

Dungeness Floodplain Restoration

Summary of situation

Project Situation

Floodplains by Design is funding a large-scale restoration project on the lower Dungeness River. The project sets back a flood protection levee and restores habitat-forming processes to about 100 acres of newly available floodplain.

On August 2, 2022, the Board of County Commissioners passed Resolution 83: 'Declaring an Emergency Related to the Dungeness Levee Setback Project' (attached) to respond to the need to complete the flood safety portions of the project prior to the start of flood season. Consequently, the construction schedule was accelerated, including removal of a road that bisected the floodplain. Below the asphalt, the newly-exposed road material was found to be exceeding MTCA standards, which was not contemplated in the original scope of this project.

The contaminated material was excavated, hauled away, and disposed of with Waste Management Disposal Services of Oregon, Inc., at the Shelton, Washington Transfer Station, in accordance with the Model Toxics Control Act, WAC 173-340. The cost for excavation, haul, and disposal was \$1,087,475.20.

In the winter of 2022/2023, County staff spoke with Matt Gerlach and Layne Sloan of the Department of Ecology, to discuss the potential of increasing the scope of the Floodplains by Design grant to include the costs of removal of the contaminated material. At that time, it was discussed that the County would need to make a good faith attempt to locate other/additional funding source(s) to cover the remediation costs.

The County actively looked for other sources of funding, at both the State and Federal levels, to help defray the costs of the toxic materials cleanup to be submitted to the Floodplains by Design grant. Through phone calls and emails, we learned that most sources do not fit the County's situation due to scale and/or timing. For example, Brownfields grants are designed for larger-scale projects where cleanup has yet to occur, such as the Rayonier mill site. State and federal program staff recommended that the County enroll in Ecology's Voluntary Cleanup

Program (VCP) and apply for reimbursement to the Independent Remedial Action Grant (IRAG). The County has followed this recommendation and enrolled in the VCP.

The County provided documentation of the remediation work to the VCP. VCP staff, after reviewing the documentation, have recommended no further action, and have submitted a draft Letter of No Further Action to top-level reviewers for concurrence and approval. Excavation and haul/disposal costs are eligible costs for IRAG funding. IRAG reimburses 50% of eligible costs up to a maximum of \$600,000 (\$300,000 possible award).

The County has been advised by IRAG grant managers that 2021-2023 biennium funds are exhausted and that applying in the next biennium gives us a chance at, but no assurance of, receiving some funding. The 2023-2025 biennium funding application period will become available in August 2023, at which time the County plans to apply.

At this time, it is unknown how much funding will be available, when the County's application would be considered for funding, or if the County will ultimately be awarded any funding. If the County's application is accepted for funding, reimbursement could occur as late as 2025, or over 2 years after such costs were paid by the County using its own funds. Despite these efforts taken in good faith to identify and secure funding for part or all of the remediation costs, the County is placed in a difficult position of uncertainty as it relates to securing an outside funding source for these costs given the timing of the closeout of its grant with Floodplains by Design.

Given the uncertainty regarding the timing and how much, if any, funding the County is ultimately able to secure from IRAG or other sources to fund the remediation we request that the full remediation costs of \$1,087,475.20, be reimbursed through the Floodplains by Design grant. If Clallam County is subsequently awarded any IRAG funds, the County will reimburse Floodplains by Design to that extent. If this isn't a potential option, then we would request that Floodplains by Design reimburse the County for the full cost of remediation given the financial impact to the County if such costs are not fully reimbursed as outlined below.

County Context

Clallam County is a small county and is included on Washington State Employment Security Department's 2021 list of economically distressed counties

<https://esd.wa.gov/labormarketinfo/distressed-areas>. In addition, the County's General Fund and other funds provide considerable advance funding to support several large, multi-year, multi-million-dollar project funds currently underway, including:

- a \$20 million Joint Public Safety Facility with the City of Port Angeles to serve as the County's new emergency management and 911 call center facility;
- a \$41 million off-channel irrigation reservoir project on the Dungeness River to address water mitigation/resiliency and salmon recovery efforts;
- ongoing support for significant sewer infrastructure repair and replacement work occurring in the Clallam Bay/Sekiu area; and
- a \$25 million broadband infrastructure project.

While many of these projects are partly or fully funded by grant funding, most grant funding is available only on a reimbursement basis. The County must first incur and pay for the expenditure before it is eligible for grant reimbursement. This means that the County's General Fund and other reserves are currently being advanced out to several project funds to act as 'seed capital' to get the projects up and going, and to ensure that the funds don't run into cash flow issues throughout their project life. Once a project is fully complete and all grant reimbursements have been received, the project fund repays the General Fund for the remainder of the funds that were advanced.

As you can imagine, with several multi-million projects underway requiring this form of 'seed capital', the financial stress on the General Fund and other County fund reserves is considerable. Over the past 3 years, the General Fund has provided \$5,421,118 of funding to the Dungeness Floodplain Restoration project, of which only \$2,751,000 has been reimbursed back to the General Fund, leaving \$2,670,118 still owed to the General Fund. Of this amount owed back to the General Fund, the Dungeness Floodplain Restoration project currently has approximately \$1.529 million in reserves being held to cover remaining project

costs until such time as the project is substantially completed, all expenditures have been paid, and all remaining grant reimbursements have been received.

If the Floodplains by Design grant were to disallow full reimbursement for these remediation expenditures and the County was unsuccessful in its efforts in timely securing IRAG or other funding to cover the remaining costs of the remediation, this would result in a funding gap that would prevent the project fund from making the General Fund 'whole' on the funds advanced to it as originally budgeted by the General Fund in 2023, which would place unexpected additional financial strain on the County's General Fund's ability to replenish its reserves and fund its other ongoing capital projects and operating commitments.

It is also worth noting that the overall original project scope intended for a road to be re-laid. Those plans are currently on hold as we await a final determination from our Board of County Commissioners. While a deviation from the current scope means fewer expenditures (since a road won't be re-laid), the County's portion of the project costs earmarked for those road costs are from funds that can only be used for road-related work. If no road is going to be laid, those funds will be re-deployed for other road-related projects of the County rather than for activities related to the floodplain project.

Based on the spend-down plan for the remaining grant funding available under the Floodplains by Design program, RCO grant, and USFWS/DOE grant sources for the remaining project work to be completed, the County currently projects a funding shortfall, assuming the remediation costs are fully reimbursed, of approximately \$32,000, which would have to be absorbed by the General Fund. In the event the remediation costs are not fully reimbursed by Floodplains by Design or another funding source, this would correspondingly increase this funding shortfall by the amount disallowed. So, in the event only \$787,000 of the \$1,087,000 of remediation costs were funded by Floodplains by Design leaving \$300,000 unreimbursed, this would result in a funding shortfall to making the General Fund 'whole' of \$332,000 if the County was not able to secure this funding from IRAG or another source. This level of unexpected funding shortfall would negatively impact the County's ability to fund its current and future capital projects.

Given the financial impact and the uncertainty surrounding whether the County is able to secure full funding for the remediation costs incurred, the County respectfully requests that Floodplains by Design allow for the full reimbursement of such costs under this grant.