



Portland Harbor

Cleanup Newsletter

December 2003

THE ENVIRONMENTAL PROTECTION AGENCY (EPA) ADDED PORTLAND HARBOR TO ITS NATIONAL PRIORITIES LIST OF contaminated sites in December 2000. This newsletter presents current information from the ongoing Remedial Investigation and Feasibility Study (RI/FS) and provides a progress update on upland investigations.

Natural Resource Trustees Play Key Role at Portland Harbor Superfund Site

by Helen Hillman, National Oceanic and Atmospheric Administration

SUPERFUND is the nickname for CERCLA (Comprehensive Environmental Response, Compensation and Liability Act), the nation's hazardous waste cleanup law. Regular readers of this newsletter are likely getting familiar with the process EPA is using to plan the cleanup of the Portland Harbor Superfund site. The law establishes this process to clean up hazardous waste sites and protect human health and the environment.

However, there is a whole side of CERCLA that we haven't told you about yet. The law also provides a mechanism to restore natural resources, like fish and birds that have been injured by releases of hazardous waste. That is the role of natural resource trustees. This article spells out the

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Community Advisory Group Meetings Provide a Good Place to Listen and Learn

If you would like to learn more about Portland Harbor, check out meetings of the Portland Harbor Community Advisory Group (CAG). The group meets on the second Wednesday of every month from 6 to 8 p.m. at the State of Oregon Building, 800 NE Oregon Street in Portland. A voting membership of fifteen dedicated volunteers represents many different sectors of the community affected by the contamination and cleanup. The members make decisions using a consensus format, but meetings are open for everyone.

Representatives from EPA and DEQ, as well as those from the Department of Health Services and the Lower Willamette Group, attend the meetings and give updates on the Portland Harbor investigation and cleanup. The meetings also provide a great opportunity for the agencies and organizations to hear about community concerns and priorities.

The next meeting is January 14, 2004. For additional information contact CAG chair Robin Plance at rgplance@hotmail.com or 503-240-1923.

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Trustees Play Key Role at Portland Harbor Superfund Site *(continued)*

(continued on page 2) role of the natural resource trustees at Superfund sites.

First, who are the trustees? Trustees are federal and state agencies, and tribal governments charged with managing and protecting the nation's natural resources. At Portland Harbor, there are nine trustees:

- U.S. Department of Interior, represented by the Fish & Wildlife Service (USFWS)
- National Oceanic and Atmospheric Administration (NOAA)
- Oregon Department of Fish and Wildlife
- Confederated Tribes and Bands of the Yakama Indian Nation
- Confederated Tribes of the Grand Ronde Community of Oregon
- Confederated Tribes of Siletz Indians of Oregon
- Confederated Tribes of the Umatilla Indian Reservation
- Confederated Tribes of the Warm Springs Reservation of Oregon
- Nez Perce Tribe

Natural resource trustees derive their authority under CERCLA from other laws or treaties. For example, NOAA is the federal trustee for anadromous fish, like salmon, because NOAA is charged with managing the nation's fisheries under the Magnuson-Stevens Fisheries Management Act. The tribal governments are trustees because they have treaty-protected rights to fish, hunt, and gather plants in and around Portland Harbor.

Natural resources are things like fish, birds, mammals, and plants. They also include the habitats that are necessary to support animals and plants. So the river itself, the bottom sediments, the groundwater near the river, and the insects, worms, and clams that live in the bottom sediments are all natural resources too.

The natural resource trustees have independent legal authorities under CERCLA. If hazardous substances injure resources under the care of the trustees, the trustees can file legal claims, independent of EPA, against the responsible parties. Any money that the trustees recover must be spent to restore, replace, or acquire resources equivalent to those

lost or injured. The trustees can also recover money they have spent assessing and evaluating the loss of natural resources.

What are the trustees currently doing at Portland Harbor? They are focusing on two things. First, they are coordinating closely with EPA to ensure that EPA's investigation and cleanup includes the natural resources that the trustees are charged with protecting. In this role, the trustees act as technical advisor and advocate. For example, the trustees conducted field investigations to identify habitats for shorebirds and amphibians, and worked with EPA to ensure that these areas will be sampled during the remedial investigation. In the months to come, trustees will help EPA answer questions like *"What concentration of polychlorinated biphenyls (PCBs) in fish tissue makes fish sick?"*

Second, the trustees are working on a natural resource damage-assessment plan. This is similar to a remedial investigation work plan. It will identify resources that the trustees think may be injured; define a strategy for determining the extent of the injury, if any; and list ways that injured resources could be restored. Restoration might include opening up habitat not currently accessible to fish, pulling back steep shorelines to create more beach habitat, or adding native plants along the edge of the river.

The ten responsible parties who have signed the Administrative Order on Consent (AOC) have also stepped forward to assist the trustees with damage assessment. This is somewhat unusual and a positive step. Typically, the trustees conduct the damage assessment by themselves, then sue the responsible parties for damages. This step often happens late in the cleanup process, after EPA has issued a final cleanup plan. At Portland Harbor, the AOC signatories and the trustees agreed to a cooperative assessment approach to take place concurrently with the EPA investigation. The trustees and the AOC signatories are just starting to develop the assessment approach.

Helen Hillman is an environmental scientist with NOAA. She can be reached at 206-553-2101 or at Helen.Hillman@noaa.gov.

NOAA Tool Makes Portland Harbor Data Available to Everyone

Are you interested in seeing the existing data available for Portland Harbor? NOAA has developed a user-friendly database that community members and researchers can use to see what information is available for sediments in the Willamette River.

The database is currently available on CD. You can request it from Helen Hillman (*see email address, page 2*). The website explaining more about the database and how to query it is located at <http://response.restoration.noaa.gov/cpr/watershed/watershedtools.html>.

NEWS OF NOTE

RI/FS Work Plan Moves Toward Completion

The work plan for completing the Portland Harbor Remedial Investigation and Feasibility Study (RI/FS) has been through extensive review. EPA asked for further revisions of the draft work plan earlier this year. The Lower Willamette Group resubmitted this key document to the Agency in November.

EPA and the intergovernmental Technical Coordination Team are currently reviewing the revised final work plan and will decide whether the document can be approved. Members of the Portland Harbor Community Advisory Group and Willamette Riverkeeper, the Technical Assistance Grantee, also plan to review the draft and provide feedback to EPA.

Round 2A Field Sampling Plan Being Revised

Recently, EPA asked for further revisions to the Lower Willamette Group's Draft Round 2A Field Sampling Plan. EPA worked with the intergovernmental team to develop an alternative plan that greatly increases the number of samples and level of effort for the next round of data gathering. The Agency must make sure the sampling program will adequately identify the nature and extent of contamination in the study area, conduct the baseline risk assessment, and determine sediment management areas.

EPA has directed the Lower Willamette Group to prepare a Final Round 2 Field Sampling Plan that includes the data collection similar to the one in EPA's alternative plan, and submit that Final Round 2 Plan to EPA by December 22, 2003. This plan is called Round 2 because a first round of sampling was done in 2002.

Port Begins First Early Action for Cleanup at Terminal 4

The Port of Portland is starting the first Early Action in Portland Harbor to clean up contaminated sediment at Terminal 4. This work will be located in Slips 1 and 3 and submerged lands in between the slips. In October, the Port signed an Administrative Order on Consent with EPA to establish the basic outline for the Port to do the work and reimburse EPA for oversight costs.

This project is considered a "non-time critical" removal action. Before starting the cleanup, the Port will produce an Engineering Evaluation and Cost Analysis (EE/CA). The EE/CA outlines a preferred cleanup alternative and other actions considered. EPA and the Port will invite public comment about the alternatives. After considering public comments, EPA will select a cleanup remedy for Slips 1 and 3.

Opportunities to express concerns related to Terminal 4 will be available throughout the planning and decision-making process.

It Is Important to Control Upland Sources of Contamination

In addition to the ongoing sediment investigation, DEQ has over 70 voluntary cleanup agreements with individual facilities that have contributed contamination to the Willamette River. If you would like to learn more about these facilities and learn what is being done to control sources of contamination, see the DEQ map at the following website: <http://www.deq.state.or.us/nwr/phmap.pdf>.

Just click on an individual facility name, and you will be able to view a summary of general information about the site, site characteristics, information about specific contaminants at the site, and what is being done to clean up the facility.

Since cleaning up sediment contamination is very difficult and expensive, it makes sense to control sources of contamination first, so the river is not recontaminated after cleanup. EPA and DEQ are also encouraging responsible parties to take early action to fix problems prior to the completion of the Portland Harbor remedial investigation and feasibility study.

Funding Available for McCormick and Baxter Cleanup

EPA is pleased to provide DEQ with \$12 million to continue cleanup of the McCormick and Baxter Superfund Site in 2004. This money will enable DEQ to construct a protective cap over areas of contaminated sediment, which pose an unacceptable risk to human health and the environment. Many contaminated sites around the nation were completing for limited EPA cleanup dollars. Governor Kulongoski and other community members stepped forward to emphasize that finishing the cleanup was extremely important to our community and state.

During the past decade, DEQ has spent \$8 million and EPA spent \$15 million on site cleanup activities:

- Removing wood treating chemicals and processing equipment
- Demolishing contaminated structures
- Removing 33,000 tons of contaminated soil
- Recovering 1,900 gallons of creosote from groundwater
- Building an underground barrier around 16-acres of the site to prevent contamination from moving into the Willamette River.

The McCormick and Baxter Superfund Site, a highly contaminated former wood treating facility, was added to the EPA National Priorities List in 1994.

How Will Investigation and Cleanup of the Larger Portland Harbor Site be Paid for?

McCormick and Baxter is located within the boundaries of the much larger Portland Harbor Superfund Site, and media coverage about funding uncertainties has raised questions about how EPA will pay for the investigation and cleanup of Portland Harbor.

Fortunately, for both the taxpayer and the Willamette River, several parties potentially responsible for causing some of the contamination have signed a legal agreement with EPA and are bearing the cost of the remedial investigation and feasibility study for the Portland Harbor.

Later in the cleanup process, EPA will conduct an exhaustive search for additional polluters who will be held responsible for their share of the cleanup cost.

Nationwide, about 70 percent of the costs of Superfund cleanups are borne by responsible parties, and EPA strongly endorses the concept of making the polluter pay. Even the oversight costs of EPA, DEQ, and the tribes are billed to responsible parties. The final share of the cost borne by each party will be determined through a legal process. Public funding will be used at Portland Harbor only to pay a small portion of the cleanup cost where no viable responsible party can be found.

EPA Welcomes Eric Blischke and Sean Sheldrake to the Project Management Staff

Eric Blischke and **Sean Sheldrake** have joined the EPA Portland Harbor project team this fall. Eric comes to EPA on a two-year Interagency Personnel Agreement from the Oregon Department of Environmental Quality. Eric was DEQ's technical coordinator and project manager for the Portland Harbor Site for several years and most recently worked as toxics coordinator for DEQ. Eric will be co-managing the in-water remedial investigation and feasibility study with project managers **Chip Humphrey** in the Portland EPA office and **Tara Martich** in the Seattle EPA office.

Sean Sheldrake is an EPA project manager located in Seattle. Sean will be heading up the Terminal 4 Early Action and possibly other Early Actions for the Portland Harbor cleanup as they are negotiated. Sean has been with EPA for twelve years and is a member of the EPA dive team.

Things We Look Forward To In 2004

- Approved Work Plan
- Approved Field Sampling Plan
- Analyzed and validated fish-tissue data
- Updated Portland Harbor EPA website
- Hearing your questions and concerns about Portland Harbor
- Additional Early Actions

FOR MORE INFORMATION, CONTACT:

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Background

A century of industrial practices left Willamette River sediment contaminated with hazardous substances, such as —

- heavy metals, like mercury,
- polychlorinated biphenyls (PCBs),
- polyaromatic hydrocarbons (PAHs),
- dioxins/furans, and
- pesticides.

EPA is the lead agency for cleaning up contaminated sediments. DEQ serves as lead agency for cleaning up sites on land along the river. EPA and DEQ are working in cooperation with state and federal agencies and tribes to ensure a cleanup that meets the needs of everyone.

Information repositories:

St. Johns Branch Library, Reference Desk,
7510 N. Charleston Ave.
Northwest Branch Library, Reference Desk,
2300 N.W. Thurman St.
Central Library, Reference Desk,
801 S.W. 10th Ave.

Find more information on these websites:

EPA:

<http://yosemite.epa.gov/r10/cleanup.nsf/sites/ptldharbor>

<http://yosemite.epa.gov/r10/cleanup.nsf/sites/T4>

DEQ:

<http://www.deq.state.or.us/nwr/ph.htm>

Alternative formats are available. For people with disabilities, please call Judy Smith to request reasonable accommodation. For TTY users, please call 1-800-977-8339.