



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

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July 3, 2018

To: RDA Committee members and alternates; interested parties
From: Geoff Baran, RDA Committee Executive Director
Re: July 11, 2018 RDA Committee Regular Meeting

The RDA Committee will hold its next meeting on Wednesday, July 11, 2018 at 9:00 a.m. in room **R0A-36** at the Department of Ecology's headquarters building in Lacey, Washington. A meeting agenda and minutes from the June 13, 2018 regular meeting are enclosed for your review.

There is one oil spill preassessment screenings scheduled for this meeting: the May 11, 2018 F/V *Excellence* spill into Elliot Bay. The committee will also vote on a restoration project proposal for the 4/15/15 F/V *Privateer* grounding and spill.

The committee will also be updated on the status of the RDAs for the 3/1/15 Sulphur Creek spill into the Yakima River, the 2/28/17 Tug *Island Wind* spill into Elliot Bay, and the 3/18/17 Coleman Oil spill into the Columbia River.

Please call me at 360-407-7114 or e-mail at geoff.baran@ecy.wa.gov if you have any questions or agenda items to add.

Enclosures: Agenda
 Meeting Minutes
 Spill Report Sheet
 Restoration Project Proposal Form
 Restoration Project Proposal Letter
 Restoration Project Proposal Presentation

RESOURCE DAMAGE ASSESSMENT COMMITTEE - REGULAR MEETING

Department of Ecology
300 Desmond Drive, Lacey, WA
Room ROA-36

Wednesday July 11, 2018
9:00 a.m.

AGENDA

I. New Business

A. Restoration/Enhancement Project Proposals

1. F/V *Privateer*, April 15, 2016 grounding and spill into the Pacific Ocean

B. Preassessment Screenings

2. F/V *Excellence*, May 11, 2018 spill into Elliot Bay

II. Old Business

A. Open RDA Case Updates

1. Sulphur Creek, March 1, 2015 spill into the Yakima River
2. Tug *Island Wind*, February 28, 2017 spill into Elliot Bay
3. Coleman Oil, March 18, 2017 spill into the Columbia River

III. Announcements

RDA Committee Meeting

Wednesday, June 13, 2018

ROA-36, Department of Ecology Headquarters, Lacey, WA.

Call to Order: 09:06 am

Attendees: Geoff Baran Ecology, Alison Meyers Ecology, Shayne Cothorn WDNR, Rob Whitlam WDAHP, Don Noviello WDFW, Mark Toy WDOH, Marla Steinhoff NOAA (telephone)

Approval of Minutes: 5 votes yes. Previous meeting minutes approved as written.

Adjournment: 09:33 am

Minutes

I. New Business

A. Preassessment Screenings

1. USACE McNary Dam April 16, 2018 spill into the Columbia River
 - Geoff described the incident.
 - Compensation Schedule Authorization Vote
 - (a) Are damages quantifiable at a reasonable cost? 5 votes no.
 - (b) Is restoration or enhancement technically feasible? 5 votes no.
 - (c) Has PLP proposed a restoration project? No.
 - Compensation schedule assessment authorized.
2. P/C *Serenity* April 25, 2018 spill into Lake Union
 - Geoff described the incident.
 - Compensation Schedule Authorization Vote
 - (a) Damages quantifiable at a reasonable cost? 5 votes no.
 - (b) Restoration or enhancement technically feasible? 5 votes no.
 - (c) Has PLP proposed a restoration project? No.
 - Compensation schedule assessment authorized.

II. Old Business

A. Open RDA Case Updates

1. F/V *Deep Sea*, May 13, 2012 spill into Penn Cove
 - Don: Project authorized, accounting string set up. Meeting in PT on the 28th to develop the project. Expect this project to take a couple years to implement.
2. Sulphur Creek, March 1, 2015 spill into the Yakima River
 - Geoff: Still working out schedules with the Deaton's and the Yakama Nation. Yakama's want their habitat biologist present at the meeting to help assess the value of the project. Aiming for the end of June.
3. F/V *Privateer*, April 15, 2016 spill into the Pacific Ocean
 - Geoff: No major updates to report.
4. Tug *Island Wind*, February 28, 2017 spill into Elliot Bay
 - Geoff: Working with DNR to see if a beach debris cleanup project would work.

5. Coleman Oil, March 18, 2017 spill into the Columbia River
 - Geoff: Still working with Coleman to calculate a spill to water volume.

III. Announcements

1. Coastal Protection Fund Grants
 - Geoff: All four grants are active.

DRAFT

PREASSESSMENT SCREENING OIL SPILL REPORT FORM

Date of Incident: May 11, 2018

Potentially Liable Party: Premier Pacific Seafoods Inc.

Product Spilled: Diesel fuel

Spill Source: F/V *Excellence*

Oil Spill Size Estimate: 136 gallons

Water Body Affected: Elliot Bay

Ecology Region: NWRO

County: King

Nearest City: Seattle

Location of Spill: Port of Seattle, Pier 90 (47.62640, -122.38020)

Cause: Judgement

Ecology Responder: Agustina Cartagena-McLean

Field Report: The 367' F/V *Excellence* was conducting an internal fuel transfer when an estimated 200 gallons of fuel spilled to the deck, and continued into Elliot Bay. The spill occurred with the Chief Engineer ignored internal fuel transfer protocols and did not accurately sound the tank receiving fuel. The vessel was pre-boomed, and Global Diving and Salvage reportedly recovered an estimated 113 gallons from the water. ADIOS models estimate that 23 gallons of fuel evaporated over the 5 hours response, indicating a total estimated spill volume of 136 gallons.

Date submitted: 6/27/2018

**Resource Damage Assessment Committee
Restoration and Enhancement Project Proposal Form**

Ecology NRDA Case Number: 88535

Spill Name: Privateer Grounding and Spill into the Pacific Ocean

Spill Date: April 15, 2016

Project Title: Privateer RDA Restoration Project Proposal Form
(00169141).DOCX

Project Proponent(s): JP Fishing LLC and the Washington State Parks and Recreation Commission

Contact person: Ken Graham
Address: 1111 Israel Road
PO Box 42650
Phone: (360) 902-8680
Fax: (360) 586-6647
E-mail: Ken.Graham@PARKS.WA.GOV

Description of the incident and any follow-up investigations to assess injuries to public resources.

Note: For the RDA committee to find a proposal sufficient to adequately compensate the people of the state for public resource damages, the PLP proposal must at least contain the following elements (WAC 173-183-260).

- (a) *An investigation of all potentially injured public resources to determine if they have been exposed to the spilled oil.*

Briefly describe the location of the spill, the general type of habitat(s) impacted, and the geographic coverage of the spill.

The Privateer initially grounded near Grays Harbor Entrance, South Jetty (initial grounding location) and began taking on water. Its final grounding location is Grays Harbor Entrance, North of North Jetty (wreck location) on a sand beach.

Exposure of the ecological communities to diesel fuel occurred in the nearshore waters of the entrance to Grays Harbor and on the intertidal sand beach to the north of the jetty. On Friday, April 15, 2016, after being notified of the grounding of the *Privateer* at Ocean Shores, Ecology sent a responder to the scene and conducted a helicopter overflight to check for an oil spill. No oil was seen in the surf, but diesel odor was reported from the beach (Ecology Spill Report, July 18, 2016). On April 22nd, the Washington State Department of Health issued a news release warning beachgoers to avoid digging razor clams at the southern end of Copalis Beach on April 25 and 26

due to potential water pollution. Washington Department of Fish & Wildlife participated in an overflight with WDoE. Other resources at risk are water column and interstitial organisms on the sand beach.

(b) Results of follow-up investigations on all public resources documented to be exposed to determine if exposure has resulted in injury.

The nature of the non-persistent fuel and surf conditions rendered analytical chemistry or further analysis nonproductive. The WDoE report does not indicate a fish kill or any dead organisms associated with the spill on the beach.

(c) Follow-up investigations on all public resources documented to be injured by the spill to quantify the injury.

The vessel was removed by June 15 with no further evidence of pollution and no further warnings from the Washington State Department of Health. The nature of the fuel indicates it would have dissipated by this time. The investigation essentially uses case history of Habitat Equivalency Analysis (HEA) assumptions in an analysis of lost service years of habitat (attached).

(d) Quantification of damages for all public resources where injury has been quantified.

There were no field data collection efforts as they would likely have been unproductive given the sea conditions and nature of the fuel. No reports of stranded or dead animals resulting from the spill were contained in the WDoE spill report. The quantification of damages also uses Habitat Equivalency Analysis (HEA) assumptions in an analysis of lost service years of habitat (attached) that is commonly used by Federal and State Trustees in many regions for damage assessment and restoration scaling.

Privateer RDA Restoration Project Proposal Form (00169141).DOCX

Description of proposed restoration or enhancement project(s):

Restoration projects have been identified in Grayland Beach State Park. There are park inholdings in coastal dunes, forest, and vegetated wetland holdings adjacent to the affected beach that Washington State Parks wishes to purchase in order to preserve and protect from potential adverse effects of development (see attached restoration proposal scaling). Development of the land will result in adverse effects in perpetuity.

Details and conditions regarding the proposed restoration/enhancement project are set forth in the attached letter from Nicoll Black & Feig of today's date.

Description of expected measurable benefits and accomplishments:

The properties are listed as a Priority Habitat Species (PHS) priority habitat and is part of a larger, intact, contiguous coastal dune system. While not many, there are some areas of this inholding that could be developed. Development within this area would have clear environmental consequences through water retention and fringe habitat impacts. Acquisition of this inholding within the park would reduce the edge effect and help protect the integrity of the ecological systems within the park in perpetuity.

Describe how the project will restore and/or enhance public natural resources:

The properties are under threat of development which would remove the natural habitat in perpetuity in some locations.

Estimated timeline/schedule for the project:

Immediate

Project Category: This restoration or enhancement project is best described as:

Check one:

- On-site, in-kind
- Off-site, in-kind
- On-site, out-of-kind
- Off-site, out-of-kind.

The project is immediately adjacent to the spill site but beach and water column restoration opportunities are difficult and none were identified in the area. The nearshore habitats will confer benefits to the affected habitats.

Attachments to include:

- Relevant maps or supporting documentation (See attached report)
- Letters of support (Ken Graham, State Parks) (*requested*)

WAC 173-183-260 Restoration and enhancement projects proposed by the PLP.

- 1) The potentially liable party (PLP) may propose restoration or enhancement projects or studies during the preassessment screening phase to substitute for some or all of:
 - a) The damages calculated from the compensation schedule authorized under RCW [90.48.366](#) and [90.48.367](#); or
 - b) The claims from damage assessment studies authorized under RCW [90.48.142](#) and [90.48.367](#).
- 2) To be considered as part of the preassessment screening decision process specified in WAC [173-183-240](#), PLP proposals must be submitted to the RDA committee chair within ten days of PLP notification by the RDA committee.
- 3) The RDA committee may accept the PLP proposal in lieu of some or all of:
 - a) The damages calculated from the compensation schedule authorized under RCW [90.48.366](#) and [90.48.367](#); or
 - b) The claims from damage assessment studies authorized under RCW [90.48.142](#) and [90.48.367](#).
- 4) For the RDA committee to find a proposal sufficient to adequately compensate the people of the state for public resource damages, the PLP proposal must at least contain the following elements:
 - a) An investigation of all potentially injured public resources to determine if they have been exposed to the spilled oil;
 - b) Follow-up investigations on all public resources documented to be exposed to determine if exposure has resulted in injury;
 - c) Follow-up investigations on all public resources documented to be injured by the spill to quantify the injury;
 - d) Quantification of damages for all public resources where injury has been quantified; and
 - e) Restoration/enhancement projects to compensate for public resource injuries to the extent technically feasible; and, for damages that cannot be compensated by technically feasible restoration or enhancement projects, implementation of projects/studies to compensate for these losses. Public resource restoration and enhancement projects and studies shall be prioritized as follows:
 - i) On-site, in-kind;
 - ii) Off-site, in-kind;
 - iii) On-site, out-of-kind; and
 - iv) Off-site, out-of-kind.
- 5) Prior to the PLP initiating any projects or studies intended to substitute for damages, the PLP's proposal must be approved by the RDA committee. If a PLP proposal is found to be acceptable to the RDA committee, the committee shall notify the PLP of this decision.
- 6) If RDA committee finds a PLP project and study plan proposal to be acceptable, the RDA committee shall oversee all projects and studies conducted by the PLP.
- 7) Upon completion of the PLP's project and study plan, the RDA committee shall decide the extent to which the PLP's projects and studies substitute for public resource damages as identified in subsection (3) of this section.

NB&F

NICOLL BLACK & FEIG

ATTORNEYS

June 27, 2018

Larry E. Altenbrun
Direct Phone: 206.838.7541
laltenbrun@nicollblack.com

VIA EMAIL (geoff.baran@ecy.wa.gov)

Geoff Baran
Natural Resource Damage Assessment
Spill Prevention, Preparedness, and Response Program
Washington State Department of Ecology
300 Desmond Drive, P.O. Box 47600

Re: F/V PRIVATEER
JP Fishing, LLC
4/15/2016 Spill
Restoration & Enhancement Project Proposal

Dear Mr. Baran:

As you know, I represent JP Fishing, LLC, the owner and operator of the vessel F/V PRIVATEER. I write to formally propose a restoration and enhancement project in satisfaction of damages for injuries to public resources related to the referenced oil spill of April 15, 2016.

We have worked closely with the Resource Damage Assessment Committee over the past many months in an effort to quantify, identify, and explain the natural resource damages attributable to the spill, and to identify and select an appropriate restoration and enhancement project to fund. My clients retained Mr. Greg Challenger of Polaris Applied Sciences to assist in these efforts. Mr. Challenger is world-renowned expert in the analysis of natural resource damages. In February, Mr. Challenger and I met with the RDA Committee in Olympia and Mr. Challenger provided a detailed Powerpoint presentation on the spill and the resultant damages to public resources. Both before and after that meeting, we have had numerous discussions with the RDA Committee.

At the February RDA Committee meeting, Mr. Challenger provided detailed modeling of the spill using GNOME (General NOAA Operational Modeling Environment), which is the modeling tool used by NOAA's Office of Response and Restoration. We also offered to provide the RDA Committee with the model, so that, if it chose to, the Committee could scrutinize the modeling further. The data and analysis demonstrated that, as a conservative "upper" estimate, damages were \$127,235.00.

We have attached a completed Restoration and Enhancement Project Proposal Form. The form provides additional details regarding Mr. Challenger's modeling, his conclusions, and the data relied upon.

We have proposed the funding of the acquisition of land for Grayland State Park by Washington State Parks. We have attached a brief summary of potential acquisitions that was drafted by State Parks. Our proposal includes funding intended to purchase the property identified in the Seahurst Plat (both county properties and private properties) and the Filip Property. The Seahurst Plat is comprised of approximately 42 acres of land, a small amount of which is already owned by State Parks. We propose funding the purchase of 278 lots owned by Pacific County and 36 lots that are privately owned. The assessed value of the county-owned lots is \$139,000 and the 36 lots are estimated at less than \$1,000 each. Additionally, our proposal includes funding for the Filip Property, which is approximately 5 acres and has an assessed value of \$7,500.

The total assessed value for the proposed acquisition is \$182,500 (which assumes that the private lots in the Seahurst Plat are assessed at \$1,000 each). We propose that we provide funding for these purchases up to a maximum of \$195,000.00, which will provide State Parks with some financial flexibility if necessary. Additionally, our proposal includes a minimum total payment of \$185,000. Our proposal includes the following conditions:

- This proposal is approved by the RDA Committee as full compensation to the State of Washington for all injuries to public resources.
- The proposed maximum is a total maximum sum to be paid. My client shall not be responsible for any other costs, fees, or expenses in excess of the maximum total of \$195,000.
- In the event that the proposed acquisitions cannot be purchased for the proposed maximum, State Parks shall purchase as much of the proposed property as feasible within the proposed maximum. In that event, payment for such properties shall represent full satisfaction of my client's obligations under this proposal.
- My client shall not be responsible for active involvement in the property acquisitions proposed. We understand from conversations with Ken Graham that State Parks will engage in all activities regarding the acquisition of the properties and our involvement will be limited to funding.
- We will work with Mr. Ken Graham of State Parks and follow his (or his designee's) instructions on funding the acquisitions. To the extent permissible and requested by Mr. Graham, we will transfer the funds to an account designated by him so that State Parks can easily and quickly access the funds.
- In the event that State Parks is able to purchase the proposed properties for less than \$185,000.00, State Parks shall use any remaining funds (i.e., the difference between the total paid and \$185,000) for any other valid purpose, as determined by State Parks.
- State Parks shall have full discretion to prioritize purchases, as well as to decline to purchase a particular lot. In the event that State Parks declines to purchase certain lots, it shall still be entitled to the minimum total payment of \$185,000.

June 27, 2018

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- This proposal is designed so that the total amount paid by my client shall be a minimum of \$185,000 and a maximum of \$195,000. Under no event shall the total payment be less than \$185,000 or more than \$195,000.

We believe that the foregoing proposal is fair and generous. We believe that it reflects my client's commitment to the natural resources of the State of Washington. It is our hope that the RDA Committee agrees. We are prepared to provide funding for this proposal within 30 days of approval from the Committee.

On behalf of my client, we very much appreciate the work of the RDA Committee, its commitment to oversee the protection and restoration of natural resources, the dedication of its members, and the professionalism shown to me, Mr. Challenger, and my client throughout this process.

Best Regards,

A handwritten signature in black ink, appearing to read "Larry E. Altenbrun". The signature is fluid and cursive, with a large initial "L" and "A".

Larry E. Altenbrun

WA State Parks Acquisitions- RDA Funds



August 3, 2017
By Laura Moxham
Property and Acquisition Specialist



#1. Grayland Beach State Park- Inholding



Located in Pacific County, the Seahurst Plat is an approximately 42 acre inholding in Grayland Beach State Park. The plat is made up of 426 tiny lots; some of which have been purchased by State Parks over the years. However a large portion of the remaining lots are owned by the County and some still by private ownership.



#1. Grayland Beach State Park- Inholding



- Pacific County owns approximately 278 lots- Assessed value \$139,000
- Private ownership approximately 36 lots- Assessed value <\$1,000/lot
- State Parks owns the parcels surrounded by white boundary line

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#1. Grayland Beach State Park- Inholding

- The inholding at Grayland State Park is an excellent choice for RDA funds and is a high priority acquisition for WA State Parks. The property lies in the center of a freshwater forested shrub wetland that runs contiguously throughout the property. It is listed as a Priority Habitat Species (PHS) priority habitat and is part of a larger, intact, contiguous coastal dune system. While not many, there are some areas of this inholding that could be developed. Development within this area would have clear environmental consequences through water retention and fringe habitat impacts. Acquisition of this inholding within the park would reduce the edge effect and help protect the integrity of the ecological systems within the park in perpetuity.
- State Parks has initiated conversations with the County and believe the County will be willing sellers.
- State Parks will follow up individually with the private landowners and believe there will be willingness to sell. The property has public access, but is currently blocked off and not being used.

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#2. Grayland Beach OBA- Wicklund Property



Located in Grays Harbor County, the Wicklund Property is approximately 4.67 acres adjacent to the Grayland Beach OBA.

- Parcel #151107210080
- 115' ocean front
- Willing Seller
- Priority Acquisition on Inholdings List for State Parks
- Assessed Value: \$170,100

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#2. Grayland Beach OBA- Wicklund Property



The Wicklund property expands the undeveloped open space that buffers the shoreline and provides protection for the dune habitat in that area. It also allows for Parks to engage in better noxious weed management along the Seashore Conservation Area.

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#3 Grayland Beach State Park- Filip Property



Located in Pacific County, the Filip Property is approximately 5 acres adjacent to the Grayland Beach State Park.

- Parcel #15111941017
- Willing Seller
- Priority Acquisition on Inholdings List for State Parks
- Assessed Value: \$7,500
- Within Long Term Boundary
- Open Space

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#3 Grayland Beach State Park- Filip Property



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Acquisition Strategy

1. County Properties
in Seahurst Plat
2. Wicklund Property
3. Private Ownership
in Seahurst Plat
4. Filip Property