

FINDING OF NO SIGNIFICANT IMPACT
for the Lower Duwamish River Natural Resource Damage Assessment:
General Recycling of Washington Habitat Project, Seattle, King County, Washington
Final Restoration Plan and Environmental Assessment

I. Purpose of Finding of No Significant Impact (FONSI): The Council on Environmental Quality (CEQ) Regulations direct agencies to prepare a Finding of No Significant Impact (FONSI) when an action not otherwise excluded will not have a significant impact on the human environment (40 CFR §§ 1500.4(b) & 1500.5(b)). To evaluate whether a significant impact on the human environment is likely, the CEQ regulations direct agencies to analyze the potentially affected environment and the degree of the effects of the proposed action (40 CFR § 1501.3(b)). In doing so, agencies should consider the geographic extent of the affected area (i.e., national, regional or local), the resources located in the affected area (40 CFR § 1501.3(b)(1)), and whether the project is considered minor or small-scale (NAO 216-6A CM, Appendix A-2). In considering the degree of effect on these resources, agencies should examine both short- and long-term effects (40 CFR § 1501.3(b)(2)(i); NAO 216-6A CM Appendix A-2 - A-3), and the magnitude of the effect (e.g., negligible, minor, moderate, major). CEQ identifies specific criteria for consideration (40 CFR § 1501.3(b)(ii)-(iv)). Each criterion is discussed below with respect to the proposed action and considered individually as well as in combination with the others.

In preparing this FONSI, the Federal Trustees reviewed the *Lower Duwamish River Natural Resource Damage Assessment: General Recycling of Washington Habitat Project, Seattle, King County, Washington Final Restoration Plan and Environmental Assessment (RP/EA)*, which tiers from and uses criteria established in the 2013 *Final Lower Duwamish River NRDA Restoration Plan and Programmatic Environmental Impact Statement (RP and PEIS)* to evaluate specific restoration alternatives and select a preferred alternative. The Final RP/EA was prepared by the Elliott Bay Trustee Council, including the United States Department of the Interior; the National Oceanic and Atmospheric Administration (NOAA), on behalf of the United States Department of Commerce; the Muckleshoot Indian Tribe; the Suquamish Indian Tribe of the Port Madison Reservation (Suquamish Tribe); and the State of Washington represented by the Washington State Department of Ecology (State lead Trustee), and the Washington State Department of Fish and Wildlife (collectively, the Trustees).

The Final RP/EA was prepared by the Trustees to identify and analyze an action, the General Recycling of Washington Habitat Project (Project), to restore natural resources injured and natural resource services lost due to releases of hazardous substances and discharges of oil into the Lower Duwamish River (LDR). General Recycling of Washington (General Recycling) entered into a proposed consent decree¹ with the Trustees, which was lodged concurrently with the public notice and comment period for this Final RP/EA. In this Final RP/EA, the Trustees analyzed the restoration action proposed in the consent decree: to accept the Project in settlement. The Project is projected to generate ecological benefits equivalent to 158.6 discounted service acre years (DSAYs). The estimated ecological benefits to be created by the

¹ As used in this Final RP/EA, General Recycling refers to all Defendants named in the proposed consent decree that was concurrently lodged with the Draft RP/EA, which are General Recycling of Washington, LLC, The David J. Joseph Company, and Nucor Steel Seattle, Inc.

Project will offset the injuries to natural resources resulting from releases of hazardous substances and discharges of oil from the General Recycling property.

II. Approach to Analysis: The Preferred Alternative involves the Trustees accepting the Project in settlement from General Recycling to compensate for injuries caused by activities at the General Recycling property. The Final RP/EA is an integrated document to efficiently address the Trustees' dual requirements to comply with both the National Environmental Policy Act (NEPA) and Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA).

- A. The scale of the proposed action will be locally substantial but would not contribute to a significant impact at a regional or greater level.
- B. The proposed action will not cause a significant effect to any specific resource. If an impact is determined to be negligible, minor or moderate, it is not considered to meaningfully contribute to a significant impact.
- C. The proposed action and the potential impacts from it are consistent with the Final RP/EA. If the collective effects of the proposed action were added to possible effects of other related actions, their cumulative impacts would still only be local and the magnitude would not be significant at a regional or greater scale.

III. Geographic Extent and Scale of the Proposed Action: The Preferred Alternative involves the Trustees accepting the Project in settlement from General Recycling to compensate for injuries caused by activities at the General Recycling property. The Project is not yet constructed, but once implemented, will create approximately 2.33 acres of new, on- and off-channel marsh, intertidal, riparian, and vegetated slope habitat and protect an additional 0.56 acres of subtidal habitat on and adjacent to the LDR. The Project will also remove an existing bulkhead wall (260 linear feet) and ecology block retaining wall (130 linear feet), shoreline debris, and approximately 100 creosote-treated pilings.

IV. Degree of Effect: The Final RP/EA analyzes potential environmental impacts associated with the proposed action that constitute the Preferred Alternative. The analysis is summarized in Section 4 in the Final RP/EA. The Preferred Alternative is unlikely to have significant adverse impacts on the environment. This alternative would meet the mandates under Natural Resource Damage Assessment (NRDA) statutes and regulations to restore natural resources and services injured by releases of hazardous substances and is consistent with the goals and objectives outlined in the Final RP/EA. The Preferred Alternative would have direct beneficial effects and only minor, short-term adverse impacts. The No-Action Alternative would not have direct beneficial effects or adverse impacts but would allow the degraded conditions of habitats in the Lower Duwamish River to continue, which would not be consistent with the Final RP/EA.

- A. The proposed action cannot reasonably be expected to threaten a violation of Federal, State, or local law or requirements imposed for the protection of the environment. The Project included in the Preferred Alternative will undergo all required reviews and permitting prior to implementation.

- B. There are no substantial adverse public health or safety impacts expected from the proposed action. General Recycling will conduct soil, sediment, and groundwater sampling per a Trustees approved Sampling and Analysis Plan/Quality Assurance Project Plan to determine if any remedial action will be conducted in conjunction with construction of the Project. General Recycling will also sample all imported material and all constructed habitat surfaces to confirm they are clean for all constituents per the Lower Duwamish River NRDA Trustee Injury Thresholds and the Sediment Cleanup Objectives presented in Table 8-1 of the Washington State Department of Ecology's Sediment Cleanup User's Manual.
- C. The degree to which the proposed action is expected to affect a sensitive biological resource, including:
- a. The proposed action is not expected to adversely affect Federal endangered or threatened species or their designated critical habitat. Rather, the Project implemented under the Preferred Alternative is expected to benefit juvenile salmonids, potentially including Endangered Species Act-listed species such as Puget Sound Chinook Salmon and Puget Sound Steelhead that are known to migrate through the LDR, and will also benefit other fish species, migratory birds, and wildlife by improving off-channel marsh, intertidal, and riparian habitats. Any potential adverse impacts are expected to be short term and minor, primarily associated with construction and maintenance activities.
 - b. The proposed action is not expected to adversely affect marine mammals, their critical habitat, or other non-target species.
 - c. The proposed action is not expected to cause substantial damage to Essential Fish Habitat (EFH) as defined under the Magnuson-Stevens Fishery Conservation and Management Act. Rather, the Project will result in direct beneficial impacts to EFH with the creation of new intertidal marsh and mudflats. Juvenile salmonids and other fish will be able to rest and forage in the new off-channel habitat, including new EFH, being created at the Project site.
 - d. The proposed action is not expected to adversely affect bird species protected under the Migratory Bird Treaty Act.
 - e. There are no national marine sanctuaries or monuments in the Project area.
 - f. The proposed action is not expected to adversely affect vulnerable coastal ecosystems, including but not limited to, deep coral ecosystems. There are no coral ecosystems in the Lower Duwamish River.
 - g. The proposed action is not expected to have any substantial adverse impacts on biodiversity or ecosystem function. Rather, the Project implemented under the Preferred Alternative is expected to result in beneficial direct and indirect long-term impacts to the environment by creating and preserving important habitat for natural resources. Any potential adverse impacts are expected to be short term and minor, primarily associated with construction and maintenance activities.
- D. The proposed action is not expected to adversely affect National Historic Places or scientific, cultural, or historical resources. There are no known historic resources within the Preferred Alternative project area. The Trustees will ensure coordination with the Muckleshoot Indian Tribe, the Suquamish Tribe, and the Washington State Department

of Archeology and Historic Preservation in accordance with Section 106 of the National Historic Preservation Act.

- E. The proposed action is not expected to have a disproportionately high and adverse effect on the health or the environment of minority or low-income communities, compared to the impacts on other communities (EO 12898). Rather, the Project is anticipated to have beneficial impacts to the communities in the vicinity of the Project area, including minority populations and Tribes, by improving water quality; creating and enhancing habitat for recreational boaters and fishers; creating employment opportunities for workers and the local businesses they support; and improving local resilience to increases in frequency of extreme weather events such as flooding associated with precipitation and storm surge.
- F. The proposed action is not expected to result in the introduction, continued existence, or spread of noxious weeds or nonnative invasive species known to occur in the area or actions that may promote the introduction, growth, or expansion of the range of the species. The contractors selected will be responsible for ensuring all equipment is clean and clear of non-indigenous species prior to mobilizing to the Project site.
- G. The proposed action is not expected to have a substantial impact to any other physical or biological resources within the Project area or over which there is substantial uncertainty or scientific disagreement.

V. Other Actions Including Connected Actions:

The proposed action is one component of a potential suite of restoration actions that have already occurred or will occur in the LDR and its vicinity, including those conducted by the Trustees (as described in Section 4.4 of the Final RP/EA). Additionally, the LDR is subject to related CERCLA remedial activities and source control measures conducted by the EPA and the Washington State Department of Ecology. Alone, or in combination with future restoration and remedial activities conducted pursuant to federal and/or state law, it is unlikely that the Preferred Alternative will result in significant cumulative impacts to the human environment. The Preferred Alternative's physical footprint of approximately 2.89 acres is a relatively small area in the context of the LDR. It will be an area permanently altered from industrial infrastructure to habitat, but given the size of the LDR, creation and enhancement of habitat as part of the Preferred Alternative will have minor beneficial impacts, to the recreation, land-use, and socioeconomic activity in the LDR.

VI. Mitigation and monitoring:

Potential impacts to soil, water, and biological resources will be minimized or mitigated through best management practices (BMPs), permit conditions, and consultation requirements if/as required by other statutes.

General Recycling will conduct pre- and post-restoration monitoring during the initial 10 year maintenance and monitoring period, with Trustee review and oversight. Physical monitoring will

address intertidal habitat area integrity, material stability, habitat mix stability, tidal circulation, site salinity, and elevation/channel morphology. Biological monitoring will address areal coverage and survival rates of marsh and riparian plantings, invasive species areal coverage in marsh and riparian areas, and the success of herbivore control measures. Additional monitoring requirements will include sampling to determine fish and invertebrate prey resources that are present within the footprint of the Project, evaluation of sediment/soil structure, and evaluation of chemical contamination in surface sediments at the Project area over time. Physical and biological parameters will have associated success criteria and contingency measures if success criteria are not met.

DETERMINATION

The CEQ NEPA regulations, 40 CFR § 1501.6, direct an agency to prepare a FONSI when the agency, based on the EA for the proposed action, determines not to prepare an EIS because the action will not have significant effects. In view of the information presented in this document and the analysis contained in the supporting Final RP/EA prepared for the Elliott Bay Trustee Council, it is hereby determined that the Project identified by the Trustees as the Preferred Alternative in this Final RP/EA will not significantly impact the quality of the human environment. The Final RP/EA is hereby incorporated by reference. In addition, all beneficial and adverse impacts of the proposed action as well as mitigation measures have been evaluated to reach the conclusion of no significant impacts. Accordingly, preparation of an EIS for this action is not necessary.

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Date

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Date