



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
Office of General Counsel
Suite 4470
501 West Ocean Boulevard
Long Beach, CA 90802

January 29, 2016

Via Certified Mail

Contact Name
Company Name
Address
City, State, Zip

RE: Notice of Intent, Lower Duwamish property:
King County Washington Tax Parcel(s):

The Elliott Bay Trustee Council is beginning to develop an injury assessment for natural resource damages in the Lower Duwamish Waterway and the East and West Waterways of Harbor Island. You are receiving this Notice because you may be a potentially liable party that has contributed to the release of hazardous substances that have injured natural resources. The Elliott Bay Trustee Council is inviting you to participate in a cooperative process to perform the injury assessment.

The Elliott Bay Trustee Council (Trustees), described below, have concluded their preliminary investigation of potential injuries to natural resources under their trusteeship which have occurred as the result of releases of hazardous substances into the environment at and from the Harbor Island, Lower Duwamish Waterway, and Lockheed West Superfund Sites each of which was placed on the National Priorities List in 1983, 2001, and 2007, respectively (collectively "the Sites").

Elliott Bay Trustee Council (collectively referred to as "Trustees"):

- United States of America, on behalf of the United States Department of Commerce, acting through the National Oceanic and Atmospheric Administration ("NOAA"), and the United States Department of the Interior;
- The State of Washington ("the State") through the Washington State Department of Ecology;
- The Suquamish Tribe; and
- The Muckleshoot Indian Tribe.

This investigation has focused on releases from the Sites as a result of past industrial operations. Pursuant to the Natural Resource Damage Assessment Regulations, 43 C.F.R. Part 11, the Trustees for these three Sites completed a Pre-Assessment Screen which can be found in the Administrative Record for the Sites at www.darrp.noaa.gov.¹ The findings, conclusions, and determination therein are hereby adopted and fully incorporated in this Notice.

Information gathered by the Trustees and presented in the Pre-Assessment Screen form the basis of the Trustees' conclusions that the following criteria, as set forth in 43. C.F.R. § 11.23 (e), have been met:

1. A release of hazardous substances has occurred.
2. Natural resources for which the Trustees may assert trusteeship under CERCLA [Comprehensive Environmental Response, Compensation, and Liability Act of 1980] have been, or are likely to have been adversely affected by the release.
3. The quantity and concentration of the released hazardous substances is sufficient to potentially cause injury to natural resources for which the Trustees may assert trusteeship under CERCLA.
4. Data sufficient to pursue Natural Resource Damage Assessment are available or likely to be obtained at a reasonable cost.
5. Currently implemented and planned response actions are not expected to remedy the injury to natural resources without further action.

The Trustees have also completed a Programmatic Restoration Plan and Programmatic Environmental Impact Statement which is available at: www.darrp.noaa.gov.²

Based on all of the above, the Trustees will proceed with a Natural Resource Damage Assessment of the Harbor Island, Lower Duwamish River, and Lockheed Superfund Sites. This is your formal invitation and notification of your opportunity to participate in the development of the type and scope of the Assessment Plan and subsequently in the performance of the assessment. Also, potentially responsible parties who are interested in participating in the assessment planning and implementation are requested to pay for all phases of the injury assessment. Please note that if you believe you are not responsible for damage to natural resources associated with the Harbor Island, Lower Duwamish Waterway, and Lockheed West Superfund Sites, you will have an opportunity to offer facts and information that support your contention.

¹ Document title "Final Pre-Assessment Screen for the Lower Duwamish River. Elliot Bay Trustee Council, December 2, 2009" can be found under the About DARRP tab, in Case Documents, Northwest Section, using the Lower Duwamish River, WA link, Restoration Section, Preliminary Assessment.

² Document title "Final - Lower Duwamish River NRDA Restoration Plan and Programmatic Environmental Impact Statement (2013)" can be found under the About DARRP tab, in Case Documents, Northwest Section, using the Lower Duwamish River, WA link, Restoration Section, Programmatic Restoration Plan.

Please provide a response to this Notice within 30 days of your receipt of this letter indicating your intentions. Your response should provide a primary contact person and should be submitted as either a hard copy or email to:

Laurie J. Lee
NOAA Office of General Counsel
Natural Resources Section
501 W. Ocean Blvd., Suite 4470
Long Beach, CA. 90802
Laurie.Lee@noaa.gov

Sincerely,

Laurie J. Lee
Attorney Advisor
Natural Resource Section
NOAA General Counsel Office

TEMPLATE