



## Portland Harbor Natural Resource Trustee Council Restoration Credit Purchase Frequently Asked Questions

- **How do the restoration projects/banks work?**

The restoration banks are large-scale, multi-habitat restoration projects developed with the intent of generating ecological restoration credits that can be used as compensation for ecological losses due to contamination in the Portland Harbor Assessment Area. These restoration credits represent an amount of ecological benefit gained across those restored habitats over time.

After construction, the Trustee Council reviews documentation of the “as-built” condition of the project (i.e., amounts and types of habitats created) and determines the total amount of natural resource damage (NRD) restoration credits the project will create. NRD restoration credits become available for sale (i.e., “released” by the Trustee Council as recognized NRD restoration credits) according to a schedule that ties specific amounts of NRD restoration credits to the achievement of project milestones. For example, the Trustee Council will “release” a portion of the potential total NRD restoration credits available from a project after that project has met its pre-established performance standards for Year 5 of the project. Project milestones correlate with the generation of ecological value to benefit potentially injured natural resources and, therefore, may compensate for those ecological losses.

Under one scenario, NRD restoration credits that are released can be sold to potentially responsible parties who can then use those NRD restoration credits to resolve their natural resource damages liability. Alternatively, in cases where a potentially responsible party is resolving its liability with a cash settlement to the Trustee Council, the Trustee Council can use those funds to purchase available NRD restoration credits from a project. The Trustee Council tracks all NRD restoration credit releases and sales through a public online system called the Regulatory In-lieu Fee and Bank Information Tracking System (RIBITS), which can be accessed at: [https://ribits.ops.usace.army.mil/ords/f?p=107:602::::RP:P602\\_NRDA\\_PROJECT\\_ID:81](https://ribits.ops.usace.army.mil/ords/f?p=107:602::::RP:P602_NRDA_PROJECT_ID:81).

- **How can the purchase of restoration credits compensate the public when the restoration banks have already been built? In other words, how can a potentially responsible party resolve its liability by paying for something that already exists?**

These complex, large-scale restoration projects were built years ago by commercial developers and other entities hoping to sell credits that reflect the environmental benefits the projects created. Sales could come in the form of NRD credits, like the ones here; Clean Water Act wetland mitigation credits; Endangered Species Act conservation credits; or other federal, state, or local crediting frameworks. The common thread is that without the potential for credit sales, the projects would not exist.

In this case, Portland Harbor has experienced significant ecological benefits for years (and, depending on the project, for nearly a decade) from the restoration of over 165 acres to high quality habitat before the Trustee Council's first credit purchase. These benefits include creating or improving habitat on properties that, prior to restoration, were providing little to no habitat benefits at all. In addition, the restoration banks will continue to provide these benefits into the future. Funds from the Trustee Council's credit purchases will help pay for future maintenance and stewardship activities that will generate long-term ecological benefits.

Credit banking has the added benefit of potentially encouraging larger, more robust projects, which provide a greater amount and diversity of benefits. Credit bankers construct large-scale projects because they intend to generate high numbers of credits that can be sold to multiple entities, including potentially responsible parties seeking to resolve their NRD liability.

The Trustee Council has long recognized the advantages of restoration banking and proposed to use restoration credits to resolve NRD liability for early settlements at Portland Harbor in 2020 when it published its Draft Supplemental Restoration Plan and Environmental Assessment (SRP-EA). After considering public comments on this document, the Trustee Council adopted this proposal in 2021 with the publication Final SRP-EA.

- **What is a reverse auction?**

A reverse auction is a type of auction in which Credit Sellers (in this case, restoration banks) bid for the prices at which they are willing to sell their goods and services (in this case ecological credits).

- **Why did you use a reverse auction to purchase credits?**

This type of auction allows for competitive bidding, which enables the Trustee Council to buy the most credits possible, and therefore provide the most restoration benefit, with their available funds. It is also a transparent, consistent, and objective method.

- **What screening criteria were used to determine eligibility to participate in the auction?**

In order to participate in the auction, Credit Sellers were required to satisfy all of the following criteria:

- **Credits Available:** Credit Seller must have credits available for sale (i.e., credits have been recognized by the Trustee Council and have not been purchased by or otherwise committed to another buyer).
- **Not Subject to Notice of Violation:** Credit Seller must not be subject to a Notice of Violation from the Trustee Council related to the restoration bank.
- **No Outstanding Payments:** Credit Seller must be up-to-date on all payments outstanding to the Trustee Council.
- **No Collusion:** Credit Seller must submit in writing a commitment to not communicate with other Credit Sellers regarding the auction process, credit pricing, or auction strategy at any time prior to, during, or following the auction.
- **Monitoring Reports:** Credit Seller must have submitted to the Trustee Council the most recent monitoring report in a reasonably complete form.

- **Why did you purchase credits from more than one Credit Seller?**

The Trustee Council strongly believes that high quality habitat at various locations throughout the Portland Harbor Superfund Assessment Area and the Broader Focus Area is an important factor in the successful restoration of injured natural resources (Figure 1). For example, projects in these priority areas that are highly developed help to create a network of habitats that juvenile Chinook salmon and other species can use as corridors for migration and refuge (Final Portland Harbor Programmatic Environmental Impact Statement/Restoration Plan [NOAA 2017]). The Trustee Council is therefore interested in supporting a suite of relevant restoration projects. This led to the Trustee Council’s decision to purchase credits from two Credit Sellers.

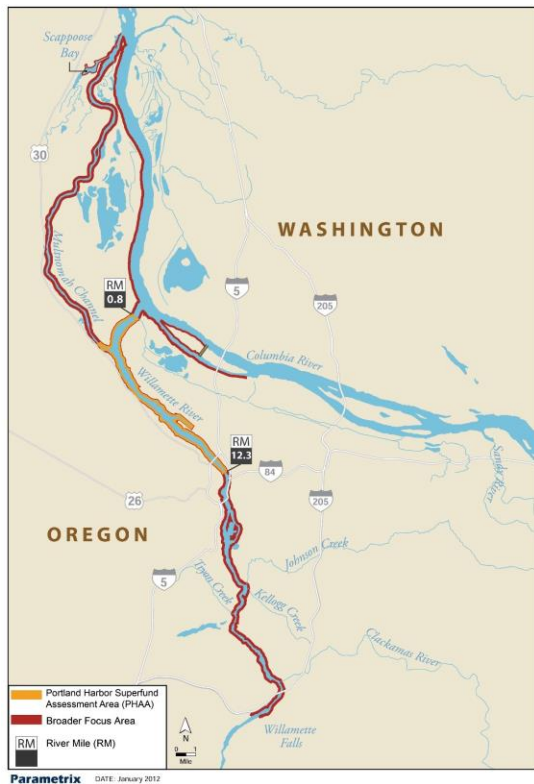


Figure 1. Portland Harbor Superfund Assessment Area and Broader Focus Area

- **How did you decide how many credits to buy from each Credit Seller?**

The Credit Seller with the lowest cost per credit bid received 65 percent of the total auction funding and the Credit Seller with the second lowest cost per credit bid received the remaining 35 percent of the funding, after the Trustee Council confirmed that outcome was consistent with the ecological restoration geographic policy. The policy states that at least 50 percent of the credits purchased in the auction must be from Credit Sellers within the Portland Harbor Assessment Area; both Alder Creek and Harborton are located within the Assessment Area.

- **Where did the funding for the Trustee Council's credit purchases come from?**

Over the last several years, the Trustee Council entered into a number of smaller settlements with polluters that were undergoing bankruptcy. The credit purchases made through the reverse auction used funds from those bankruptcy settlements.

Note that in November 2023, the Trustee Council proposed an additional series of settlements that are currently under consideration by a federal court.

- **Will you be hosting another reverse auction?**

The Trustee Council anticipates that additional ecological restoration funds will become available in the future. Potential sources of those funds include natural resource damages recoveries from sources such as negotiated settlements or bankruptcy proceedings. At that time, the Trustee Council will determine the most effective way to use those funds to purchase additional restoration credits, which may be another reverse auction or may be another method.