEMBERS**

Each member group, as defined in paragraph 5 of the Consent Decree, shall upon approval of these Bylaws designate in writing to the Panel chair a voting representative together with such alternates as it deems appropriate to represent it on the Panel. Any member group may substitute its voting representative by written notice to the Panel chair.

**ARTICLE III
MEETINGS**

1. Regular Meetings. The Panel shall meet **at least quarterly**, as required, at such times and places agreed to by the Panel. All Panel meetings will be open to the public unless the Panel chooses by majority vote to conduct a Panel meeting in executive session.
2. Agenda. An agenda prepared by the chair in consultation with the administrative director shall be given at least three days prior to any regular meeting. Member groups may designate items to be included in the agenda. All Panel meeting agendas will include a time and space allocation for "Public Comment." This regular agenda item is designated for public or non-Panel members to appear before the Panel and share their ideas, comments, and views on Panel activities.
3. Special Meetings. Special meetings of the Panel may be held at any place and time whenever called by any four member groups.
4. Notice of Meetings. Notice of the time and place of any special meeting of the Panel shall be given by the secretary or by the member groups calling the meeting, by mail, telegram, facsimile, or by personal communication over the telephone or otherwise, at least three (3) days prior to the date on which the meeting is to be held. The business to be transacted and the purpose of any meeting of the Panel shall be specified in the form of an agenda in the notice or any waiver of notice of such meeting. Attendance of a member group at any meeting shall constitute a waiver of notice of such meeting, except where the member group attends a meeting for the purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened.

5. Quorum. A majority of member groups shall constitute a quorum for the transaction of business. At any meeting of the Panel at which a quorum is present, any business may be transacted, and the Panel may exercise all of its powers. A member group present at such a meeting shall be presumed to have assented to the action taken at the meeting unless the member group's dissent or abstention is entered in the minutes of the meeting or the member group files its written dissent or abstention to such action with either the person acting as secretary of the meeting before adjournment of the meeting or by registered mail to the secretary immediately after the adjournment of the meeting. Notwithstanding the provisions of Article VII(1), any action excepting an action on reconsideration taken by the Panel shall be tabled for reconsideration at the next meeting of the Panel upon the request of any member group where: (a) the action was not set forth in an agenda or notice for the meeting at which it was taken; or (b) the action was taken by vote of the Panel based on a three-two or three-one majority.
6. Meetings Held by Telephone or Similar Communications Equipment. Member groups may participate in a meeting of the Panel or its committees by means of a telephone conference or similar communications equipment by means of which all persons participating in the meeting can hear each other at the same time and participating by such means shall constitute presence in person at a meeting.
7. Meeting Conduct. Member groups only shall participate in Panel meeting agenda discussions and decision making processes. If non-Panel members wish to appear before the Panel and contribute to Panel agenda discussions, such non-Panel members must either contact the Chair in advance of the Panel meeting and request special placement on the agenda in accordance with paragraph (2) above or attend the Panel meeting and be heard during the regularly scheduled "Public Comment" period reserved on each regular Panel meeting agenda.
8. Form of Actions. The following actions of the Panel shall be taken and memorialized in the form of resolutions: designation and appointment of committees; appointment and removal of an administrative director; designation and elimination of additional working groups; specification and modification of additional powers and duties of the Chair and Secretary; alteration or amendment of the Bylaws; adoption of budgets; adoption of project proposals; approvals of expenditures from the Registry Account; acceptance of proposals for the performance of in-kind services; appointment of a party to undertake projects on behalf of the Panel; establishing guideline for reimbursement of Trustees' expenses; and such other actions as the Panel shall determine.

ARTICLE IV COMMITTEES AND WORKING GROUPS

1. Committees. The Panel may designate and appoint any committees. Each committee shall consist of two (2) or more member groups and shall have and exercise such authority of the Panel as may be specified in the resolution establishing the committee. However, no such committee shall have the authority of the Panel to amend, alter or repeal the Bylaws; elect, appoint or remove any member of any such committee or any administrative director appointed by the Panel; or amend, alter or repeal any resolution of the Panel.

2. Working Groups. The Panel may designate and appoint any working groups to assist the Panel in carrying out its duties under the Consent Decree. The membership on any working group is open to any representatives designated by member groups, those representatives those agencies or entities identified in paragraph 15 of the Consent Decree, and to such other qualified individuals as determined by the Panel. Each working group shall elect or designate a chair who is also a representative of a member group. A working group shall exercise no power or authority of the Panel. Working groups will serve to analyze and recommend restoration, remediation and source control projects and the means to implement those projects. Any proposal developed by a working group shall be presented to the Panel by the working group chair or a person designated by the working group chair.

ARTICLE V.
ACTIONS BY WRITTEN CONSENT

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 thereof. Such consent shall have the same force and effect as a unanimous vote, and may be described as a such.

ARTICLE VI.
WAIVER OF NOTICE

Whenever any notice is required to be given to any Panel member or member group by the Consent Decree or Bylaws, a waiver thereof in writing signed by the Panel member or member group to such notice, whether before or after the time stated therein, shall be the equivalent to the giving of such notice.

ARTICLE VII.
OFFICERS

1. Officers Enumerated. The officers of the Panel shall be a chairperson and a secretary. In addition to the powers and duties specified below, the officers shall have such powers and perform such duties as the Panel may prescribe.
2. The Chair. The chair must be a designated representative of a member group on the Panel. He/she shall preside at meetings of the Panel and any committees exercising any authority of the Panel. It is the duty and responsibility of each acting Chair to enforce any and all Panel rules of procedure and to control and direct all Panel discussions and comments. The position of chair shall rotate among the member groups on a quarterly basis commencing January 1, 1992. The voting representative for the Department of Ecology shall serve as the first chair to be succeeded in order by the voting representative of the Suquamish Indian Tribe, the Muckleshoot Indian Tribe, Seattle, Metro, and then that voting representative designated jointly by NOAA and Interior.
3. The Secretary. Unless the Panel acts otherwise, the administrative director appointed by the Panel shall automatically serve as secretary. It shall be the duty of

the secretary to keep records of the proceedings of the Panel including a true and accurate copy of the Bylaws, any resolutions or amendments to the Bylaws adopted by the Panel, and minutes of any and all meetings of the Panel.

4. Vacancies. Vacancies in any office arising from any cause may be filled by the Panel at any regular or special meeting. In the event a chair or designated alternative is not present at a meeting, the voting representative of the member group next in rotation to serve as chair shall serve as chair at that meeting.
5. Removal. Any officer elected or appointed may be removed by the Panel whenever in its judgment the best interest of the Panel will be served thereby.

ARTICLE VIII. ADMINISTRATIVE PROVISIONS

1. Dispute Resolution. Any member group objecting to an action by the Panel may request reconsideration of such action in writing. Provided such a request is submitted to the chair within thirty (30) days of the Panel's action, the time to seek judicial review of the Panel's action in accordance with paragraph 7 of the Consent Decree shall run from the date the request for reconsideration is denied. A request for reconsideration shall be heard at the next regular meeting of the Panel. A request for reconsideration shall be deemed denied if not resolved within thirty (30) days of submission to the chair. Submission of a request for reconsideration shall not be deemed a waiver of any right to file a petition for review pursuant to paragraph 7 of the Consent Decree.
2. Amendment of Bylaws. These Bylaws may be altered, amended or repealed by the affirmative vote of a majority of the member groups in accordance with the Consent Decree at any regular or special meeting.
3. Rules of Procedure. The rules of procedure at meetings of the Panel shall be the rules contained in Roberts Rules of Order on Parliamentary Procedure, newly revised, so far as applicable and when not inconsistent with these Bylaws, the Consent Decree or with any resolution of the Panel.

Summary of Obligations and Documented Expenditures 1992-1996

Summary Sheet	Documentation Provided		PFS	P&D	FP	HD	SR	SC	K Documented	
	\$Obligated	IK Obligated								Disbursed
1992	469,131.32	340,760.00	113,015.55	36,796.97	251,091.82	0.00	0.00	86,432.71	0.00	261,296.95
1993	717,931.30	62,515.00	363,802.67	236,836.05	185,402.02	0.00	0.00	51,373.00	0.00	109,808.00
1994	671,289.50	445,719.20	403,374.43	151,593.30	584,686.13	0.00	0.00	29,167.00	0.00	362,072.00
Subtotal	1,858,352.12	848,994.20	880,192.65	425,226.32	1,021,179.97	0.00	0.00	166,972.71	0.00	733,176.95
1995	1,372,926.09	950,518.00	300,587.09	78,413.87	222,173.22	0.00	0.00	0.00	0.00	0.00
1996	2,065,962.36	1,603,943.08	189,100.06	78,392.06	90,708.00	0.00	0.00	0.00	0.00	0.00
Total	5,297,240.57	3,403,485.28	1,349,979.80	582,032.25	1,334,061.19	0.00	0.00	166,972.71	0.00	733,176.95
\$ 1,250,000.00 Cash Deposits by the City and KC into the Court Registry Account through 1996										
733,176.95 In-kind Services documented (includes KC and City) through 1996										
\$5083,176.95 Total										
* Not all documented in-kind services have been formally credited by the Panel.										
\$ 35,784.95 Outstanding in-kind Services that have been documented but have not been approved for credit.										

Elliott Bay / Duwamish Restoration Program														
EB/DRP 92	Obligated			Disbursed from the Registry Account/In-kind credit Authorized										
Accounting 1992														
Resolution Number	Dollars	Obligated To:	Obligated For:	In-kind Services	B2	Disbursement Amount	Addressee	Panel Function	Planning & Design	Real Property	Habitat Development	Sediment Remediation	Source Control	In-kind Services
1992-03	\$ 34,000.00	IK KC	Public Inv.Pln	\$ 34,000.00	IK		KCref 8/17/5	7,539.00						7,539.00
1992-05	1,297,500.00	B	EB/DRP	93 Budget										
1992-06	1,022,500.00	B	EB/DRP	92 Budget										
1992-08		IK KC	Public Review	ref: reso:92-03	IK									
1992-11	\$ 12,500.00	D	WDNR	EB COOP		2,647.65	WDNR	2,647.65						
1992-12	\$ 48,000.00	s	T-105	preconstruct	48,000.00									
1992-13	\$ 13,085.45	D	NOAA	Admin Reim.		13,085.45	NOAA	13,085.45						
1992-14	\$ 36,000.00	D	Squamish	FTE		36,000.00	Squamish		36,000.00					
1992-15	(48,000.00)	us	T-105 92-12	Nbr Reso 12	(48,000.00)									
1992-16	\$ 50,000.00	IK KC	GSO data	50,000.00	IK		KWPC		40,582.00					40,582.00
1992-17		IK KC	Stkhdr RPT	refer to reso 92-03	IK									
1992-19	\$ 44,255.00	D	Muckleshoot	FTE		44,255.00	Muckleshoot		44,255.00					
1992-20	\$ 222,760.00	IK KC	KWPC	Pler 53	222,760.00	IK	KC		44,632.00			86,288.00		130,920.00
		K	City	Pler 53			City		81,146.24			135.71		81,281.95
1992-21	\$ 12,530.87	D	NOAA	Reim. AD		12,530.87	NOAA	12,530.87						
1992-23	\$ 34,000.00	IK KC	KC	Concept Doc	34,000.00	IK	KC	994.00						994.00
1992-25	\$ 10,000.00	D	Cornu	Concept Draw		4,496.58	Cornu		4,496.58					
1992-26		D	WDNR	COOP	ref:92-11									
													0.00	
	469,131.32			\$ 340,760.00		113,015.55		36,796.97	251,091.82	0.00	0.00	86,423.71	-	261,296.95
C-Contract Costs														
IK-in-kind Services														
D-Disbursements from the Court Registry Account														
s - sequestered														
us - unsequestered														
B - Budgets (not included in Sum)														

Elliott Bay/Duwamish Restoration Program												
Accounting 1993												
Reconciliation Number	Dollars	Obligated To	Obligated For	In-kind Services	Disbursement Amount	Addressee	Disbursed from the Registry				Source Control	n-Kind Credit
							Panel Function	Planning & Design	Real Property	Habitat Development		
92-3/17/8		IK KC	Pub.Parl.		IK	92/3/17/8	17,106.00					17,106.00
92-5/20		IK KC	53/55 Monitor/S		IK	92-5/20				47,306.00		47,306.00
92-23		IK KC	Conc.Doc		IK	92-23	3,027.00					31,027.00
1993-01		P N/A	By-Law Amen									
1993-02		P N/A	Kenco									
1993-03	34,824.50	B	Suquamish	Budget see 93-12								
1993-04	44,941.50	B	Muckleshoot	Budget see 93-16								
1993-05	16,352.30	D	U.S. F&WS	Trustee Exp.	D	USFWS	16,352.30					
	26,930.30	D	Muckleshoot	Trustee Exp.	D	Muckleshoot	26,930.00					
	7,163.82	D	Suquamish	Trustee Exp.	D	Suquamish	7,163.82					
1993-06	10,000.30	C	Ecology	WFT Scooping								
1993-07	1,647,000.00	B	EB/DRP	Budget 1994								
1993-08		P N/A	PPC est.									
1993-09	4,065.00	IK	KC/City	Pter53m.rpt.	IK	KC/City				4,065.00		4,065.00
1993-10	7,197.87	D	Ecology	Trustee Exp.	D	Ecology	7,197.87					
1993-11	57,828.24	D	NOAA	Trustee/AD	D	NOAA	36,604.48					
		D			D	NOAA	18,224.78					
1993-11B		P	KC/City	Proj.MGR sed.								
1993-12		D	Suquamish	FTE:ref.93-03	D	Suquamish	34,563.06		34,563.06			
1993-13		P	Ecology	WFT Rec. Study	D	Ecology	31,726.43		31,726.43			
1993-14	400,000.00	P	Ecology	Ecol.Proj.Mgr.								
		K	KC	WF/53 Sampling	IK	KC			5,000.00			5,000.00
1993-15	10,762.55	D	NOAA	AD	D	NOAA	10,762.55					
1993-16		D	Muckleshoot	FTE ref.93-04	D	Muckleshoot	44,941.50		44,941.50			
1993-17	7,500.00	D	WDNR	COOP 92-11/28	D	WDNR	7,352.35		7,352.35			
1993-18		C	Ecology	WF:ref 93-14	D	Ecology	63,669.03		63,669.03			
1993-19		P N/A	GFA's/Seaboard Isl									
1993-20		P N/A	Cleanup Plan CSOs		IK							
1993-21	53,450.00	K	KC/City	CSO w/plan dev	IK	KC/City		5,302.00				5,302.00
1993-22	28,114.52	D	NOAA	AD		NOAA	28,114.52					
1993-23	5,000.00	C	Muckleshoot	Kenco Env.Aud.								
Total	717,931.30			62,515.00		383,802.67	236,836.05	185,402.02	0.00	0.00	51,373.00	109,808.00
C - Contract Costs												
IK - In-kind Services												
S - sequestered												
us - unsequestered												
B - Budgets (not included in sum)												

Elliott Bay /Duwamish Respiration Program													
Accounting 1994													
Obligated					Disbursed from the Registry Account								
Resolution Number	Dollars	Obligated To:	Obligated For:	In-Kind Services	Disbursement Amount	Addressee	Panel Function	Planning & Design	Real Property	Habitat Development	Sediment Remediation	Source Control	In-kind Services
1992-17			P. Participation			KC	1,078.00						1,078.00
1992-05			P. Participation			KC	3,352.00						3,352.00
1992-23			Concept Doc.			KC	2,289.00						2,289.00
1993-21						KC		41,297.00					41,297.00
1994-01	\$34,692.00	K Metro	Pier53m.rpt.	34,692.00	IK	KC					29,167.00		29,167.00
1994-02	0	P Ecology	WFT.Rec.Stdy.			Ecology		177,804.13					
1994-03	70,000.00	K City	Seaboard	70,000.00	IK	City							
1994-04	34,841.50	D Suquamish	FTE		D	Suquamish		34,841.50					
1994-05	44,854.50	D Muckleshoot	FTE		D	Muckleshoot		44,854.50					
1994-06	19,477.00	D USFWS	Trustee Exp.		D	USFWS	19,477.00						
	13,999.00	D Suquamish	Trustee Exp.		D	Suquamish	13,999.00						
1994-07	8,943.80	D NOAA	AD		D	NOAA	8,943.80						
1994-08	35,527.20	K Metro	sampling	35,527.20	IK	KC		35,527.00					35,527.00
1994-09	12,179.10	D Muckleshoot	Trustee Exp.		D	Muckleshoot	12,179.10						
	12,688.88	D Ecology	Trustee Exp.		D	Ecology	12,688.88						
	43,450.13	D NOAA	Trustee Exp.		D	NOAA	43,450.13						
1994-10	1,974,000.00	P EBDRP	Budget 95		B								
1994-11	15,934.67	D NOAA	AD		D	NOAA	15,934.67						
1994-12	500.00	K Metro	CDockSedSam	500.00	IK	KC		500.00					500.00
1994-13	5,000.00	K City	Appr. SCL	5,000.00	IK								
1994-14	190,000.00	K Metro	D/D&NSedRem	190,000.00	IK	KC		176,622.00					176,622.00
1994-15	12,022.59	D NOAA	AD		D	NOAA	12,022.59						
1994-16*	96,500.00	K Metro	D/D & N (ref:14/B)	96,500.00	IK	KC		72,240.00					72,240.00
1994-17	13,500.00	K City/Metro	Src.Cont.Actl.	13,500.00	IK								
1994-18	6,179.13	D NOAA	AD		D	NOAA	6,179.13						
1994-19	1,000.00	C A.Ferdico	Dives		*	Ferdico (CC)		1,000.00					
SUBTOTAL	\$671,289.50		(Ind. In-kind services)	445,719.20			151,593.30	564,686.13	0.00	0.00	29,167.00	0.00	362,072.90
			C-Contract Costs										
			IK-In-kind Services										
			D-Disbursements from the Court Registry Account										
			S - sequestered										
			UB - unsequestered										
			E - Budgets (not included in Sum)										

Elliott Bay / Duwamish Restoration Program													
Accounting 1995													
Obligated by Resolution				Disbursed from the Registry Account									
Resolution Number	Dollars	Obligated To:	Obligated For:	In-kind Services	Disbursement Amount	Addressee	Panel Function	Planning & Design	Real Property	Habitat Development	Sediment Remediation	Source Control	In-kind Services
1995-01	D	41,905.00	Squamish	FTE	41,905.00	Squamish		41,905.00					
1995-02	D	7,554.40	NOAA	AD	7,554.40	NOAA	7,554.40						
1995-03	K	20,220.00	Metro	DD Sampling	20,220.00								
1995-04	D	32,000.00	Ecology	XWFT Rec.Study									
1995-05	D	9,748.83	Muckleshoot	Trustee Exp.	9,748.83	Muckleshoot	9,748.83						
	D	15,660.62	Ecology	Trustee Exp.	15,660.62	Ecology	15,660.62						
	D	33,301.53	NOAA	Trustee Exp.	33,301.53	NOAA	33,301.53						
1995-06	D	46,877.00	Muckleshoot	FTE	46,877.00	Muckleshoot		46,877.00					
1995-07	P	2,067,000.00	EBDRP	Budget 95									
1995-08	P	0	N/A	SCL #1 in GFA									
1995-09	D	9,518.00	USFWS	Trustee Exp.	9,518.00	USFWS	9,518.00						
	D	2,630.49	Squamish	Trustee Exp.	2,630.49	Squamish	2,630.49						
1995-10	K	2,100.00	Metro	SCL SOW	2,100.00								
1995-11	K	48,654.00	Metro	DDN AlterAnal	48,654.00								
1995-12	K	12,000.00	City	Seaboard C.Se	12,000.00								
1995-13	K	4,500.00	Metro	CH/H StormD	4,500.00								
1995-14	P	0	N/A	SC Goals									
1995-15	K	80,000.00	Metro	DVD SAP etc	80,000.00								
1995-16	K	67,371.00	Metro	ph2 Norfolk	67,371.00								
1995-17	K	25,000.00	City	SL Aquistion	25,000.00								
1995-18	K	3,000.00	Metro	SCL Permit +	3,000.00								
1995-19	K	45,000.00	City	Armand 95-17	45,000.00								
1995-20	K	445,200.00	Metro	DDNSedRem	445,200.00								
1995-21	K	94,480.00	City	SourceCtrl	94,480.00								
1995-22	P	0.00	City	WFT ProjMgr									
1995-23	K	4,344.00	Metro	PrePh2ChSAP	4,344.00								
1995-24	K	45,000.00	City	Seaboard	45,000.00								
1995-25	K	10,875.00	Metro	PCB Charizn	10,875.00								
1995-26	C	89,820.00	WDFW	SubEn Study									
1995-27	P	0.00	SCL	Quit									
1995-28	K	27,060.00	Metro	D/D Sampling	27,060.00								
1995-29	D	133,391.22	Ecology	WFT Rec.Stdy	133,391.22	Ecology(04)		133,391.22					
1995-30	K	15,715.00	City	WFT Plan	15,715.00								
SUBTOTAL		1,372,926.09			950,518.00	300,587.09	78,413.87	222,173.22	0.00	0.00	0.00	0.00	0.00
C-Contract Costs													
IK-In-Kind Services													
D-Disbursements from the Court Registry Account													
s-sequestered													
us-unsequestered													
B-Budgets - (not induced in sum)													

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ELLIOTT BAY / DUWAMISH RESTORATION PROGRAM													
Accounting 1996													
Obligated Funds													
Disbursed from the Registry Account/In-kind Service Credited													
Resolution Number	Dollars	Obligated To:	Obligated For:	In-kind Services	Disbursement Amount	Addressee	Panel Function	Planning & Design	Real Property	Habitat Development	Sediment Remediation	Source Control	In-kind Services
1996-01	\$32,578.80	KCWPCD	D/D&N Ph2/3	\$32,578.80									
1996-04	0.00	KCWPC	Conts/Reso										
1996-05	13,631.93	Suquamish	Trustee Exp.		13,631.93	Suquamish	13,631.93						
	43,872.00	Suquamish	FTE		43,872.00	Suquamish		43,872.00					
	3,405.92	Muckleshoot	Trustee Exp.		3,405.92	Muckleshoot	3,405.92						
	7,827.00	USFWS	Trustee Exp.		7,827.00	USFWS	7,827.00						
1996-07	92,000.00	City	WFT Budget	92,000.00									
1996-08	46,838.00	Muckleshoot	OP Budget		46,838.00	Muckleshoot		46,838.00					
1996-09	21,986.50	NOAA	Trustee Exp.		21,986.50	NOAA	21,986.50						
1996-12	15,000.00	City	WFT Clean Up	15,000.00									
1996-14	19,722.62	Ecology	Trustee Exp.		19,722.62	Ecology	19,722.62						
1996-15	11,818.09	NOAA	Admin. Exp.		11,818.09	NOAA	11,818.09						
1996-16	225,000.00	Muckleshoot	Kenco Acquire										
1996-17	116,512.00	KCWPC/City	D/D & N 96 \$	116,512.00									
1996-18	83,880.00	KCWPC	Pier 53/55 M	83,880.00									
1996-19	58,690.05	WDFW	EB Shrin Enh.										
1996-20	24,581.00	KCWPC	EA/SEPA Narr	24,581.00									
1996-21	44,822.00	City	SL Ill rp	44,822.00									
	23,820.28	City	Seaboard pd	23,820.28									
1996-22	9,229.17	NOAA	Admin. Exp.										
1996-26	322,000.00	City	CWP/COE	322,000.00									
1996-28	700,000.00	KCWPC	SCL/rp	700,000.00									
1996-29	25,000.00	KCWPC	SCL/rp	25,000.00									
1996-30	107,749.00	KCDNR	NWW/pd	107,749.00									
1996-31	18,000.00	KCDNR	NWW/pd	18,000.00									
Subtotal	2,065,962.36			\$1,603,943.08	169,100.08		78,392.06	90,708.00					
C-Contract Costs													
I K-In-Kind Services													
D-Disbursements from the Court Registry Account													
s-sequestered													
us-unsequestered													
B-Budgets (not included in sum)													

c. Panel Function Support	
Funds available from Sediment apportionment	\$1,412K
Funds available from Habitat apportionment	\$588K
Funds budgeted through 2000+	\$1,209K
Anticipated funds available (unallocated) (available for P&D, if amended)	+\$791K

**Elliott Bay/Duwamish Restoration Panel
Panel Resolution 1997-09**

Adopted: April 1997

Consent Decree: ¶ 9a, Panel authority

Resolutions: 1992-02, 04, 09
1993-01

WHEREAS, the Elliott Bay/Duwamish Restoration Program (EB/DRP) is now progressing from a primary planning and design phase into the implementation of projects, and

WHEREAS, the EB/DRP Panel needs to streamline its management efforts and concentrate its deliberations on policy and significant fiscal matters as the various projects are designed and implemented, and

WHEREAS, the Panel's desire is to authorize the designated project managers to undertake the fulfillment of project goals, objectives, and obligations as outlined in their detailed Scope, Schedule, and Budgets, and

WHEREAS, the Panel would like to complete its oversight work by January 15, 2000, culminating in the preparation of the final report of Panel activities, and

WHEREAS, the Panel proposes to maintain oversight responsibilities under declining budgets by reducing Panel meeting activities.

BE IT RESOLVED, that the Panel approves the following management objectives:

Reduce the number of monthly Panel meetings in two steps:

a. For the remainder of the calendar year of 1997:

May 1

June 5

August 7

October 2

November 6

b. Starting in January of 1998, meetings would be quarterly (January, April, July, October).

- c. Since the sediment remediation projects are either at implementation or on hold, the Sediment Remediation Technical Working Group (TWG) meetings would be called only when needed, by the Chair upon notification of the Administrative Director.
- d. The Habitat Development (HD) TWG still has significant property acquisition and project-specific planning to do and would continue to meet, as needed, but on a reduced frequency.
- e. A single monthly scheduled meeting date for both TWGs would be changed to the third Thursday of the month for those months when it is necessary to actually have a meeting(s). The TWG Chairs will inform the Administrative Director by noon of the second Thursday if there will be a TWG meeting the following Thursday so notices can be sent to TWG members.
- f. Meetings of Standing Committees of the Panel will continue to be called on an "as needed" basis.
- g. Panel members will develop means for conducting more Panel/TWG discussions by E-mail, FAX, or conference calls.

FURTHER, the Panel amends the following By-Laws:

By-Laws, Article III, Meetings 1: Change from

"The Panel shall meet at least once every month at such times and places agreed to by the Panel."

to

"The Panel shall meet at least quarterly, as required, on the first Thursday of the month and the technical working groups will meet as needed, the third Thursday of the month being set aside for this purpose."

By unanimous consent,