

# COMMISSION AGENDA

Item No: 3C

Meeting: 12/16/21

**DATE:** December 1, 2021

**TO:** Port Commission

**FROM:** Eric D. Johnson, Executive Director  
Sponsor: Jason Jordan, Director, Environmental and Planning Services  
Project Manager: Tony Warfield, Environmental Senior Project Manager

**SUBJECT:** General Business: Brief Description on Habitat Mitigation Strategy

## A. BRIEFING REQUESTED

Port staff will provide a preview of the Port's draft updated Habitat Mitigation Strategy for Commission consideration and feedback. No action is requested.

## B. SYNOPSIS

The Port's original Port-Wide Habitat Mitigation Strategy (Habitat Strategy) was adopted in 2012 with minor updates in 2014. That Strategy called for building the Upper Clear Creek Mitigation Site, establishing a mitigation bank, building the Lower Wapato Creek Mitigation Site, and building out the Saltchuk site as dredge material became available. These sites are all designed to enhance the Puyallup River fisheries as the core of our strategy is to improve salmon runs. Most of the actions laid out in that document have been completed, are under construction, or are incorporated into the Harbor Deepening Project. Consistent with Strategy EL-4 of the Port's 2021 Strategic Plan, it is time to update the Habitat Strategy to guide the next 10 years of habitat improvement efforts.

## C. PURPOSE

The purpose of the Port's updated 2022 Habitat Strategy is to provide a framework that guides:

- the management of the Port's mitigation credit portfolio,
- the development of future habitat mitigation sites as advance mitigation and/or mitigation bank,
- the direction the Port will take to work with local partners to develop and/or improve habitat sites independent of regulatory requirements, and
- the stewardship of existing habitat sites.

This Habitat Strategy supports the Port's 2021-2026 Strategic Plan and The Northwest Seaport Alliance's (NWSA) Coordinated Course 2035.

#### **D. FOUNDATIONAL TENETS**

For almost four decades the Port has relied on three foundational tenets to guide its mitigation strategies. These tenets derive either directly or in part from the Puyallup Land Claims Settlement and include:

- building large, ecologically important sites that focus on fisheries enhancement,
- building sites in advance of the development project requiring the mitigation,
- building sites where they will provide the most ecological good and away from planned future development—view sites as permanent infrastructure.

#### **E. BACKGROUND**

The Port's mitigation efforts began in the 1980s with the construction of Gog-le-hi-te I on a former City of Tacoma landfill, to mitigate for impacts stemming from the construction of what is now the West Sitcum Terminal. Consistent with the Puyallup Tribal Lands Claim Settlement, Port mitigation efforts focus on enhancing local fisheries through building sites designed to improving salmonid habitat by building large sites in areas of high ecologic importance. Given the Port's focus on fisheries enhancement in our mitigation efforts, Port staff keep in close coordination with Puyallup Tribal fisheries staff on all our mitigation planning, design and construction efforts.

Since then, the Port has constructed, preserved, or participated in 22 sites covering over 230 acres. Those sites include riverine areas along Clear Creek, the last freshwater tributary to the Puyallup River before it enters Commencement Bay; estuarine areas such as the Gog-le-hi-te wetland complex, Place of Circling Waters on Hylebos Creek, and Lower Wapato Creek (under construction); and also nearshore marine areas such as Milwaukee Waterway and Slip 5. These sites follow the migration patterns of juvenile salmonids in the lower Puyallup River system and provide refuge for rearing and foraging in various early life stages.

Due to the nature of its location, the Port often encounters aquatic environments and terrestrial sensitive areas. Any impacts to wetlands/aquatic resources that cannot be avoided, minimized, or reduced must be offset through compensatory mitigation. Compensatory mitigation is the creation, restoration, enhancement, and/or preservation of wetlands/aquatic resources to offset the impacts that cannot be avoided or minimized, and to provide the same ecological functions and values that have been lost.

#### **F. STATUS OF 2012/2014 HABITAT STRATEGY INITIATIVES**

The 2012/2014 Habitat Strategy included three major initiatives:

Construct Upper Clear Creek Mitigation Site (UCCMS) and Create Mitigation Bank:

This 40-acre site was completed in 2016 with its maintenance period ending 2019. The site is performing very well both from a vegetation and fisheries perspective. The Puyallup Tribe of Indians is reporting Chinook runs in the Clear Creek system not seen since the late

1970s. It also supports, coho, chum, and pink salmon, as well as bull, rainbow, and cutthroat trout populations. The vegetation is meeting and exceeding site performance standards.

The Upper Clear Creek mitigation bank instrument was certified in June 2020. The Port anticipates receiving 12.56 wetland acre-credits (273.16 fish conservation credits in the form of Discounted Service Acre Years [DSAYs]) by 2027 as the UCCMS continues to mature and meet performance standards. As of the fourth quarter of 2021, the Port has received 6.24 wetland acre-credits (135.71 DSAYs) with another 2.82 wetland acre-credits (61.33 DSAYs) expected in 2022.

Construct Lower Wapato Creek Mitigation Site (LWCMS):

This approximately 20-acre wetland, estuary, and stream restoration site is being developed as an advance mitigation site. Construction of LWCMS was planned for 2013; however, the project was put on hold due to concerns raised by the Puyallup Tribe of Indians (Puyallup Tribe). After years of consultation and coordination with the Puyallup Tribe, the Port received support for the design and construction of the site in 2020. Construction of LWCMS began in July 2021. The grading, seeding, utility relocation, and 12th Street culvert replacement/bridge construction should be completed by the first quarter of 2022. Site planting is scheduled for the fourth quarter of 2022, with the construction project vegetation maintenance period ending and long-term stewardship beginning in 2024. During construction, fish isolation and salvage activities identified a variety of fish and aquatic species, including cutthroat trout, coho salmon, sculpin, three-spine stickleback, starry flounder, crawfish, and shrimp. Tribal staff and members residing along 12th Street have been helpful partners in bringing this site nearly to completion.

Saltchuk Marine Habitat Site:

The Port owns the lands from minus 4.5 feet Mean Lower Low Water (MLLW) and above (approximately 8.5 acres). The Port leases the remaining approximately 65 acres from the Washington State Department of Natural Resources (DNR). The Port had hoped to build a mitigation site at Saltchuk and include it in an umbrella mitigation bank. After years of negotiating lease terms for such a use with DNR, it became apparent a bank was not going to work under existing state aquatic lands law. The Port abandoned the idea to construct the DNR portion of the site and focused solely on making habitat improvements to the Port's property.

However, with the initiation of the Tacoma Harbor Deepening Study with the U.S. Army Corps of Engineers (USACE), the Port saw an opportunity to approach the USACE about using the clean dredge material from the deepening project to construct the DNR portion of the site as a restoration area rather than a mitigation site. After careful coastal engineering analysis, USACE staff and officers became enthusiastic supporters of beneficially using dredge material to build Saltchuk instead of disposing the dredge material in Commencement Bay's open water disposal site. While many technical and administrative hurdles remain, Port staff are encouraged that the Port's 20-year vision for building this site may finally come to fruition as part of the deepening project. As a restoration project, the Port will receive no mitigation credit for the DNR portion of the site, but this approach is consistent with the Port's 2021-2026 Strategic Plan Strategy EL-4 (create wetland opportunities and improve fish habitat independent of regulatory obligation), Action 2 (engage in habitat enhancement projects with community partners), and Action 3 (ensure

Saltchuk Restoration Site is included in the Tacoma Harbor Deepening Project). Further, by restoring the DNR portion of the site, the Port will likely receive more mitigation credit for building the shoreline habitat portion of the site because the Port's property will abut excellent habitat rather than the current degraded, wood waste problem areas.

## **G. POTENTIAL 2022 HABITAT STRATEGY INITIATIVES UNDER CONSIDERATION**

Port staff are working to update the Habitat Strategy. A draft of the updated Habitat Strategy will be presented to the Commission for consideration and feedback. In developing the draft Habitat Strategy, Port staff are currently analyzing the following initiatives:

- Mitigation Bank Portfolio Potential Actions<sup>1</sup>
  - Sell 5.5 to 10 of its existing mitigation bank credits as determined by the Commission.
  - If the Port expands its mitigation bank wetland credit holdings, the Port could sell additional mitigation bank credits to further support transportation and cargo logistics projects/partners.
  - Amend the Upper Clear Creek Mitigation Bank Instrument to include the properties it has purchased adjacent to the existing site.
    - At a minimum, this removes the “paper buffers” that currently constrain the Upper Clear Creek Mitigation Bank.
    - The Port should remain open to partnering with Pierce County to build and/or enhance additional wetland and/or fish habitat on its property to potentially expand the mitigation bank by several dozen acres.
  - Conduct regular reviews of the mitigation credit portfolio balance, anticipated Port needs, and sales goals to determine the surplus of mitigation bank credits available for sale on an ongoing basis.
  - If the current NMFS policy change requiring mitigation for maintenance work becomes permanent, the Port could expand the mitigation bank portfolio to include mitigation actions for fish-only conservation credits and make credits available for sale throughout the marine areas of Pierce County including the Key Peninsula and South Sound (south of the Narrows Bridge).
- Habitat Site Development Potential Actions:
  - Design and construct Upper Clear Creek site after bank amendment process or as advance mitigation site(s).
  - Build the Saltchuk Beach Area as a fish conservation credit bank.
  - Pursue a conceptual or basis of design for Gog-le-hi-te III in partnership with the Puyallup Tribe.

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<sup>1</sup> The Commission established three guiding principles for sales from the Port's mitigation bank: 1) only sell credits that are clearly surplus to the Port's needs, 2) only sell credits to transportation and development partners whose projects support the supply chain and are consistent with the Port's 2021 Strategic Plan, and 3) sell credits at the market price, but not for less than it would cost to replace those credits.

- Look for opportunities for derelict structure removal and habitat improvements to add to a fish conservation credit bank.
- Continue to support the Port's DNR lease area as a beneficial use restoration project as part of the Tacoma Harbor Deepening Project.
- Partnership Opportunity Potential Actions:
  - Partner with Pierce County on improvements to the Lower Clear Creek Mitigation site (remove old access road to improve connection of Port constructed wetland to flood plain—Commission action planned Q1 2022)
  - Partner with the Puyallup Tribe to address the fish passage barrier to the upper reaches of Clear Creek.
  - Continue to seek out other no- or low-cost community partnership opportunities focused on fisheries enhancement.
  - Explore partnership(s) with Puyallup Tribe and/or DNR to construct/research/maintain the Saltchuk restoration area.
  - Explore additional partnerships/projects with Pierce County Surface Water to combine flood control and habitat improvements near the Port's UCC site.
- Stewardship Program Potential Actions:
  - Perform a cost-benefit analysis on contracting a full-time WCC crew to perform stewardship activities year-round possibly in partnership with Pierce County or the Port of Seattle.
  - Develop a plan and offer Port habitat sites to local organizations to "adopt" to meet stewardship and corporate social responsibility goals.
  - Identify creative ways to reengage the community post-pandemic with the Port's habitat sites (e.g., tours, volunteer events, other public outreach opportunities, etc.).

## **H. ATTACHMENTS TO THIS REQUEST**

- Computer slide presentation.
- 2012/2014 Mitigation Strategy

## **I. NEXT STEPS**

- Complete drafting and vetting of Habitat Strategy update.
- Present draft update to Commission in study session Q1 2022.
- Present final Habitat Strategy update and request adoption of resolution by Commission in Q1 or early Q2 2022.