

## **Elliott Bay/Duwamish Restoration Program 1996 annual report**

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## The Administrative Record:

The Elliott Bay/Duwamish Restoration Program Panel maintains the Administrative Record of Program activities. The Administrative Record, which is continually updated, is located at the National Oceanic and Atmospheric Administration, Damage Assessment and Restoration Center NW, 7600 Sand Point Way NE, Seattle, Washington.

The Administrative Record of the Elliott Bay/Duwamish Restoration Program is available for review by appointment, between 9:30 a.m and 3:30 p.m., Monday through Friday. The Administrative Record contains a complete set of meeting minutes, decision documents, accounting documents and other records which are available to the public.

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A document file of the Administrative Record is maintained at the Seattle Public Library, Downtown Branch, Government Documents Section, 1000 Fourth Avenue, Seattle. Contact Government Documents Section at (206) 386-4686. Individuals with a modem may access available information about the Administrative Record on the Library's computer file (386-4140) by entering "Elliott Bay".

Information regarding the time and location of the Elliott Bay/Duwamish Restoration Panel, Habitat Development Technical Working Group, and Sediment Remediation Technical Working Group meetings may be attained by contacting the Administrative Director at the phone number listed above.

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## Executive Summary

On March 19, 1990, the United States filed a complaint for the National Oceanic and Atmospheric Administration (NOAA) acting on behalf of the public as a trustee for natural resources. The complaint was filed under Section 107 of CERCLA, 42 U.S.C. § 9607 (a), to assess and recover damages for alleged injuries to United States' trust resources in Elliott Bay and the Duwamish River. The other natural resource trustees who were parties to the Consent Decree were: the US Fish and Wildlife Service (USFWS), the State of Washington Department of Ecology (Ecology), the Suquamish Indian Tribe and the Muckleshoot Indian Tribe. The defendants named in the lawsuit were the Municipality of Metropolitan Seattle (King County) and the City of Seattle (City).

The lawsuit was settled by consent decree on December 23, 1991. The settlement stipulates that King County and the City will provide a combination of cash payments, real estate and in-kind services with a total value of \$24 million. Within the \$24-million budget, \$12 million is set aside for sediment remediation projects, \$5 million for habitat development projects, up to \$5 million for acquisition of real estate for habitat development and up to \$2 million for source control measures in addition to those planned and implemented by the City and County. The Consent Decree and a detailed summary of the settlement appears in the Elliott Bay/Duwamish Restoration Program 1992 Annual Report, available from the Administrative Director.

This annual report (1996) summarizes implementation of the settlement during the fifth year of the Elliott Bay/Duwamish Restoration Program (Program). The Panel of Managers (Panel) has selected sites for sediment remediation and habitat development activities following substantial public review and comment upon the site selection process. The site selection process, public comments, and responses were presented in the Elliott Bay/Duwamish Restoration Program final Concept Document, published in June, 1994.

Activities in 1996 included additional site selection activities, environmental investigations, acquisition negotiations, design, and permit planning for restoration projects in the three geographic focus areas: 1) Turning Basin Number 3 (and vicinity) on the Duwamish River, 2) Kellogg Island on the Duwamish River, and 3) the Shoreline of Elliott Bay. An addendum to the Concept Document was published and disseminated in November 1996 pursuant to the addition of two potential restoration sites in the Turning Basin area (Concept Document Addendum No. 1, Panel Publication 14).

Data acquisition for the Waterfront Recontamination Study was completed in November 1994. The final report was published in January 1995. The Panel held an evening meeting in January 1996 to discuss Seattle waterfront sediment contamination issues and potential locations for sediment cleanup along the waterfront. A draft Cleanup Study Workplan and draft Public Participation Plan for the proposed cleanup study was available at the meeting for early review. In 1996 a scope of work for the Duwamish/Diagonal and Norfolk sediment cleanup was approved. The Norfolk environmental assessment phase was nearing completion in December 1996, the Norfolk Cleanup Study Report, SEPA Checklist, and Cleanup Action Decision were completed. A NEPA Environmental Assessment was also nearing completion. The Diagonal/Duwamish sediment remediation project is following the same path as Norfolk, although it is approximately one year behind Norfolk in phase.

Source control activities undertaken by the City of Seattle Drainage and Wastewater Utility (DWU) during 1996 were initiated as a result of the Panel's decision to undertake sediment remediation projects at the Norfolk combined sewer overflow/stormdrain outfall site and the Diagonal Way stormdrain/Duwamish Pump Station combined sewer overflow. Efforts focused on a newsletter and business inspection program and oil sheen source investigation.

The Panel's Budget Committee was reconstituted to assist the Panel in its analysis and evaluation of program expenditures and needs. The budget for 1997 was adopted and work began on program budgets for the years 1998, 1999 and 2000+. The Budget Committee's analyses of constraints posed by limitations on planning and design monies also resulted in Panel consideration of a Consent Decree Amendment which would provide for combining allocations for Planning and Design and for Panel Function Support into one fund.

In 1996 a purchase and sale agreement was signed between the City of Seattle and the property owners of the Seaboard Lumber property in the Kellogg Island geographic focus area. The Muckleshoot Tribe obtained shoreline improvement funding and matching acquisition funding from the Panel in order to develop habitat in the Turning Basin vicinity. Site acquisition negotiations continued on behalf of the Panel for habitat development at North Wind Weir Park and City Light North. New discussions have been initiated for a habitat project along the West Seattle Shoreline.

The Panel, through the independent actions of individual representatives, works cooperatively and monitors the progress of others initiating restoration projects and other developments or policies affecting the Elliott

Bay/Duwamish River ecosystem. The Panel has sponsored public meetings and outreach presentations with the assistance of the Public Participation Committee.

The Budget Committee assists the Panel in its analysis and evaluation of program expenditures and needs. The Budget Committee is Chaired by a representative from the Suquamish Tribe, members include representatives from the U.S. Fish and Wildlife Service, NOAA/National Marine Fisheries Service Restoration Center NW, The Muckleshoot Tribe, the City of Seattle, and King County Department of Natural Resources.

### **Elliott Bay/Duwamish Restoration Program Organization**

The Panel was established by the Consent Decree to manage the implementation of the settlement reached between the natural resource trustees and King County and The City. The Panel consists of designated voting representatives and alternates from all parties to the Consent Decree. In 1992, the Panel established a Sediment Remediation Technical Working Group (SRTWG) chaired by a King County representative, and a Habitat Development Technical Working Group (HDTWG), chaired by the U.S. Fish and Wildlife Service, to advise the Panel.

Technical Working Group participants have included representatives of parties to the Consent Decree, as well as the U.S. Army Corps of Engineers, the Environmental Protection Agency (EPA), the Washington Departments of Fish and Wildlife, and of Natural Resources, King County Surface Water Management, the Port of Seattle, the Boeing Company, Seattle City Light, Seattle Department of Parks and Recreation, and the Fisheries Research Institute of the University of Washington.

The Panel established a Public Participation Committee (PPC) to advise the Panel on opportunities for public involvement and education in all Program activities. The PPC is chaired by a representative from the Suquamish Tribe and staffed by representatives from the Muckleshoot Tribe, NOAA/NMFS Restoration Center NW, The City, and King County.

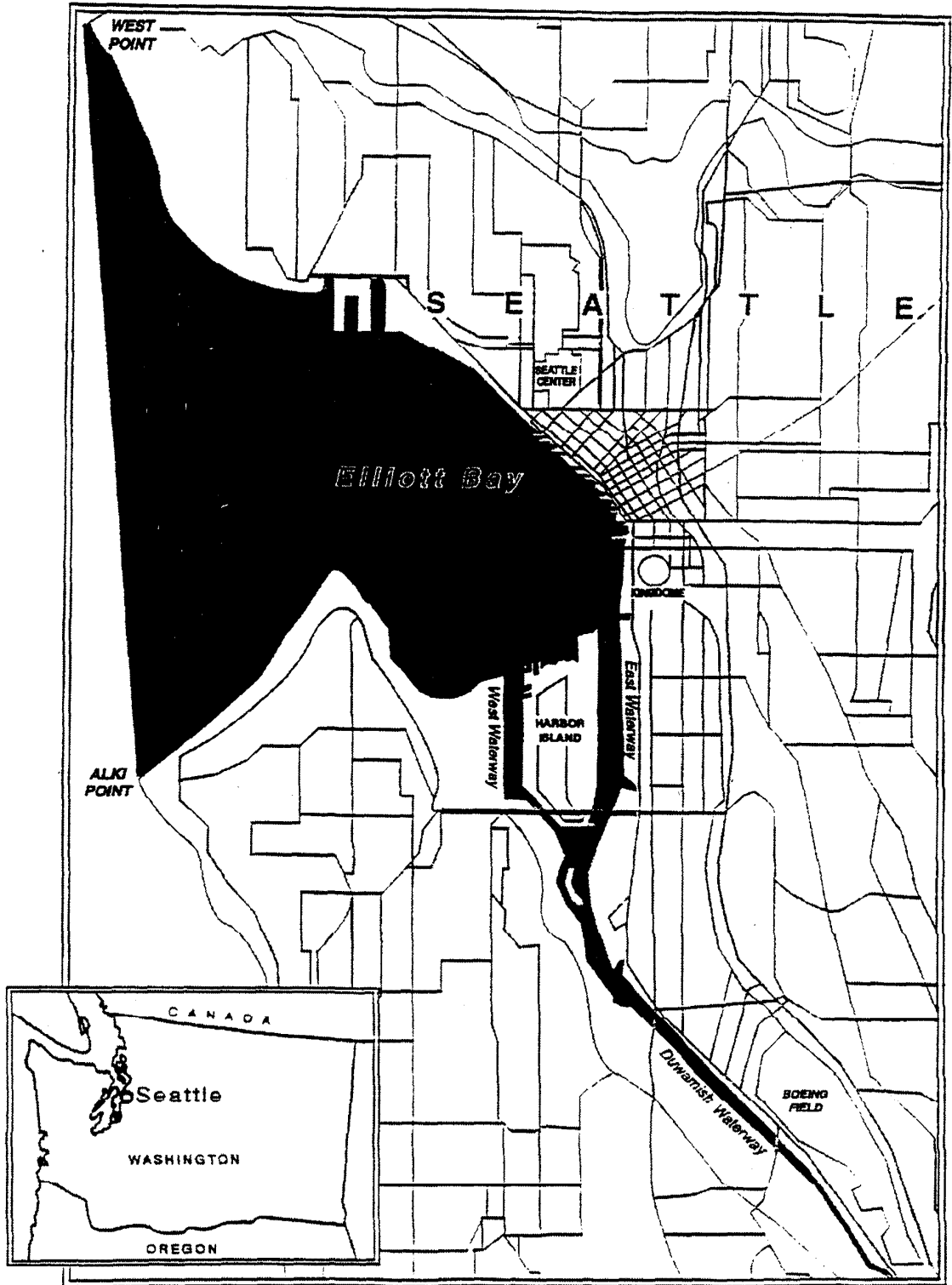
NOAA, through its National Marine Fisheries Service (NMFS) Restoration Center and NOAA General Counsel/Damage Assessment representatives have been delegated by the Panel duties and responsibilities of "Administrative Director" (Director). The Director manages and maintains the Administrative Record, is responsible for logistics and planning of Panel and Technical Work Group Meetings, for the dissemination of Panel documents, and information requests. The Director is also responsible for and tracking of resolutions, disbursement, in-kind credit granted and court registry account activity.

The Panel, the Habitat Development and Sediment Remediation Technical Working Groups, the Public Participation Committee, Budget Committee, and the Administrative Director comprise the managerial, technical, outreach, and administrative components of the Elliott Bay/Duwamish Restoration Program.

## **Geographic Boundaries**

The area encompassed by the settlement includes Elliott Bay eastward of a line between Alki Point and West Point including the shoreline ten meters upland from the mean high water line within Elliott Bay, and the Duwamish River from the river mouth to the head of navigation (see figure 1.). For purposes of habitat development, the covered area includes tributaries to the Duwamish River.

## Area Covered by Settlement





## 1996 Program Chronology

### January

- King County distributed a letter from Seattle City Light which outlined alternatives for implementation of a habitat development different from the proposed Elliott Bay/Duwamish Restoration Panel (EBDRP) Project. Attached to the letter was an outline of the County's general understanding of the project alternative proposal.
- The Pier 53/55 Monitoring Report was distributed by King County.
- The SRTWG reported that additional PCB sampling grid samples at Norfolk had been analyzed.
- Phase 1.5 sample results for Diagonal Duwamish were distributed.

**RESOLUTION 1996-01 was adopted authorizing King County up to \$32,578.80 to: develop a Sampling and Analysis plan for phase 2 of Duwamish/Diagonal; Sampling and Analysis plan development for Norfolk; and the completion (in conjunction with the City) of a Health and Safety Plan for the Waterfront Cleanup.**

- The HRTWG reported that sites 1 & 2 (up river in the Turning Basin Geographic Focus Area) had been ranked. A table was distributed showing them to be grouped high. This ranking was done to serve as a contingency for the City Light North site.
- Seaboard Lumber purchase and sale agreement was signed.
- A request was made by the Administrative Director for reimbursement requests from all trustees as well and cost accounting information (in-kind services from the City and KC) in order to reconcile resolutions passed by the Panel and Court Registry Account activities.

### February

- A new mailing list was developed by the City for the Central Waterfront Cleanup Project.
- High PCB concentrations were found during sampling at the Norfolk CSO cleanup. These "hotspots" of PCBs are proximal to the Boeing outfalls. Scenarios for clean-up were discussed.
- The City was tasked with the preparation of a Source Control Report to be submitted in March.
- The Seaboard Lumber level II site assessment was planned to proceed simultaneously with design contractor selection. The sediment sampling scope and budget have been agreed upon.
- The HDTWG held many discussions with Seattle City Light staff with regard to acquisition of the City Light North property. The HDTWG restated their interest in creating an intertidal channel with natural stream characteristics (including slope, meander etc.,). Concern was expressed

that a highly engineered alternative presented by the property owner, (Seattle City Light) compounded by Shoreline Management Act concerns expressed by City Light would prevent this intention from reaching fruition.

- City Light staff discussed potential habitat benefits of King County/Seattle City Light Hamm Creek daylighting and intertidal habitat proposal:
  - \* Provides year round fish passage to Hamm Creek.
  - \* Provides approximately 2,000 feet of low gradient rearing habitat (perhaps critical over-wintering habitat for coho fry).
  - \* Provides access & passage to habitat, both spawning and rearing, in the upper basin.
  - \* Provides 1/2 acre of intertidal habitat at the mouth of the stream.
  - \* The City Light South property provides approximately 1 1/2 acre intertidal habitat and approximately 1 to 1 1/2 acre of upland habitat.
- The idea of revisiting potential habitat restoration sites 1, 2 and City Light and collecting outstanding information necessary to make a decision regarding the proposed project was suggested. Information necessary was stated to be: real estate values; resource value gains; cost of the actual restoration.
- A counter proposal reflecting the City Light Engineered Alternative was presented to the Panel by the Chair of the HDTWG and the Administrative Director.

**RESOLUTION 1996-02** tasked the Administrative Director, with U.S. Fish and Wildlife, to draft a letter to Gary Zarker (Seattle City Light) outlining the points of a viable project (as defined by the counter proposal) from the perspective of the Elliott Bay Duwamish Restoration Panel.

### **March**

- The First Quarter public information meeting was postponed until June-July. The PPC was considering a 2-page newsletter for late April or early May distribution summarizing ED/DRP sediment remediation and restoration activities.
- The SRTWG reported that the Central Waterfront Cleanup Work Plan, Sampling and Analysis Plan (SAP), and Health and Safety Plan were in a 30-day public review period which started on March 4th.
- The Diagonal/Duwamish SAP described three areas for Phase II sampling: (1) upstream area using cores for chemistry only; (2) the downstream flat where phthalates predominate - three surface grabs for bioassays and one core; and (3) around the outfall which will use bioassays to define cleanup boundaries. The SAP was reviewed for 2 weeks by SRTWG members before release for a 3-week public comment period.

- King County, as project manager, has been holding exploratory meetings with Boeing regarding the Norfolk clean-up.
- King County Project Management budget for 1996 was presented and totaled \$116,512. A quarterly status report was requested.
- Budget Committee was reconstituted.

**RESOLUTION 1996-03 passed tasking the reconvened Budget Committee with the development of:**

- **Final (1997) budget and status report**
- **Accounting/reporting methods**
- **Exploring alternatives for the \$3 million cap for the balance of the Panel's activities.**

**RESOLUTION 1996-4 approved King County and City of Seattle's project management costs for activities projected through July 1, 1996.**

- The City presented its Source Control Business Update by Basin (3/7/96). Norfolk is shown to be the first basin completed.
- The HDTWG reported on the Washington Department of Fish and Wildlife (WDFW) survey of Elliott Bay; the Project Manager was especially encouraged by preliminary findings of good substrate and biodiversity off of Seacrest Park. Dr. Ray Buckley had concerns about Myrtle Edwards Park due to the Denny Way project and initial diving observations which showed poor substrate and few biological features.
- Seaboard Lumber Level 2 investigations continued as the last tenants vacated. Herrera Environmental sampling contract had been signed. The design consultant selection process was scheduled for 25 March. The project manager agreed to be providing a revised project schedule and budget.
- The Administrative Director distributed a collection of correspondence between the Panel, Seattle City Light (SCL), and local stewards which had accrued since the last Panel meeting. The USFWS stated that we have reached a point where the mutual needs of the Panel and SCL for site can not be suitably met at this time.
- Seattle City Light staff provided information on a stream passage project in the Tolt Watershed which had obstructed salmon passage with a 5% channel to demonstrate one successful application with this grade.
- A position paper in which stated that a similar approach applied to Hamm Creek for grade, entrance configuration, and 24-hour availability at any flow for fish was described by Seattle City Light staff. This approach appeared to function for adult incoming salmon and out-migrant young leaving the system, but technical questions were raised about how well the mouth and lower reaches of reconstructed creek would function as an off-channel juvenile salmonid acclimation area on a daily basis.
- The Muckleshoot representative reported preliminary information on Sites 1 and 2 upriver from the Turning Basin. Site 1 had a reported \$3+

million asking price for 5+ acres. He also investigated integrating habitat restoration into Site 2 (King County Parks) planning. The HDTWG was tasked with the initiation of discussions with King County Parks.

- Discussions were held about hiring consultant to resolve some Duwamish/Hamm Creek Estuary Restoration Project differences between the Panel and Seattle City Light but the Panel felt that both groups had some of the best local expertise already involved in the discussions.
- The HDTWG recommended that the Panel continue to explore restoration options at City Light South and the adjacent Turning Basin Vicinity site as well as at Site 2. The HDTWG will articulate minimum levels of acceptable Panel needs for discussing projects with interest parties.
- The Suquamish Tribal representative agreed to be tasked with the coordination of a written response to Superintendent Zarker expressing our appreciation for Seattle City Light's efforts on the Duwamish/ Hamm Creek Estuary Restoration Project.

#### April

- Washington Department of Transportation (WSDOT) Project Manager for First Avenue South Bridge project reported on the status of various construction projects. Winter is the scheduled opening of the final channel to river.

#### **RESOLUTION 96-05**

- (1) accepted the Suquamish Tribe's Elliott Bay FTE Budget for 1996 (attached) for \$87,744 and stipulates that the budget is reasonable as proposed;
  - (2) authorized the disbursement of funds from the Registry Account in the amount of \$43,872 to the Suquamish Tribe for the Panel's 1/2 share for FTE 1996 budget,
  - (3) authorized the disbursement of funds from the Registry Account in the amount of \$13, 631.93 to the Suquamish Tribe for 1995 EB/DRP Panel Trustee expenses, a single combined payment of \$57,503.93.
  - (4) authorized the disbursement of funds from the Registry Account in the amount of \$3,405.92 to the Muckleshoot Indian Tribe, for 1995 EB/DRP Panel Trustee expenses.
  - (5) authorized the disbursement of funds from the Registry Account in the amount of \$7,827 to the U.S. Fish and Wildlife Service, for 1995 EB/DRP Panel Trustee expenses.
- The Budget Committee reported on the April 27 Budget Committee meeting. The committee endorsed NOAA's request that the report submitted by Ann McKeown (King County), including all information requested in the Consent Decree, be adopted as a model in terms of documentation and cross referencing Panel resolutions. Rather than require frequent reporting, the committee recommended that the Panel

approve budgets with understanding that project managers would discuss anticipated overruns with the appropriate technical working group (TWG). Panel members concurred with these recommendations.

- A final budget was to be prepared after King County and the City met to discuss each agency's estimates.
- The \$ 3 million Planning & Design cap overrun was projected to exceed by \$400,000. The committee made suggestions for reallocating funds in three areas: public meetings into Panel support allocations; creative tradeoffs in project sampling by the TWGs; and Seaboard sampling costs.

**RESOLUTION 95-06** tasked project managers to review past, present, and future budgets to identify opportunities to reduce planning and design costs. The opportunities to be discussed with the respective Technical Working Groups/Committees include reallocating costs of public meetings and information dissemination from planning and design to Panel functions support, cost sharing of sampling and other activities between planning and design and real estate acquisition where real estate acquisition is contemplated, and ensuring that sampling and other activities are compatible with Panel goals.

- The PPC reported that a news update for release in May about Panel activities was being developed. The PPC spent approximately \$2,000 of the 1995 budgeted \$10,000; the unused budget will be carried over to 1996.
- The SRTWG Chair distributed two (map) options for possible remediation at the Diagonal/Duwamish site - with and without additional sampling - and the projected cost ranges which were discussed at the subsequent TWG meeting. The objective of the discussion would be to reduce planning and design costs.
- The County reported on Cooperative Sediment Management Program Pilot Project proposed by several state agencies (\$700K available). A suggestion to use the Waterfront Cleanup as a prospective site, resulted from discussion and was directed to the SRTWG which was tasked to draft a letter of interest. In addition to ongoing coordination activities, the WSDOT Colman Dock remediation to the south might be linked to our Waterfront Cleanup as well possibly as proposed development activities at the Seattle Aquarium to the north.
- The HDTWG reported on the WDFW survey of Elliott Bay; the project manager was especially encouraged by preliminary report of good substrate and biodiversity off of Seacrest Park. Concerns were raised about Myrtle Edwards Park due to the Denny Way project. Initial diving observations showed poor substrate and few biological features.
- WDFW recommended against developing substrate enhancement off Myrtle Edwards park but he felt that the bottom off Seacrest Park was amenable to habitat enhancement. The deep water habitat would require major engineering for prefabricated structures. Three issues need to be addressed early: land ownership concerns of the WDNR, the sediment

cluster site EB-23 from WDOE, and multiple use and compatibility questions concerning marine preserve status, tribal and sport fishing, City Park use, divers and boaters.

**RESOLUTION 1996-07 - In recognition of the need to reduce Planning and Design costs, King County and the City will revise work plans, sampling and analysis plans, and budgets for the Waterfront Clean-up Project, as discussed by the Sediment Remediation Technical Work Group and Panel members on 11 April, 1996 and proceed with sampling based upon the revised budgets.**

- The Panel tasked the Administrative Director to draft a letter to the WDFW project manager stating that a 2-month delay (to 15 June) in the receiving his final report is acceptable, but not the 31 August extension as requested in a letter from him dated 1 April.
- At the Seaboard Lumber Site, Herrera Environmental completed field sampling, including sediment collections with the NOAA Jensen launch.
- The HDTWG received a briefing by King County Parks (and consultants) on the North Wind Weir Park site and exchanged ideas, goals, and budgets.

#### **May**

**RESOLUTION 1996-08 accepted the Muckleshoot Indian Tribe's Elliott Bay Technical Support Budget for 1996 for \$93,672.00 and stipulated that the budget is reasonable as proposed.**

**RESOLUTION 1996-09 authorized the disbursement from the Court Registry Account in the amount of \$21,986.50 to the National Oceanic and Atmospheric Administration for Panel Trustee Expenses (last quarter 1995 and first quarter 1996).**

- The PPC reported that work continues to work together on an "update" letter to the public from the Panel.
- A revised Diagonal/Duwamish sampling station location and budget was distributed. The Sampling and Analysis Plan and the Health and Safety Plan were out for a two week review. Public notification of the availability of these plans was discussed. Comments on the Plans were due by the 17th of May. Sampling begins on the 20th of May. It was noted that this budget was substantially lower than its predecessor.
- Phase I sampling and analysis budget for the Central Waterfront Clean up project was discussed. The property owners did not see the benefit of cooperation at this time.
- The City's Risk Assessor suggested that a contractor be employed to sample beneath the piers. The City investigated and was tasked with providing a cost comparison of 1) bringing in a contractor to sample under the piers

and 2) contracting out all of the central waterfront sampling. The cost comparisons were deferred to the sediment technical working group for discussion.

- The WDOE representative was tasked with supplying the Sediment Technical Working Group with the pros and cons as well as the feasibility of having WDOE manage the Central Waterfront Clean-up project. The SRTWG was tasked with the preparation of a list of questions to ask Ecology regarding managing the project.
- A North Wind Weir concept drawing was presented by the Muckleshoot Tribal representative. The drawing represents approximately 1 acre of habitat. It was suggested that the Panel consider suggest increasing the habitat size and assume more infrastructure contribution. It was also suggested that an alternative, based upon these discussions, be formally presented to Parks. The Habitat Technical Working Group was tasked with the development of a proposal to forward to Parks.

**RESOLUTION 1996-10 formally adopted North Wind Weir as an Elliott Bay Duwamish Restoration Panel Restoration Site.**

- The concept of an artificial reef is not feasible due to cost constraints and was no longer be considered at Seacrest, however, substrate enhancement was still an viable alternative not only at Seacrest but at Duwamish Head as well.
- The City Light North project manager made an application for bond moneys to support City Light North project development. This application listed the Panel and the Corps of Engineers as supporters of the project. The bond was up for vote in November 1996. It was stated that the Panel was no longer considering being lead on this project.
- At the Seaboard Lumber site, Holland America stormdrain negotiations were terminated; the Panel agreed to work around the constraints the stormdrain will potentially present to habitat development.

**June**

- The Budget Committee, after consideration of alternatives such as (but not limited to) holding projects in abeyance (Central Waterfront Clean-up), delegating project management of the Waterfront Clean-up to Ecology and/or Army Corps of Engineers, and discontinuing projects, recommended an amendment to the Consent Decree. The amendment would allow for the combination of the Panel Function Support cap (\$2 million) and the Planning and Design cap (\$3 million) for a total cap of \$5 million into a single category. The City and KCWPC agreed that combining Planning and Design funding with that of Panel Function Support is a viable option and support it; however, it was stipulated that

consensus is hinged upon the inclusion of a delay of the balloon payment contingent upon the development of a scope, schedule and budget for further in-kind services beyond 1997.

- It was restated "for the record" that King County was not interested in combining the Planning and Design and Panel Function Support moneys without a change in the balloon payment schedule.
- The Budget Committee was tasked with developing a scope, schedule and budget for all existing and anticipated projects. This task will be completed no later than the September Panel meeting.
- The Budget Committee was tasked with developing a budget for 1997 no later than the September Panel meeting.
- There was discussion that an amendment to the Consent Decree might include more than just the budget items of concern.
- NOAA was tasked with drafting a list of past/present Panel issues with the intent of further discussing these items and forwarding them to counsel by June 13th.

**RESOLUTION 1996-11** The EB/DRP, in anticipation of problems of exceeding the Planning and Design budget limitations, supports the concept of combining the Planning and Design (\$3 million limitation) and Panel Function Support (\$2 million limitation) categories into a single fund category (limited to \$5 million). It is understood that the City of Seattle and King County Water Pollution Control will require an extended payout schedule based upon detailed scopes, schedules and budgets for all existing and anticipated projects. The Budget Committee will develop these written scopes, schedules and budgets no later than the September Panel meeting. The Administrative Director will request the Lead Counsel to convene a meeting of the Panel Member Counsels to coordinate the amendment process.

- A presentation was given by King County Water Pollution Control: the discussion was with regard to a CSO discharge and source control study that was being conducted by KCWPC. A discussion ensued as the CSOs which were being included in the study are: Harbor Island, Hanford, Chelan and Norfolk. The overall objectives of the study were to: 1) Understand existing (1996-1997) conditions in the Duwamish River and Elliott Bay; 2) Understand the significance of pollutants originating from CSOs relative to pollutants from other point sources by considering the effect on human health and aquatic life; 3) Understand significance of discharging peak flows to the Duwamish River from the East Division Reclamation Plant during storm events which cause the capacity of the effluent transfer system that takes effluent from the Treatment Plant to Puget Sound to be exceeded; 4) Engage regional stakeholders in discussion of where and how to focus regional resources to protect the Duwamish River and Elliott Bay; and, 5) Link the water quality assessment to



watershed management programs currently proposed by the King County Regional Needs Assessment/WDOE/US EPA/Association of Municipal Sewerage Authorities and Environmental Research Foundation.

- The PPC reported that the Panel had an opportunity to participate in Water Weeks. Displays were prepared for the Central Waterfront and Seaboard.
- Sampling proceeded along the Central Waterfront. Sampling under the piers was conducted by a contractor.

**RESOLUTION 1996-12** approved the City of Seattle's in-kind budget request of up to \$15,000.00 for selecting a consultant for the Central Seattle Waterfront Clean-up Project. The budget allows the City to: 1) Evaluate the U.S. Army Corps of Engineers option versus consultant; 2) Evaluate proposals (including review and meeting time); 3) Interview (includes preparation and meeting time); 4) Miscellaneous project manager time; and 5) Printing /advertising/postage costs.

- Sampling was proceeding at Diagonal/Duwamish. Cores were collected in 2 & 1/2 days. It was noted that there appeared to be significant potential for habitat development behind the pier at Duwamish/Diagonal. There was habitat noted on the fringes of the sediment remediation site. It was suggested that the Habitat Technical Working Group get involved with this project as soon as possible.
- The DRAFT Alternatives Evaluation Document for Norfolk was distributed for Panel review. Discussion and a short presentation of the report took place at the subsequent Sediment Remediation Technical Working Group meeting.
- The WDFW report (due June 15) on substrate enhancement along the Elliott Bay shoreline was of interest to the Seattle Parks and Recreation Department with regard to its potential impacts upon diving, boating and traffic in the area. Seattle Parks had already been meeting with SCUBA groups. Seattle Parks and Recreation discussed their interest in cooperation with the Panel on this potential project along the West Seattle Shore.
- The Habitat Technical Working Group drafted and forwarded a proposal to King County Parks with regard to habitat development at the North Wind Weir site. Parks has not responded.
- The Suquamish Tribe Panel member prepared a new and improved (updated) description of both sites 1 and 2 for the concept document.

**RESOLUTION 1996-13** amends the concept document to include the updated site descriptions for sites 1 and 2.

- The DRAFT Environmental Investigation Site Report for Seaboard Lumber was distributed for Panel Review. Holland America proceeded with their storm drain design. The Seaboard project manager requested that Holland America provide the Panel with a cost estimate for moving the drain after its construction since they will not agree to imbed it deeper.

## July

- WSDOT project manager provided an update on the First Avenue South bridge construction.
- It was suggested by the County that a letter of appreciation be drafted WSDOT for the excellent work this project manager has done with regard to the bridge project and dealings with the Panel. The Administrative Director said that this had already been accomplished.
- The cooperative Sediment Management Program selected Bellingham as their demonstration bay.
- NOAA was tasked with drafting a summary of the issues and a time line for the amendment process. The Budget Committee will address questions regarding flexibility, constraints, milestones, penalties and enforcement with the intention of working to develop a process that allows for change.
- NOAA presented a 1997 Draft Budget to the Panel members for review. The draft budget will be discussed in the technical working groups and budget committee meetings.
- The 1997 budget also had attached accounting information from 1992-1996 for the Panel as well as Habitat and Sediment Budgets for review and comment. Panel members agreed to be prepared for a vote on the 1997 Budget in August.
- The PPC Chair scheduled EB/DRP to participate in Water Weeks on September 13th at the Seattle Waterfront Park from 11:00am to 2:30pm. Project displays included the Central Waterfront and Seaboard.
- The preliminary 1995 Annual Report was available.
- The WDFW report was discussed at length. The group expressed general disappointment and dissatisfaction with the work. The form of a response to perceived inadequacy of the report with respect to the original scope of work, and payment were discussed.
- The County distributed a letter addressed to the Administrative Director of the Panel regarding North Wind Weir. King County Facilities and Parks reviewed the intertidal habitat draft concepts proposed. Facilities recommended and Parks agreed to proceed with the preliminary design of the one acre proposal. Attached to the letter is the backup information for fees requested for an amendment to Facility's contract, this included making adjustments to the scope of work and total fees. A site visit was tentatively scheduled for July 25th.

- The Panel was presented with an updated proposal for Army Corps of Engineers Section 1135 funding for the Seattle City Light North project. Apparently the project manager was in search of a joint support letter from the City and County.
- The Muckleshoot Indian Tribe was granted up to \$400K by Metro towards acquisition of a site in the vicinity of the Turning Basin for the purposes of habitat development. SIF funds were provided with the expectation that matching funds be secured.
- The WDOE relayed their skepticism regarding undertaking the management of a large construction project (the Central Waterfront Clean-up) due to the potential cost overruns.
- Core sampling was completed at Diagonal/Duwamish. Preliminary analysis showed high petroleum concentrations at the expected locations. It was suggested that TCLP additions to the analysis be conducted. Analysis of the 6-9' core sections was approved for up to \$2500.00 without returning to the SRTWG.

**RESOLUTION 1996-14:** In accordance with Consent Decree paragraph 10 (a) and Panel Resolution 1992-10, the Elliott Bay/Duwamish Restoration Program Panel (the "Panel of Managers" established by the Consent Decree) hereby authorizes disbursements from the registry account to the payees specified below and as requested by the attached invoices and memoranda.

<u>Payee</u>	<u>Amount of disbursement</u>
Washington State Department of Ecology	\$19,722.62
Elliott Bay, Consent Decree C90-395WD # 001T00019--AA	

**RESOLUTION 1996-15:** In accordance with Consent Decree paragraph 10 (a) and Panel Resolution 1992-10, the Elliott Bay/Duwamish Restoration Program Panel (the "Panel of Managers" established by the Consent Decree) hereby authorizes disbursements from the registry account to the payees specified below and as requested by the attached invoices and memoranda.

<u>Payee</u>	<u>Amount of disbursement</u>
NOAA, Department of Commerce	\$11,818.09

- NOAA developed a package for the Panel which included a time line, issues (past and present) with respect to requesting an amendment to the Consent Decree. NOAA explained the steps of the process outlined and noted that the Department of Justice is a major part of this process.
- Each of the individual parties must make the decision that an amendment is necessary. The subsequent step is to convince DOJ. A statement clearly outlining why an amendment is thought to be the best avenue and for how long the schedule will be extended, with language to show that this requested process will not be repeated is necessary.

- NOAA recommended that individuals to send it up their hierarchy and then talk to their individual legal counsel.

**RESOLUTION 1996-16:** The Elliott Bay/Duwamish Restoration Program Panel (Panel) hereby authorizes the allocation of habitat development property acquisition funds not to exceed \$225,000.00 in support of acquiring a site in the Turning Basin Geographic Focus Area by the Muckleshoot Indian Tribe for habitat development in perpetuity.

**RESOLUTION 1996-17:** authorized King County and the City of Seattle budget request for the remainder of the 1996 Diagonal/Duwamish and Norfolk project management budget, as per Resolution 1996-04.

**RESOLUTION 1996-18:** The Elliott Bay/Duwamish Restoration Program (EB/DRP) Panel approves the King County Water Pollution Control Division (KCWPCD) in-kind budget request for the Pier 53-55 sediment cap 1996 monitoring and report not to exceed \$ 83,880.00.

**RESOLUTION 1996-19:** was passed authorizing a disbursement from the court registry account for payment of the Washington State Department of Fish and Wildlife for Ray Buckley's Elliott Bay Shoreline, substrate enhancement study.

- The City's negotiations with the Seaboard Lumber property owners have resulted in an agreement to cost-share the additional sampling requested.

### **August**

- The Budget Committee presented draft budgets which were to be reviewed by the TWGs and project managers prior to submission to the Panel. The question as to whether source control should be a separate budget item was raised by the Chair of the Budget Committee.
- It was decided that the budget will be based on the items outlined in the Consent Decree and source control will not be included separately (as it is in the NOAA Accounting Spreadsheets). However, source control will be included as a line item, if it is appropriate, on a project basis. The Budget Committee discussed scope, schedule and budget issues of projects.
- Newsletter update has been canceled and a public meeting was suggested in its place. There are habitat and sediment projects that could be easily presented.
- Draft scope, schedule and budgets were intended to be presented to the public and include a summary of when public input will be requested.

The idea was that once, scope, schedule and budgets were adopted this would be advanced notice for public input and the environmental review process.

- Bioassays, chemical and reference sampling has been completed at Diagonal/Duwamish. The bioassay samples arrived at the contract lab late and no longer met protocol requirements, (due to late delivery by UPS) they could not be analyzed. Chemical analysis was not ordered for the compromised bioassay station samples. Chemistry was done for the station samples that were taken for that analysis. Resampling 14 stations (Central Waterfront and Diagonal/Duwamish) was deemed necessary. The King County Prosecutor's Office has been contacted as it appears to be the carrier who is responsible for the late arrival and resulting compromise of the samples. Issues that are in need of discussion are: the need to contract again with Tetra Tech; scheduling for the sampling; and whether or not the Prosecutor's Office would achieve a reimbursement from the delivery company. Sampling could not take place during the last week of August or first week of September due to scheduling constraints. The second week in September was a possibility. The project manager was tasked with providing more information as it became available. The bioassay lab was to also write a letter to the carrier requesting reimbursement for the sampling data lost due to this process.
- Monitoring for the Pier 53 and Denny Way Cap site was scheduled for the next few weeks. The Seafair logboom placement on the Waterfront caused an amendment to the sampling schedule.
- The Draft Evaluation Report, prepared by EcoChem, was mailed and the group was reminded that all comments for the Site Assessment report and Alternatives Evaluation report were to be submitted together, no later than August 22nd. Project dredging costs appear to be approximately \$1 million. Data for Boeing showed a high PCB sample in downstream hotspot. The Norfolk schedule was revised, distributed, and discussed.
- The Diagonal/Duwamish schedule followed that of Norfolk and was in the process of being updated.
- For developing the Environmental Assessment, a budget for King County preparation of the Environmental Assessment and SEPA checklist for the Norfolk Sediment Remediation Project was presented; this budget also included NEPA environmental review documents.

**RESOLUTION 1996-20 approved the in-kind budget request of \$24,581.00 for the preparation of the Environmental Assessment and SEPA checklist for the Norfolk Sediment Remediation Project.**

- King County was in the process of revising and developing a new contract to make available Shoreline Improvement Funds (SIF) funds to the Muckleshoot Tribe. The Administrative Director drafted a letter transmitting the resolution to the Muckleshoot Tribe.

- The HDTWG made a site visit with the North Wind Weir project manager and his County Parks design team. Outstanding issues included the planning and design division between King County and Panel and cultural resource issues which were in need of further discussion and investigation.

**RESOLUTION 1996-21** authorized the City of Seattle to obligate up to 50% of the \$89,643.00 (\$23,820.28) for Phase 3 sampling at Seaboard. King County abstained from the vote.

### **September**

**RESOLUTION 1996-22** authorized the disbursement from the registry account of \$9,229.17 for Administrative Director's expenses for the second and third quarters (January-June) of FY 1995.

- The Administrative Director distributed a letter to Panel Representatives requesting a statement of interest for the management of the habitat development project in the West Seattle Nearshore - Elliott Bay Geographic Focus Area, to be submitted by October 3.
- 1997 draft budget was discussed and modifications were made to the sediment budget.

**RESOLUTION 1996-23** The 1997 Budget was passed as amended.

- The PPC Chair described the Panel's planned participation in Waterweeks which was to be held at Waterfront Park on 13 Sept. from 11 AM to 2 PM.
- The South Downtown Waterfront Master Plan group scheduled a development meeting for 26 Sept.; stakeholder interviews were being planned for later in the fall. The PCC Chair questioned how the Panel wished to be represented in that the individual agencies may also be stakeholders. The Chair of the PPC was tasked with drafting a response, outlining Panel interests and Panel publications available.
- A Special Panel Meeting (In Executive Session for contract negotiations) was scheduled for 12 Noon on 12 Sept.
- The Panel members supported the City's resampling on the Central Waterfront and Diagonal/Duwamish to replace the lost bioassay samples, this sampling was requested ASAP.
- Single page presentations of Scope, Schedule and Budget for each sediment remediation project (Pier 53-54, fixed at \$468,000; Diagonal/Duwamish at \$4,815,000 plus \$518,000 for source control by the City; and Norfolk at \$1,701,000 plus \$15,000 for source control) were distributed by the SRTWG Chair.

- An adjustment in project boundary at the Norfolk sediment remediation site was based on cleaning up to the non-detect (order of 15-20 PPB PCB) level; this will address human health issues, including the PCB hotspot. The consultants will be asked to refine the cleanup numbers (\$4,108.27). The Panel was also asked to amend the contract to cover \$3,376.99 in additional source control-drainage basin development.

**RESOLUTION 1996-24 authorized King County to issue Change Order #3b (Task 240 only) and Change Order #4 to EcoChem, Inc., not to exceed \$7,486 for additional P/D for Norfolk.**

- The HDTWG had a successful meeting with WDNr lease management in August concerning habitat development in the nearshore environment of West Seattle and has a shore walk scheduled for 23 Sept., starting at 7:45 AM at Seacrest Park.

**RESOLUTION 1996-25 adopted the West Seattle Nearshore environment as a project site within the Elliott Bay Geographic Focus Area. At a minimum, this site is defined as extending from mean higher high water to a depth of 100 feet, and from the vicinity of Duwamish Head to the western edge of the West Waterway.**

The Muckleshoot Tribe abstained.

- A County representative reported on discussions which establish an estimate property value at North Wind Weir; King County suggested a value of \$7.50/sq. ft. or, alternately, an updated site appraisal which might cost about \$3,500. Larry continues to work with King County to determine what land acquisition/compensation package will be necessary.
- The TWG has supported the continued King County effort at the City Light North site, but did not recommend Panel action until after the public vote on 17 Sept. (Fields and Streams bond issue) and the US Army Corps of Engineers Sec. 1135 decision (anticipated in October).
- The Panel met to evaluate preliminary negotiation approaches for development of contractor scope and budget for Central Waterfront Remediation Project, as requested by the City of Seattle.

**RESOLUTION 1996-26: authorized the City of Seattle to enter into a contract with the Seattle District of US Army Corps of Engineers, based on the 23 August SOW for the Central Seattle Waterfront Sediment Remediation Project, not to exceed \$322,000 for Tasks 100-300, as amended during the 12 Sept. meeting.**

**RESOLUTION 1996-23: setting forth the 1997 Budget and approved at the 5 Sept. Panel Meeting, was signed by each Panel representative.**

- The final budget presentation sheets for Scope, Schedule and Budget of each EB/DRP proposed project is scheduled for 3 October. The format of that presentation was agreed to be that which was developed by the NOAA.

## October

- Pier 53/55 Capping Project report was distributed.
- The PPC reported on Panel participation in Waterweeks on the Seattle Waterfront. Approximately 60 members of the public stopped at the EB/DRP Booth, including 27 elementary school children.
- The revised 1995 EB/DRP Annual Report was distributed.
- The Norfolk Public Meeting agenda and mailing were discussed. NOAA stated that the federal regulations do not require a public meeting on an EA. However, before the document is released for public review it must be approved by the Headquarters Office in Washington DC. This approval process should not stop the schedule for Norfolk from being met.
- Norfolk AE/SA was distributed - this is the public review draft.
- King County (KC) expressed an interest in the North Wind Weir Project. KC personnel have met and discussed the property and wished to make available a piece of the property (size as yet to be determined) for habitat development.
- KC strongly suggested that the Panel consider requesting a larger piece of property at North Wind Weir.
- It was stated for the record that the County will seek credit for the portion of the property devoted to habitat.
- King County assured the Panel that the open space bond ensures that the property would be kept in perpetuity. Under this bond it is guaranteed to be transferred as a conservation easement.
- The Field & Stream Bond issue was voted down and will not be available to provide funds for the City Light North project.
- The Administrative Director presented a budget summary and solicited comments and contributions for fine tuning these numbers.
- An audit has been suggested, the Budget Committee was tasked with investigating an audit versus accountant exercise scenario.
- The generation of draft amendment language was identified as a priority and in need of being addressed. The City and County stated that, if provided with the requirements and concerns of the Panel, they would develop the language.
- The "Amendment Concerns" document previously developed and distributed by NOAA was again distributed and discussed at length in executive session.
- A formal representation of proposed topics for an amendment to the Consent Decree was developed and drafted by the Administrative Director.



## November

- The Budget Committee Chair provided an accounting review for discussion. The review included estimated budgets through year 2000. Reportedly, Scope, Schedule and Budget process was continuing, the Accountant Scope/Workplan have been developed.
- Various Panel members expressed interest in investigating options for the accounting exercise assignment. U.S. Fish and Wildlife indicated an interest; cost savings will be investigated.
- Press releases and flyers were sent out for the Norfolk Public Meeting scheduled for November 13th. Display boards and slides were produced by King County. The meeting was at Federal Center South.
- The County reviewed core data; 0-3 feet and 3-6 ft sections from Diagonal/Duwamish which revealed significant PCBs-higher at deeper sections. Some PCBs samples exceeded CSL.
- Boeing provided data for areas proximal to the Norfolk outfall. Boeing would not be coordinating with the EB/DRP for downstream clean-up activities at Norfolk.
- It was stated that Tribal fishing issues are one main issue driving the EB/DRP cleanup level at Norfolk.
- Panel members stated that "non-detect" level is an appropriate level clean-up at plant 2; the Muckleshoot Indian Tribe stated that they will make every attempt to make fishing safe at Norfolk and Plant 2.
- NOAA voiced concerns with respect to dewatering the contaminated sediments on the barge, without exceeding receiving water criteria. This comment was made in response to the preferred alternative which has been adopted by Ecology and was finally adopted by the Panel. NOAA needs to ensure there will be no violation of the Clean Water Act.

**RESOLUTION 1996-27** The preferred option for sediment remediation at Norfolk is mechanical dredging with disposal by recycling at a local cement plant and disposal at an approved upland landfill as recommended in the Norfolk CSO Sediment Cleanup Study report. This recommendation is contingent upon completion of the public process and NEPA/SEPA compliance.

- Section 1135 Design Phase has been funded for the Hamm Creek Restoration Project (formerly referred to as City Light North). The project manager requested that the Panel establish a resolution which would allow King County to negotiate acquisition (or right of way, easement, etc.) on behalf of the Panel.
- If negotiations are not successful, acquisition credit for the effort would be nonetheless given in good faith.

- While Hamm Creek/City Light North is still a Panel project, it is not a Panel lead project. Part of the reason why the Panel did not take the lead was that the natural resource payoff (intertidal habitat acreage and design) was not adequate.

**RESOLUTION 1996-28** agreed to participate in the King County Department of Natural Resources habitat development project at the City Light North site. The level of Panel participation shall be commensurate with the Panel's habitat objectives. Preliminary concept designs indicate that approximately one-third (1/3) of the project area is consistent with Panel habitat objectives. Panel contributions would not exceed a proportionate amount of the total project budget. The Panel shall allocate up to \$700,000.00 in real property acquisition contingent upon the availability of funds for construction of the project.

**RESOLUTION 1996-29** authorized \$25,500.00 of the \$700,000.00 City Light North acquisition allocation for activities associated with project management, appraisals and property acquisition negotiations. NOAA and USFWS abstained.

**RESOLUTION 1996-30** authorized up to \$107,749.00 for the King County Department of Natural Resources to coordinate the planning, design and permitting of a site for habitat development at King County Parks and Cultural Resources' North Wind Weir Openspace as substantially outlined in exhibit "A". This authorization is contingent upon King County making available real property of the site to accommodate the attached schematic.

- King County and USFWS drafted proposals to the U.S. Army Corps of Engineers' Ecosystem Restoration supplemental funding for four of the habitat restoration projects; the City will do the same with Seaboard.
- The Muckleshoot Panel member stated that the contract was to be resolved for SIF funds within a week. He had been working with the Corps for a phase 2 study and believes that the Corps has Section 22 funding for this (Turning Basin Vicinity project) so the costs will be cut in half. The phase 1 included a phase 2 sampling plan which will be submitted for review as soon as it is available. This is to discern possible contamination issues.

**RESOLUTION 1996-31** authorized the King County Department of Natural Resources to act as Project Manager for the Elliott Bay Substrate Project and to obligate in-kind services, at a cost not to exceed \$16,000.00 to develop a project plan, schedule and preliminary budget.

- Sharon Metcalf (City) and Bill Blakney (County) spoke to Bob Taylor (NOAA) in order to start drafting language for amendment of the Consent Decree. Taylor will review the language.

## December

- The Budget Committee Chair announced that 1998 - 2000+ budgets were being developed with difficulty resulting from a lack of clarity in planning and design needs. The Chair discussed the Panel Function Support budget and distributed a handout of specifics regarding this budget category.
- It was stated that the County and City were tasked to meet to discuss, along with Ecology), the issue of cutting the cost of the Central Waterfront project.
- The Accountant Excercise Statement of Work drafted by NOAA for the Elliott Bay/Duwamish Restoration Program Panel was distributed. At the request of the Panel, NOAA agreed to undertake the majority of the accounting excercise in-house order to reduce the price of the contract. In addition, the accounting contract will be handled by the NOAA Restoration Center Headquarters.
- NOAA stated that there was accounting information still necessary in order to actually reconcile the budget and resolutions to date. The Panel needs 1992- 1995 City (In-kind services) and 1994 - 1996 (In-kind services) from the County.
- A draft resolution for in-kind service credit was introduced by NOAA for discussion purposes. This resolution was also to be discussed at the Budget Committee Meeting.
- The PPC Chair reported that the Norfolk Public Meeting went well.
- The Pier 53/55 budget, including monitoring report costs and sampling costs were discussed at length and the budget was tabled until more information could be provided to the group.
- The Norfolk SEPA checklist and EA are being finalized. Clean-up Study, Cleanup Decision, and SEPA checklist comment periods were closed but, the EA has not been finalized.
- The SRTWG Chair produced a budget summary which showed the budgets of all the sediment remediation projects (combined) need to be reduced by over 2 million to balance. The Chair's understanding was that his direction was not to take this \$2 million out of Diagonal/Duwamish, but that the Waterfront would be reduced.
- The HDTWG has a schedule for next six months and the purposes and deliverables have been outlined.
- Due to a change in staffing, NOAA will no longer be taking TWG meeting minutes. As agreed to in the bylaws, NOAA will continue to be responsible for Panel Minutes.

## **Public Participation Committee 1996 Summary**

Chair: Margaret Duncan, The Suquamish Tribe  
Telephone: (360) 598-3311

The Public Participation Committee was established to assist the Panel in the development and implementation of its Public Participation Plan. During 1996, the committee continued to maintain the Panel's mailing list, support Panel outreach and educational activities, and provide assistance for public information meetings and special events. The Administrative Record which was developed by the Public Participation Committee in 1992 continues to be updated and maintained by the Administrative Director of the Panel.

### **Outreach and Educational Activities**

During 1996, the committee provided support for two public information meetings and sponsored a "Waterweeks" event on behalf of the Panel.

In January, the Panel sponsored a public information meeting to describe and discuss the proposed central waterfront cleanup project and receive comment on the project Workplan, Sampling and Analysis Plan, Public Participation Plan, and Health and Safety Plan. Presentations were made by Chris Woelfel on behalf of the City of Seattle Drainage and Wastewater Utility (DWU), as project manager, and by Teresa Michelsen, Department of Ecology, concerning the Panel's completed Waterfront Recontamination Study. Curtis Tanner, U.S. Fish and Wildlife Service and Chair of the Panel's Habitat Development Technical Working Group, provided an update on the habitat projects.

During "Waterweeks", members of the committee arranged a display at Waterfront Park and talked with members of the public about the Panel's Pier 53/55 sediment capping project and the proposed Central Waterfront Cleanup project and other sediment and habitat projects sponsored by the Panel. The highlight of the event was the enthusiastic and animated presentation on Panel activities given by Rich Gustav (DWU), to a Bellevue elementary school's third and fourth graders.

In November, the committee again provided support for a public information evening meeting held at Federal Center South. The meeting was preceded by an "open house", giving members of the public an opportunity to chat informally with the Panel and Technical Working Group members about the Panel's progress. Pat Romberg, as Chair of the Sediment Remediation Technical Working Group, described and responded to questions about the proposed Norfolk CSO clean-up project, focusing on the

draft Alternatives Evaluation and Site Assessment report. Brief updates on habitat activities and other sediment remediation proposed projects were also provided.

#### **Panel Documents and Publications**

Publications released, printed or in press during 1996 include the following:

Pier 53/55 Sediment Cap and Enhanced Natural Recovery Area Remediation, Project 1993 Data (Monitoring Report), Panel Publication 11, (December 1995, released in January 1996).

Elliott Bay/Duwamish Restoration Program 1995 Annual Report, Publication 12,

Norfolk CSO Sediment Cleanup Study, Panel Publication 13

Concept Document Addendum No. 1 November 1996, Panel Publication 14

## Budget Committee 1996 Summary

Chair: Margaret Duncan, The Suquamish Tribe

Telephone: (360) 598-3311

The Budget Committee was reconstituted in March of 1996 (Resolution 1996-03) to assist the Panel in its analysis and evaluation of program expenditures and needs. The committee was charged with three immediate tasks:

- 1) final budget development and status reporting,
- 2) the development of accounting and reporting requirements and methods for the Panel members; and
- 3) the exploration of alternatives and solutions to the limitations of the planning and design budget cap.

Committee members agreed to develop a budget for FY 1997 initially, and to work closely with the chairs of the technical working groups in determining budgets that would extend through project implementation. A budget for FY 1997 was subsequently approved by the Panel at its September meeting. The committee continued, through 1996, to develop separate budgets for Fiscal years 1998, 1999, and the year 2000 plus. Development of the annual budgets entailed having detailed scopes, schedules and budgets for each proposed project. The City of Seattle DWU provided a template which was approved as a model. A summary sheet by year and expense category was also developed for all sediment remediation and habitat development projects.

Evaluation of program expenditures and needs resulted in recommendations to develop a scope of work to provide accounting services to the Panel. The primary task was defined as the development of a report of total program expenditures, by major expense categories, incurred, credited or obligated by the Panel through 1996. The major expense categories articulated in the consent decree are Panel Function Support, Planning and Design, implementation (construction and monitoring), Source Control, and real property acquisition. Committee members agreed to recommend that the cost not exceed, \$10,000. The Panel approved the recommendation, and in accordance with Panel procedures, invited Panel members to submit expressions of interest in providing accounting services as defined by the scope of work. In order to save costs, a portion of the work was done under the auspices of the office of the Administrative Director, with plans for review through NOAA offices in Washington, D.C. Work conducted under the scope of work was intended to serve two major purposes. First, the

Consent Decree obligates Metro (King County DNR) and the City of Seattle to provide the balance of required payments to the account registry in 1997. It was believed that the accounting summary would provide a clear understanding of in-kind services credited to date, deposits made through 1996, and the amount of the balance to be contributed in 1997. The second value in undertaking the accounting review was that it was expected to provide a more exact understanding of monies credited, obligated, disbursed under the major categories articulated by the Consent Decree. This information was deemed to be critical to the committee's task of evaluating program expenditures and needs.

While the accounting review was underway, the committee worked with extant project budgets, project managers, the Public Participation Committee and individual trustees to determine whether sufficient monies were available by category to complete the planning and design and the construction/monitoring phases of proposed sediment remediation and habitat development projects and to pay for the panel administrative, public review and participation, and other panel function support costs. Analysis led to the conclusion that the \$3 million "cap" on planning and design monies imposed by the Consent Decree posed significant constraints to the completion of proposed sediment remediation projects. By the end of 1996, it was determined that neither the central waterfront proposed cleanup nor the Duwamish/Diagonal project could proceed without additional planning and design funds. At the same time, analysis suggested that obligations and expenditures through mid 1996 and future needs under Panel Function Support, for which \$2 million had been allocated under the Consent Decree, were lower than originally budgeted. After developing and considering a number of alternatives and solutions to the limitations of the planning and design budget cap, the committee recommended that the Panel consider a Consent Decree amendment which would allow for combining the \$3 million Planning and Design and \$2 million Panel Function Support allocations into one fund. Panel members subsequently approved the "2+3" solution and undertook the task of developing an approach to the amendment process which would provide the unanimity required under the Consent Decree.

By the close of 1996, the Budget Committee was close to completing the 1998, 1999 and year 2000+ budgets and anticipated the completion of the accounting services analysis and review. Final draft project scopes, schedules and budgets, as well as a final draft summary sheet, had been developed for proposed habitat projects, and sediment remediation projects were under review by the sediment remediation technical working group.

## **Habitat Development Technical Working Group 1996 Summary**

Chair: Curtis Tanner, U.S. Fish and Wildlife Service  
Telephone: (360) 753-4326

During 1996, the Habitat Development Technical Working Group continued to work on potential habitat projects within the three Geographic Focus Areas (GFA) chosen for habitat development projects: the vicinity of Turning Basin No., 3 at the upper end of the Duwamish Waterway, the vicinity of Kellogg Island in the lower portion of the estuary, and along shoreline of Elliott Bay in the nearshore environment of the marine system. The working group also continued collaborative efforts established earlier with the Washington Department of Transportation (WSDOT) concerning the First Avenue South Bridge project as it relates to the direct surface connection between the 509 Marsh and the Duwamish. Discussions continued with the U.S. Army Corps of Engineers regarding Section 1135 funds.

### **The Turning Basin GFA**

At the beginning of the year, working group members continued to meet with Seattle City Light staff with regard to acquisition of the City Light North property for a proposed intertidal restoration project. City Light concerns regarding Shoreline Management Act constraints resulted City Light's development of an alternative design for the day lighting of Hamm Creek and provision of approximately 1/2 acre of intertidal habitat at the mouth of the stream. Ultimately, the Panel agreed to the working group's recommendation to adopt a partnership rather than leadership role whereby the Panel would pledge up to \$700,000.00 for real property acquisition contingent upon the availability of funds for construction of the project. (Panel Resolution 1996-28, 29). As project manager, Mike O'Neill, of King County Surface Water Management (SWM), continued to update the working group members throughout the year concerning his progress in securing additional funds needed for the City Light North/Hamm Creek Habitat Restoration project.

Given Panel concerns about the impact of delays and constraints on the City Light North proposed project, working group members evaluated and pursued other sites for potential intertidal habitat restoration projects (Resolution 1995-27), including the North Wind Weir site upstream of the Turning Basin. The Concept Document (June 1994) was amended to include site descriptions and ranking for sites 1 and 2 in the Turning Basin GFA (Panel Resolution 1996-13). By mid-year, the North Wind Weir site (site 2) was formally approved for a Panel habitat restoration project (Resolution 1996-10), and discussions focused on integrating habitat restoration into King County Facilities and Parks planning for the site. Toward the close of 1996,



Michael Lozano, project manager, had incorporated the Panel's proposed intertidal restoration project into the schematic plans and details. At its November meeting, the Panel authorized funds for planning, design and permitting of a habitat restoration project at the North Wind Weir (Resolution 1996-30) contingent upon acquisition of real property which would accommodate the Panel's schematic. King County Department of Natural Resources, Water Pollution Control division (DNR-WPC) continued discussions and negotiations for property acquisition.

The Muckleshoot Indian Tribe continued to update the Habitat Technical Working Group and Panel concerning progress on purchasing property in the Turning Basin vicinity. In July the Panel authorized the allocation of real property funds not to exceed \$225,000.00 in support of the Muckleshoot Tribe's efforts to acquire a site for habitat development in perpetuity (Resolution 1996-16).

#### **Elliott Bay GFA**

In November of 1995, the Washington State Department of Fish and Wildlife was engaged to evaluate the feasibility and the most appropriate techniques for nearshore habitat enhancement activities in the vicinity of Myrtle Edwards Park and Seacrest Park. Based upon that evaluation, the Panel, in September 1996, adopted the West Seattle Shoreline as a project site, with the intention of undertaking nearshore habitat enhancement anywhere from the vicinity of Duwamish Head to the western edge of the West Waterway and from mean higher high water to a depth contour of 100 feet below mean lower low water (NOAA datum) (Resolution 1996-26). King County DNR was selected as project manager and in-kind services not to exceed \$16,000.00 were authorized for the development of a nearshore substrate enhancement project plan, schedule and preliminary budget (Resolution 1996-31). Issues to be addressed included land ownership concerns, the sediment clustered site EB-23, and multiple use and compatibility questions concerning marine preserve status, tribal and sport fishing, City use, drivers and boaters. King County DNR initiated discussions with Washington State Department of Natural Resources concerning property lease or easement options, and working group members anticipated getting underway with project planning and design in 1997.

#### **Kellogg Island GFA**

The Seaboard Lumber site continued to be the focus of Panel efforts for a habitat restoration project within the Kellogg Island GFA. A Purchase and Sales Agreement was consummated during 1996, and the consultant selection process culminated in the selection of Lee & Associates. Herrera Environmental continued with field sampling tasks. Working group members anticipated getting underway with preliminary design work during 1997.

## **Sediment Remediation Technical Working Group 1996 Summary**

Chair: Pat Romberg, King County Water Pollution Control  
Telephone: (206) 684-1220

During 1996, the members of the Sediment Remediation Technical Working Group continued to review reports, proposals and funding requests for the Waterfront Cleanup Study managed by the City of Seattle, the Norfolk and Diagonal/Duwamish Cleanup Studies managed by King County's Water Pollution Control Division (WPC) which also prepares the post construction monitoring reports for the Pier 53/55 Sediment Capping and Enhanced Natural Recovery Area project. The working group also reviewed source control activities conducted by the City of Seattle in the Norfolk and Diagonal Drainage Basins.

### **Elliott Bay Central Waterfront Cleanup Study**

Project Manager: Chris Woelfel, City of Seattle, DWU

The City of Seattle, together with King County produced draft cleanup study documents in January, 1996. The Workplan, Sampling and Analysis Plan, Public Participation Plan and Health and Safety Plan were made available for public comment. On January 23rd, the Panel held a public meeting to present information about the current status of the Seattle Waterfront project and other Panel-sponsored sediment remediation projects. The City received several comments showing concern about the cleanup and sample collection. The Sampling and Analysis Plan and the Health and Safety Plan were revised.

On May 22nd, sediment cores were collected at three locations along the waterfront. On July 16-18, a private contractor and King County collected surface sediments for biological and/or chemical analysis at twenty sites. Due to a shipping error, the bioassay samples did not meet quality control requirements and were not analyzed. However, the sediment was analyzed for chemistry at those stations which were targeted for chemistry-only analysis. King County's Environmental Lab prepared a Quality Assurance (QA) report.

The Panel developed and approved a scope of work for the remainder of the study. The scope included data and analysis requirements, production of a feasibility study, a site assessment report, and an alternatives evaluation report. The City began negotiations with the U.S. Army Corps of Engineers to assist with the scope of work.

Alternatives and solutions to the limitations of the planning and design budget constraints were referred to the Budget Committee, which recommended that the Panel consider a Consent Decree amendment which

would allow for combining of the planning and design allocation with the panel function support allocation so that additional monies could be available to complete the planning and design phase of the project (see Budget Committee 1996 Summary).

#### **Diagonal/Duwamish Cleanup Study**

Project Manager: Pat Romberg, King County Water Pollution Control

Analytical results for Phase 1.5 sampling were available from the KCWPC lab in February, 1996. These results were evaluated by the project consultant (Ecochem) and the SRTWG to arrive at a final plan for Phase 2 sampling. KCWPC produced new documents for both the Sampling and Analysis Plan and the Health and Safety Plan and both were approved by the SRTWG and the Panel.

Phase 2 sampling included four surface grab stations for chemistry analysis alone, seven surface grab stations for both bioassay and chemistry, and 14 coring stations sampled to a subsurface depth of nine feet. The primary chemical driving the cleanup boundary for the Diagonal/Duwamish site was bis(2-ethylhexyl)phthalate, which appeared to have values exceeding the cleanup screening level (CSL) extending for a 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 see if these locations could pass the biological criteria, which would override the chemical criteria values. Sampling for surface grabs and bioassay testing was conducted in August, but the bioassay samples became compromised during shipping, which required that the bioassay stations be resampled in September. Sediment cores were collected in June and sectioned into three foot lengths to determine the depth of contamination.

Analytical results were transmitted from KCWPC to the project consultant and work proceeded on developing the draft Site Assessment Report due in late February 1997. The overall project schedule revised in October 1996 indicated the Alternatives Evaluation Report would be completed in June 1997 and permitting would continue to the end of 1997. Contracting would occur the first part of 1998 and construction the last quarter of 1998. The amount of Planning and Design (P&D) money allocated to sediment remediation projects was insufficient to complete all the P&D costs budgeted for the Diagonal/Duwamish project.

Alternatives and solutions to the limitations of the planning and design budget constraints were referred to the Budget Committee, which recommended that the Panel consider a Consent Decree amendment which would allow for combining of the planning and design allocation with the

panel function support allocation so that additional monies could be available to complete the planning and design phase of the project (see Budget Committee 1996 Summary).

### **Norfolk Cleanup Study**

Project Manager: Pat Romberg, King County Water Pollution Control

KCWPC lab completed chemical analysis of Phase 3 samples and data were provided to the project consultant (Ecochem) and SRTWG in late January. A draft Site Assessment (SA) report was prepared by the consultants and in May provided to the SRTWG for review. A total of 4 chemicals were identified as Chemicals Of Concern (COCs) because these exceeded the CSL values near the outfall; 1. Mercury, 2. 1,4-Dichlorobenzene, 3. Bis (2-Ethylhexyl) phthalate, 4. PCBs. A preliminary cleanup site boundary was developed based on the composite of the 4 COC chemicals. Ultimately the site boundary was expanded beyond the SQS boundary and out to where PCBs were not detectable.

Potential cleanup alternatives were reviewed with the SRTWG to focus on the most probable solutions. Besides the no action alternative, a total of 4 alternatives were retained and costs calculated. Two dredging options were mechanical or hydraulic and each had two disposal options. The draft AE report was prepared and combined with the SA report to form the Norfolk CSO Sediment Cleanup Study document issued in October.

The preferred cleanup alternative was mechanical dredging with a clam shell bucket. Dredged sediment would be placed on a barge for dewatering and transport 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 at Holnam Cement plant, but 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. When dredging was completed, the excavation area would be back filled to the original grade with sediment of similar characteristics to rapidly restore habitat.

The Panel reviewed the Norfolk report and recommended to Ecology that the preferred alternative be used for the Norfolk site. Ecology evaluated this proposal and wrote a draft Sediment Management Standards, Cleanup Action Decision document that approved the preferred option. Both the Norfolk Cleanup Report and the Ecology decision document were given a 30 day public review in November. A public meeting was held on November 13th. There were no objections to the proposal so the permitting process was initiated. NOAA was the lead for the NEPA process and KCWPC prepared the first draft of the Environmental Assessment (EA) document. KCWPC was the lead for the SEPA process and issued the draft DNS check list. By the

end of 1996 KCWPC had nearly completed the Shoreline permit application to the City of Tukwila and the Joint Aquatic Resources Permit Application (JARPA) to the Corps of Engineers. The project schedule, revised in October 1996, showed the permitting process to be completed in mid April 1997 and selection of the dredging contractor with issuance of notice to proceed by the first of November 1997. Dredging the site and backfilling would be completed the last two months of 1997.

#### **Pier 53 - 55 Sediment Cap Monitoring**

Project Manager: Pat Romberg King County Water Pollution Control

The monitoring plan for the Pier 53-55 sediment capping project specifies that monitoring is to be conducted 4 different years: in 1992 shortly after placement, in 1993 one year after placement, in 1996 four years after placement, and in 2002 ten years after placement. Results from samples collected in 1993 showed that the cap was isolating contaminants from migrating up into the bottom of the cap, but that the entire surface of the cap had been recontaminated with elevated levels of LPAHs, HPAHs, and mercury. State sediment standard were exceeded only at one station, but several stations had levels that were about 50% of the SQS value for LPAHs. The one station in 1993 exceeding CSL values for LPAHs and HPAHs was station VG5, which is located in the south eastern part owest to the suspected source. The apparent source of contaminated sediment was a large piling removal project at the ferry-dock immediately south of the cap.

Sampling at the pier 53 - 55 sediment cap was conducted by KCWPC in August 1996. Preliminary evaluation of the data indicate the cap was still isolating the underlying contaminated sediment and there was no erosion occurring at the cap surface. In general, chemical levels measured in surface sediment samples showed a substantial reduction from 1993 conditions for LPAH, HPAH and mercury. At station VG5 only one LPAH (chrysene) and mercury exceeded the SQS.

However, despite these reductions, several new contaminants appeared on the Pier 53 - 55 remediation area for the first time in 1996. These chemicals included phenols, PCBs, pesticides and phthalates. Only two chemicals appeared at all stations and these were phenol and 4-methyl phenol. Station VG5 exceeded the CSL for both chemicals and only two other stations exceeded the SQS for phenol. The source of these new chemicals is unknown, but both phenolic chemicals are found in storm water runoff. The presence of new chemicals that exceed the CSL could have implications for the proposed waterfront cleanup project.

## Source Control 1996 Summary

Chris Woelfel, City of Seattle, DWU  
Telephone (206) 684-7599

The Consent Decree establishing the Elliott Bay/Duwamish Restoration Panel provides for the development of Source Control Goals to protect natural resources and prevent recontamination of sites selected for sediment remediation and habitat development in the covered area. In accordance with the settlement agreement, KC DNR and the City of Seattle, through its Drainage and Wastewater Utility (DWU) area charged with determining what changes and new activities, if any, are needed in addition to or from their ongoing source control programs to protect natural resources and prevent recontamination of Panel projects. KC,DNR and DWU then are responsible for presenting recommendations for changes and actions to the Sediment Remediation Technical Working Group and the Panel for review and comment, and taking actions approved by the Panel.

The Source Control Program goal was adopted in July of 1995 (Resolution 1995-14), together with objectives for the protection of sediment remediation and habitat projects as follows:

Goal: The goal of source control is to protect natural resources and to prevent recontamination of sediment remediation and habitat development projects by controlling potential contaminant sources.

Objectives:

- 1) Sediment - To prevent recontamination of sediments that would exceed site specific cleanup levels by controlling pollutants from upland drainage basins.
- 2) Habitat - To maintain water and sediment quality to support habitat restoration projects by controlling pollutants from upland sources.

Source control activities undertaken by DWU during 1996 were initiated as a result of the Panel's decision to undertake sediment remediation projects at the Norfolk combined sewer overflow/storm drain outfall and the Diagonal Way storm drain outfall/Duwamish Pump Station combined sewer overflow. Efforts focused on the following:

- \* completion of a newsletter program (5 issues)
- \* continuation of the business inspection program
- \* tracing the source of an oil sheen emanating from the Diagonal outfall
- \* responding to routine water quality complaints

The newsletter, the "Duwamish Connection," focused on Best Management Practices (BMPs) designed to reduce contamination in the Duwamish River caused by spills and storm water runoff. In addition to BMPs, the newsletter included improvements made by local businesses, descriptions of habitat, sewer or drainage improvements, and product purchasing guidelines. Over one thousand businesses in the Duwamish Basin received the five-part series.

City field investigators completed business inspections in the Hanford Basin (a subbasin of the Diagonal Way outfall) and the Norfolk Basin and began work in the remaining area of the Diagonal Basin. Staff developed a list of target businesses based on Standard Industrial Classification (SIC) codes. Businesses or industries which had a likelihood of working or storing material outdoors were listed. Staff visited each business, and those that conduct work outdoors received an inspection. Staff offered advice on BMPs and recommended improvements. Over 150 sites were examined in 1996.

An oil sheen was observed to discharge out of the Diagonal Way outfall twice daily at low tide. City staff working in conjunction with the Coast Guard began tracking the source. The size of the basin (1,285 acres), the number of potential sources (hundreds of businesses which use diesel and fuel oil), and tidal complications make the tracking extremely difficult. The City and the Coast Guard continue to work on this problem.

As part of the City's routine water quality response program, staff responded to approximately thirty complaints in the Diagonal and Norfolk basins. The complaints primarily involved oil, soap and paint.

## **Elliott Bay / Duwamish Restoration Program Panel**

### **1996 Resolutions**

Contained in the following pages are the thirty-one (31) Elliott Bay/Duwamish Restoration Panel 1996 Resolutions. The attachments have not been included here for the sake of brevity. The attachments, which are contained in the Administrative Record of the Elliott Bay/Duwamish Restoration Program, may be viewed at the offices of the Administrative Director upon request.

#### **Elliott Bay/Duwamish Restoration Panel**

##### **Panel Resolution 1996-01**

Adopted: January 18, 1996  
Consent Decree: ¶ 13 in-kind services; ¶ 10 (b), planning and design support.

The Elliott Bay/Duwamish Restoration Program (EB/DRP) Panel requests project managers to review past, present, and future budgets to identify opportunities to reduce planning and design costs. The opportunities to be discussed with the respective Technical Working Groups/Committees include reallocating costs of public meetings and information dissemination from planning and design to Panel functions support, cost sharing of sampling and other activities between planning and design and real estate acquisition where real estate acquisition is contemplated, and ensuring that sampling and other activities are compatible with Panel goals.

##### **Panel Resolution 1996-02**

Adopted: February 1st, 1996  
Consent Decree: ¶ 15 Technical Working Groups ¶ 27 Habitat Development and Real Estate Acquisition  
                  ¶ 30 Habitat Development  
Reference:     ¶ 33 The Panel shall, to the greatest extent practicable (be) consistent with the goal of creating or enhancing aquatic or benthic habitat for natural resources.

The Elliott Bay/Duwamish Restoration Program (EB/DRP) Panel authorizes and specifically tasks the Administrative Director, with the Chair of the Habitat Technical Working Group to draft a letter addressed to Gary Zarker, Superintendent, Seattle City Light, outlining the points of a viable and acceptable project design from the perspective of the Panel at the Seattle City Light North property. This Letter is to be considered a counter-proposal to the Phase I proposal presented to the Panel on February 1st, 1996.



### **Panel Resolution 1996-03**

Adopted: March 7th, 1996  
Consent Decree: ¶ 10 (a) Panel Expenses ¶ 11 Annual Budget ¶ 13 In-kind Services

The Elliott Bay/Duwamish Restoration Program (EB/DRP) Panel authorizes the reconstitution of the Budget Committee. The Committee is tasked with 1) final budget development and status reporting 2) the development of accounting and reporting requirements and methods for the Panel members and 3) the exploration of alternatives and solutions to the limitations of the planning and design budget cap. The Committee will report to the Panel at the April 4th meeting.

### **Panel Resolution 1996-04**

Adopted: March 7th, 1996  
Consent Decree: ¶ 11 Annual Budget; ¶ 10 (b), planning and design support. ¶ 13 in-kind services

The Elliott Bay/Duwamish Restoration Program (EB/DRP) Panel authorizes King County Water Pollution Control Division (KCWPCD) and the City of Seattle to continue project management activities as proposed through July 1, 1996. This resolution may be amended based upon recommendations from the budget committee and will be finalized in the annual budget.

### **Resolution 1996-05**

Consent Decree: ¶16 (Suquamish/Muckleshoot FTEs)  
Adopted: April 4th 1996

The Elliott Bay/Duwamish Restoration Program Panel (Panel):

- (1) Accepts the Suquamish Tribe's Elliott Bay FTE Budget for 1996 for \$87,744.00 and stipulates that the budget is reasonable as proposed;
- (2) Authorizes the disbursement of funds from the Registry Account in the amount of \$43,872.00 to the Suquamish Tribe for the Panel's 1/2 share for FTE 1996 budget,
- (3) Authorizes the disbursement of funds from the Registry Account in the amount of \$13,631.93 to the Suquamish Tribe for 1995 EB/DRP Panel Trustee expenses, a single combined payment of \$57,503.93.
- (4) Authorizes the disbursement of funds from the Registry Account in the amount of \$3,405.92 to the Muckleshoot Indian Tribe, for 1995 EB/DRP Panel Trustee expenses.

(5) Authorizes the disbursement of funds from the Registry Account in the amount of \$7,827.00 to the U.S. Fish and Wildlife Service, for 1995 EB/DRP Panel Trustee expenses.

#### **Panel Resolution 1996-06**

Adopted: April 4th, 1996  
Consent Decree: ¶ 13 in-kind services; ¶ 10 (b), planning and design support.

The Elliott Bay/Duwamish Restoration Program (EB/DRP) Panel requests project managers to review past, present, and future budgets to identify opportunities to reduce planning and design costs. The opportunities to be discussed with the respective Technical Working Groups/Committees include reallocating costs of public meetings and information dissemination from planning and design to Panel functions support, cost sharing of sampling and other activities between planning and design and real estate acquisition where real estate acquisition is contemplated, and ensuring that sampling and other activities are compatible with Panel goals.

#### **Panel Resolution 1996-07**

Adopted: April 11th, 1996  
Consent Decree: ¶ 13 in-kind services; ¶ 10 (b), planning and design support. ¶ 27 Habitat Development; ¶ 19 Sediment Remediation.

In recognition of the need to reduce Planning and Design costs, King County Water Pollution Control and the City of Seattle will revise work plans, sampling and analysis plans, and budgets for the Waterfront Clean-up Project, as discussed by the Sediment Remediation Technical Working Group and Panel Members on 11, April, 1996 and proceed with sampling based upon the revised budgets.

#### **Panel Resolution 1996-08**

Consent Decree: ¶16 Muckleshoot FTE

Adopted: May 2nd 1996

The Elliott Bay/Duwamish Restoration Program Panel (Panel) accepts the Muckleshoot Indian Tribe's Elliott Bay Technical Support Budget for 1996 for \$93,672.00 and stipulates that the budget is reasonable as proposed.

### **Panel Resolution 1996-09**

Consent Decree: 10 (a) Panel Expenses

Adopted: May 2nd, 1996

In accordance with Consent Decree paragraph 10 (a) and Panel Resolution 1992-10, the Elliott Bay/Duwamish Restoration Program Panel (the "Panel of Managers" established by the Consent Decree) hereby authorizes disbursements from the registry account to the payees specified below and as requested by the attached invoices and memoranda.

<u>Payee</u>	<u>Amount of disbursement</u>
NOAA, Department of Commerce	\$21,986.50

### **Panel Resolution 1996-10**

Consent Decree: 9(c) planning and study activities, 30 property availability  
1993-19 Designates the Turning Basin as a Geographic Focus  
Area

Adopted: May 2nd, 1996

The Elliott Bay/Duwamish Restoration Program Panel (Panel) hereby resolves that the North Wind Weir site is a choice for a habitat development project in the Turning Basin Geographic Focus Area. The development of this site depends upon several factors including but not limited to a satisfactory proposal for site development and a site design that meets the goals of the Panel in consultation with the Habitat Development Technical Working Group.

### **Panel Resolution 1996-11**

Adopted: June 6th, 1996

Consent Decree: ¶ 10 (a) Panel Expenses ¶ 11 Annual Budget ¶ 13 In-kind  
Services

The Elliott Bay/Duwamish Restoration Program (EB/DRP) Panel, in anticipation of problems of exceeding the Planning and Design budget limitation, supports the concept of combining the Planning and Design (\$3 million limitation) and the Panel Function Support (\$2 million limitation) categories into a single fund category (limited to \$5 million).

It is understood that the City of Seattle and King County Water Pollution Control will require an extended payout schedule based upon detailed scopes, schedules and budgets for all existing and anticipated projects.

The Budget Committee will develop these written scopes, schedules and budgets no later than the September Panel meeting. The Administrative Director will request the Lead Counsel to convene a meeting of the Panel Member Counsels to coordinate the amendment process.

### **Panel Resolution 1996-12**

Adopted: June 6th, 1996  
Consent Decree: ¶ 11 Annual Budget; ¶ 10 (b), planning and design support. ¶ 13 in-kind services

The Elliott Bay/Duwamish Restoration Program (EB/DRP) Panel authorizes the City of Seattle to dedicate up to \$15,000.00 of in-kind service to the selection of a consultant from the Central Waterfront Clean-up Project. The Budget allows the City to : 1) Evaluate the U.S. Army Corps of Engineers option verses that of hiring a private party, 2) Evaluate proposals submitted, 3) Interview potential consultants 4) miscellaneous project manager time and 5) printing, advertising and postage costs.

### **Panel Resolution 1996-13**

Consent Decree: 9(c) planning and study activities, 30 property availability  
1993-19 Designates the Turning Basin as a Geographic Focus Area

Adopted: June 6th, 1996

The Elliott Bay/Duwamish Restoration Program Panel (Panel) hereby resolves to amend the Elliott Bay / Duwamish Restoration Concept Document to include the attached language describing sites 1 and 2 in the Turning Basin Geographic Focus Area.

### **Panel Resolution 1996-14**

Consent Decree: 10 (a) Panel Expenses

Adopted: July 11th, 1996

In accordance with Consent Decree paragraph 10 (a) and Panel Resolution 1992-10, the Elliott Bay/Duwamish Restoration Program Panel (the "Panel of Managers" established by the Consent Decree) hereby authorizes disbursements from the registry account to the payees specified below and as requested by the attached invoices and memoranda.

<u>Payee</u>	<u>Amount of disbursement</u>
Washington State Department of Ecology	\$19,722.62
Elliott Bay, Consent Decree C90-395WD # 001T00019--AA	

### **Panel Resolution 1996-15**

Consent Decree: 10 (a) Panel Expenses  
Adopted: July 11th, 1996

In accordance with Consent Decree paragraph 10 (a) and Panel Resolution 1992-10, the Elliott Bay/Duwamish Restoration Program Panel (the "Panel of Managers" established by the Consent Decree) hereby authorizes disbursements from the registry account to the payees specified below and as requested by the attached invoices and memoranda.

<u>Payee</u>	<u>Amount of disbursement</u>
NOAA, Department of Commerce	\$11,818.09

### **Panel Resolution 1996-16**

Consent Decree: 9(c) planning and study activities, 30 property availability  
1993-19 Designates the Turning Basin as a Geographic Focus  
Area  
Adopted: July 18th, 1996  
Reference: Resolution 1993-02

The Elliott Bay/Duwamish Restoration Program Panel (Panel) hereby authorizes the allocation of habitat development property acquisition funds not to exceed \$225,000.00 in support of acquiring a site in the Turning Basin Geographic Focus Area by the Muckleshoot Indian Tribe for habitat development in perpetuity.

### **Panel Resolution 1996-17**

Adopted: July 18th, 1996  
Consent Decree: ¶ 11 Annual Budget; ¶ 10 (b), planning and design  
support. ¶ 13 in-kind services  
Reference: Resolution 1996-04

The Elliott Bay/Duwamish Restoration Program (EB/DRP) Panel authorizes King County Water Pollution Control Division (KCWPCD) and the City of Seattle budget request for the remainder of the 1996 Duwamish /Diagonal and Norfolk project management budget, as per Resolution 1996-04.

### **Panel Resolution 1996-18**

Adopted: July 18th, 1996  
Consent Decree: ¶ 26; credit for Pier 53 sediment remediation project;  
¶ 13 in-kind services  
Reference: Resolution 1992-20, 1993-09, 1994-01

The Elliott Bay/Duwamish Restoration Program (EB/DRP) Panel approves the King County Water Pollution Control Division (KCWPCD) in-kind budget request for the Pier 53-55 sediment cap 1996 monitoring and report not to exceed \$ 83,880.00.

### **Panel Resolution 1996-19**

Adopted: July 18th, 1996  
Consent Decree: ¶ 9 (c) (h), study activities; ¶ 10 (b), planning and design support;  
¶ 27 (b), habitat development.

The Elliott Bay/Duwamish Restoration Program (EB/DRP) Panel hereby authorizes the disbursement from the court registry account the amount of \$58,690.05 to the Washington Department of Fish and Wildlife for the "Elliott Bay Habitat Restoration Project" Invoice 47797-410203-0496, dated 6/26/96.

### **Panel Resolution 1996-20**

Adopted: August 1, 1996  
Consent Decree: ¶ 13 in-kind services; ¶ 10 (b), planning and design support.  
Reference: Resolution 1992-22 Metro designated as Environmental Review Manager, Resolution 1993-11B Metro as Sediments Manager

The Elliott Bay/Duwamish Restoration Program (EB/DRP) Panel approves the "Estimated Budget for King County WPCD Preparation of Environmental Assessment and Checklist for the Norfolk Sediment Remediation Project". This approval of the budget authorizes KCWPC (formally Metro) to expend up to \$24,581.00 of in-kind services. Credit for these services will be given when the tasks listed in the attached budget are completed to the satisfaction of the Panel and the resulting project environmental documentation and accounting is complete.

### **Panel Resolution 1996-21**

Adopted: August 1, 1996  
Consent Decree: ¶ 13 in-kind services; ¶ 10 (b), planning and design support.  
Reference: 1994-03 Identifies the Seaboard Lumber site as a habitat development site.

The Elliott Bay/Duwamish Restoration Program (EB/DRP) Panel hereby authorizes the City of Seattle to obligate up to 50% \$89,643.00 (\$44,822.00) in property costs for Phase III of the Seaboard Environmental Assessment contingent upon the approval of the Sampling and Analysis Plan (budget appended), and up to \$23,820.28 of planning and design costs for preliminary location of intertidal habitat. It is understood that both of these obligations are predicated upon the results of task 1. These in-kind services will facilitate final land sale negotiations by establishing the extent of known contaminants on the property and determining the extent of excavation through contaminated areas necessary to construct intertidal habitat.

### **Panel Resolution 1996-22**

Consent Decree: 10 (a) Panel Expenses  
Adopted: September 5, 1996

In accordance with Consent Decree paragraph 10 (a) and Panel Resolution 1992-10, the Elliott Bay/Duwamish Restoration Program Panel (the "Panel of Managers" established by the Consent Decree) hereby authorizes disbursements from the registry account to the payees specified below and as requested by the attached invoices and memoranda.

<u>Payee</u>	<u>Amount of disbursement</u>
NOAA, Department of Commerce	\$9,229.17

## Panel Resolution 1996 - 23 1997 Budget

**References:** In accordance with Consent Decree Paragraph 11, the Elliott Bay/Duwamish Restoration Program Panel hereby adopts the 1997 Budget.

**Adopted:** September 5th, 1996

<b>I.</b>	<b>PANEL FUNCTION SUPPORT</b>		
	1. Administrative Director Salary and Overhead		\$ 50,000.00
	2. Public Participation		
15,000.00			
	3. Trustee Reimbursement		<u>80,000.00</u>
		<b>Subtotal</b>	145,000.00
<b>II.</b>	<b>PLANNING AND DESIGN</b>		
	1. Tribal FTEs		
	Muckleshoot Tribe (1/2 X 95,000.00)		47,500.00
	Suquamish Tribe (1/2 X 88,000.00)		<u>44,000.00</u>
		<b>Subtotal</b>	91,500.00
	2. Habitat Development Planning and Design		404,700.00
	3. Sediment Remediation Planning and Design		<u>1,057,000.00</u>
		<b>Subtotal</b>	1,461,000.00
<b>III.</b>	<b>PROJECT IMPLEMENTATION</b>		
	1. Habitat Development		2,524,000.00
	2. Sediment Remediation		<u>1,500,000.00</u>
		<b>Subtotal</b>	\$ 4,024,000.00



### **Panel Resolution 1996-24**

Adopted: September 5, 1996  
Consent Decree: ¶ 13 in-kind services; ¶ 10 (b), planning and design support.  
Reference: Resolution 1993-11B METRO designated as Sediments Manager.

The Elliott Bay/Duwamish Restoration Program Panel authorizes King County WPCD to issue Change Order #3b (Task 240 only, \$3,376.99) and Change Order #4 (\$4,108.27) to EcoChem, Inc. (total not to exceed \$7,486, under in-kind services) for additional planning and design charges from the Norfolk Sediment Remediation Project. Credit for these charges will be given when the tasks listed in the attached change orders are completed and documented to the satisfaction of the Panel.

### **Panel Resolution 1996-25**

Adopted: September 5, 1996  
Consent Decree: ¶ 9 (h)  
Reference: Resolution 1993-19, develop habitat projects in each of three Geographic Focus Areas, including "along the shore of Elliott Bay).

The Elliott Bay/Duwamish Restoration Program Panel adopts the West Seattle shoreline as a project site within the Elliott Bay Geographic Focus Area. At a minimum, this site is defined as extending from the vicinity of Duwamish Head to the western edge of the West Waterway and from mean higher high water to a depth contour of 100 feet below mean lower low water (NOAA datum).

### **Panel Resolution 1996-26**

Adopted: September 8, 1996  
Consent Decree: ¶ 13 in-kind services; ¶ 10 (b), planning and design support.

The Elliott Bay/Duwamish Restoration Program Panel authorizes the City of Seattle to enter into a contract with the Seattle District of the US Army Corps of Engineers, based on the 23 August Statement of Work for the Central Seattle Waterfront Sediment Remediation Project, not to exceed \$322,00 for Tasks 100-300, as amended during the 11 Sept. meeting.

### **Panel Resolution 1996-27**

Adopted: November 7, 1996  
Consent Decree: ¶ 3 Sediment Management Standards ¶.8 (b) remediation investigation;  
¶ 8 (c), plan sediment remediation  
Reference: 1992-16, 1993-21, 1994-08, 1994-14, 1994-16,

The Elliott Bay/Duwamish Restoration Program Panel agrees that the preferred option for sediment remediation at Norfolk is mechanical dredging with disposal by recycling at a local cement plant and disposal at an approved upland landfill as recommended in the Norfolk CSO Sediment Cleanup Study report. This recommendation is contingent upon completion of the public process and NEPA/SEPA compliance.

### **Panel Resolution 1996-28**

Adopted: November 7, 1996  
Consent Decree: ¶ 15 Technical Working Groups ¶ 27 Habitat Development and Real Estate Acquisition  
¶ 30 Habitat Development  
Reference: ¶ 33 The Panel shall, to the greatest extent practicable (be) consistent with the goal of creating or enhancing aquatic or benthic habitat for natural resources.

The Elliott Bay/Duwamish Restoration Program Panel hereby agrees to participate in the King County Department of Natural Resources' habitat development project at the City Light site. The level of Panel participation shall be commensurate with the Panel's habitat objectives. Preliminary conceptual designs indicate that approximately one -third (1/3) of the project area is consistent with Panel habitat objectives. Panel contributions would not exceed a proportionate amount of the total project budget. The Panel shall allocate up to \$700,000.00 in real property acquisition contingent upon the availability of funds for construction of the project.

### **Panel Resolution 1996-29**

Adopted: November 7, 1996  
Consent Decree: ¶ 15 Technical Working Groups ¶ 27 Habitat Development and Real Estate Acquisition  
¶ 30 Habitat Development  
Reference: ¶ 33 The Panel shall, to the greatest extent practicable (be) consistent with the goal of creating or enhancing aquatic or benthic habitat for natural resources.

The Elliott Bay/Duwamish Restoration Program Panel hereby authorizes the King County Department of Natural Resources to enter into property negotiations for acquiring portions of City Light North property for habitat restoration. The Panel further authorizes \$25,000.00 of the \$700,000.00 City Light North land acquisition allocation for activities associated with project management, appraisals and property acquisition negotiations.

### **Panel Resolution 1996-30**

Adopted: November 7, 1996  
Consent Decree: ¶ 15 Technical Working Groups ¶ 27 Habitat Development and Real Estate Acquisition  
¶ 30 Habitat Development  
Reference: ¶ 33 The Panel shall, to the greatest extent practicable (be) consistent with the goal of creating or enhancing aquatic or benthic habitat for natural resources.

The Elliott Bay/Duwamish Restoration Program Panel hereby authorizes up to \$107,749.00 for the King County Department of Natural Resources to coordinate the planning, design and permitting of a site for habitat development at King County Parks and Cultural Resources' North Wind Weir Openspace as substantially outlined in exhibit "A". This authorization is contingent upon King County making available real property of the site to accommodate the attached schematic.

## **Panel Resolution 1996-31**

Adopted: November 7, 1996  
Consent Decree: ¶ 15 Technical Working Groups  
                  ¶ 27 Habitat Development and Real Estate Acquisition  
                  ¶ 30 Habitat Development  
Reference:     ¶ 33 The Panel shall, to the greatest extent practicable (be)  
                  consistent with the goal of creating or enhancing aquatic  
                  or benthic habitat or natural resources.

The Elliott Bay/Duwamish Restoration Program Panel hereby authorizes the King County Department of Natural Resources to act as Project Manager for the Elliott Bay Substrate Project and to obligate in-kind services, at a cost not to exceed \$16,000.00 to develop a project plan, schedule and preliminary budget.

## Cash Disbursements from the Court Registry Account 1996

<u>Resolution</u>	<u>Disbursal Filed</u>	<u>Recipient</u>	<u>Amount \$</u>	<u>Reason</u>
1995-29	05/25/96	Ecology	133,391.22	WF:CY95
1996-09	08/07/96	NOAA	21,986.50	TE:CY95
1996-15	08/07/96	NOAA	6,203.06	AD:07/09/95-09/30/95
1996-15	08/07/96	NOAA	5,615.03	AD:10/01/95-01/06/96
1996-05	08/07/96	USFWS	7,827.00	TE:CY95
1996-05	08/07/96	Suquamish	13,631.93	TE:CY95
1996-05	08/07/96	Suquamish	43,872.00	FTE:CY 96
1996-05	08/07/96	Muckleshoot	3,405.92	TE:CY95
1996-08	08/07/96	Muckleshoot	46,836.00	FTE:CY96
1996-14	08/07/96	Ecology	19,722.62	TE:CY95

**Subtotal of Disbursements:**

**\$ 305,491.28**

AR: Administrative Director

FTE: Tribal Full Time Equivalent

HD: Habitat Development

TE: Trustee Expense reimbursement

WF: Waterfront Recontamination Study

## Accounting (1996 Tracking)

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	Cont\$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	46,836.00	Muckleshoot	FTE Budget		46,836.00	Muckleshoot		46,836.00						
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 Norf	24,581.00										
1996-21	44,822.00	City	SL III 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	16,000.00	KCDNR	EBNS	16,000.00										
Subtotal	2,065,962.36			\$1,603,943.08	169,100.06		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)														