

 **Metro** | *Agenda*

Meeting: Metro Council
Date: Thursday, June 12, 2014
Time: 2:00 p.m.
Place: Metro, Council Chamber

CALL TO ORDER AND ROLL CALL

1. INTRODUCTIONS

2. CITIZEN COMMUNICATION

3. CONVENTION CENTER HOTEL PROJECT UPDATE

**Hillary Wilton, Metro
Scott Cruickshank, OCC**

4. CONSIDERATION OF COUNCIL MINUTES FROM JUNE 5, 2014

5. RESOLUTIONS

5.1 **Resolution No. 14-4515**, For the Purpose of Adopting the Annual Budget for Fiscal Year 2014-15, Making Appropriations, Levying Ad Valorem Taxes and Authorizing an Interfund Loan.

**Tim Collier, Metro
Kathy Rutkowski,
Metro**

5.2 Public Hearing on Resolution 14-4515

6. ORDINANCES –FIRST READ

6.1 **Ordinance No. 14-1328**, An Ordinance Extending the Metro Construction Excise Tax for Community Planning and Development Grants.

6.2 **Ordinance No. 14-1341**, For the Purpose of Amending the FY 2013-14 Budget and Appropriations Schedule and the FY 2013-14 through 2017-18 Capital Improvement Plan.

6.3 **Ordinance No. 14-1339**, For the Purpose of Amending Metro Code 7.03 (Investment Policy) For Fiscal Year 2014-2015.

7. ORDINANCES – CONTINUED FROM MAY 29

7.1 **Ordinance No. 14-1329B**, For the Purpose of Amending Title 4 of the Urban Growth Management Functional Plan Regarding the Establishment of Trails and Associated Facilities in Regionally Significant Industrial Areas.

Roger Alfred, Metro

8. CHIEF OPERATING OFFICER COMMUNICATION

Martha Bennett, Metro

9. COUNCILOR COMMUNICATION

ADJOURN

Television schedule for June 12, 2014 Metro Council meeting

<p>Clackamas, Multnomah and Washington counties, and Vancouver, WA Channel 30 – Community Access Network <i>Web site:</i> www.tvctv.org <i>Ph:</i> 503-629-8534 <i>Date:</i> Thursday, June 12</p>	<p>Portland Channel 30 – Portland Community Media <i>Web site:</i> www.pcmtv.org <i>Ph:</i> 503-288-1515 <i>Date:</i> Sunday, June 15, 7:30 p.m. <i>Date:</i> Monday, June 16, 9 a.m.</p>
<p>Gresham Channel 30 - MCTV <i>Web site:</i> www.metroeast.org <i>Ph:</i> 503-491-7636 <i>Date:</i> Monday, June 16, 2 p.m.</p>	<p>Washington County and West Linn Channel 30– TVC TV <i>Web site:</i> www.tvctv.org <i>Ph:</i> 503-629-8534 <i>Date:</i> Saturday, June 14, 11 p.m. <i>Date:</i> Sunday, June 15, 11 p.m. <i>Date:</i> Tuesday, June 17, 6 a.m. <i>Date:</i> Wednesday, June 18, 4 p.m.</p>
<p>Oregon City and Gladstone Channel 28 – Willamette Falls Television <i>Web site:</i> http://www.wftvmedia.org/ <i>Ph:</i> 503-650-0275 Call or visit web site for program times.</p>	

PLEASE NOTE: Show times are tentative and in some cases the entire meeting may not be shown due to length. Call or check your community access station web site to confirm program times. Agenda items may not be considered in the exact order. For questions about the agenda, call the Metro Council Office at 503-797-1540. Public hearings are held on all ordinances second read. Documents for the record must be submitted to the Regional Engagement and Legislative Coordinator to be included in the meeting record. Documents can be submitted by e-mail, fax or mail or in person to the Regional Engagement and Legislative Coordinator. For additional information about testifying before the Metro Council please go to the Metro web site www.oregonmetro.gov and click on public comment opportunities.

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Agenda Item No. 4

Consideration of Council Minutes from June 5, 2014

Minutes

Metro Council Meeting
Thursday, June 12, 2014
Metro, Council Chamber

Agenda Item No. 5.1

Resolution No. 14-4515, For the Purpose of Adopting the Annual Budget for Fiscal Year 2014-15, Making Appropriations, Levying Ad Valorem Taxes and Authorizing an Interfund Loan.

Resolutions

Metro Council Meeting
Thursday, June 12, 2014
Metro, Council Chamber

BEFORE THE METRO COUNCIL

ADOPTING THE ANNUAL BUDGET FOR FISCAL) RESOLUTION NO 14-4515
YEAR 2014-15, MAKING APPROPRIATIONS,)
LEVYING AD VALOREM TAXES, AND) Introduced by Martha Bennett, Chief
AUTHORIZING AN INTERFUND LOAN) Operating Officer, with the concurrence of
) Council President Tom Hughes

WHEREAS, the Multnomah County Tax Supervising and Conservation Commission held its public hearing on the annual Metro budget for the fiscal year beginning July 1, 2014, and ending June 30, 2015; and

WHEREAS, recommendations from the Multnomah County Tax Supervising and Conservation Commission have been received by Metro (attached as Exhibit A and made a part of the Resolution) and considered; now, therefore,

BE IT RESOLVED,

1. The "Fiscal Year 2014-15 Metro Budget," in the total amount of FOUR HUNDRED EIGHTY MILLION SEVEN HUNDRED EIGHTY FOUR THOUSAND EIGHT HUNDRED SEVENTY FOUR DOLLARS (\$480,784,874), attached hereto as Exhibit B, and the Schedule of Appropriations, attached hereto as Exhibit C, are hereby adopted.

2. The Metro Council does hereby levy ad valorem taxes, as provided in the budget adopted by Section 1 of this Resolution, at the rate of \$0.0966 per ONE THOUSAND DOLLARS (\$1,000) of assessed value for operating rate levy; at the rate of \$0.0960 per ONE THOUSAND DOLLARS (\$1,000) of assessed values for local option rate levy and in the amount of THIRTY EIGHT MILLION TWO HUNDRED TWENTY EIGHT THOUSAND THREE HUNDRED SIX DOLLARS (\$38,228,306) for general obligation bond debt, said taxes to be levied upon taxable properties within the Metro District for the fiscal year 2014-15. The following allocation and categorization subject to the limits of Section 11b, Article XI of the Oregon Constitution constitute the above aggregate levy.

SUMMARY OF AD VALOREM TAX LEVY

	Subject to the General Government <u>Limitation</u>	Excluded from <u>the Limitation</u>
Operating Tax Rate Levy	\$0.0966/\$1,000	
Local Option Tax Rate Levy	\$0.0960/\$1,000	
General Obligation Bond Levy		\$38,228,306

3. In accordance with Section 2.02.040 of the Metro Code, the Metro Council hereby authorizes positions and expenditures in accordance with the Annual Budget adopted by Section 1 of this Resolution, and hereby appropriates funds for the fiscal year beginning July 1, 2014, from the funds and for the purposes listed in the Schedule of Appropriations, Exhibit C.

4. An interfund loan from the Solid Waste Revenue Fund to the General Asset Management Fund in an amount not to exceed \$3.5 million is hereby authorized. The loan will be made to fund two large capital projects at the Oregon Zoo. The loan, including interest at a rate equal to the average yield on Metro's pooled investments, will be repaid from Oregon Zoo operating revenues. Repayment will be made over a period not to exceed ten years beginning FY 2014-15. Annual interest only payments will be made until such time as the Oregon Zoo's commitment to debt service on the FY 2013 Full Faith & Credit bonds expires on 8/1/2016. Thereafter, annual principal payments will be due no later than June 30th of each fiscal year.

5. The Rehabilitation and Enhancement Fund is hereby renamed the Community Enhancement Fund. All other attributes of the fund remain the same.

6. The Chief Operating Officer shall make the filings as required by ORS 294.458 and ORS 310.060, or as requested by the Assessor's Office of Clackamas, Multnomah, and Washington Counties.

ADOPTED by the Metro Council on this 19th day of June 2014.

Tom Hughes, Council President

APPROVED AS TO FORM:

Alison Kean, Metro Attorney

STAFF REPORT

CONSIDERATION OF RESOLUTION 14-4515 ADOPTING THE ANNUAL BUDGET FOR FISCAL YEAR 2014-15, MAKING APPROPRIATIONS, LEVYING AD VALOREM TAXES, AND AUTHORIZING AN INTERFUND LOAN

Date: April 4, 2014

Presented by: Martha Bennett
Chief Operating Officer

BACKGROUND

I am forwarding to the Metro Council for consideration and approval my proposed budget for fiscal year 2014-15.

Metro Council action, through Resolution No. 14-4515 is the final step in the process for the adoption of Metro's operating financial plan for the forthcoming fiscal year. Final action by the Metro Council to adopt this plan must be completed by June 30, 2014.

Once the budget plan for fiscal year 2014-15 is approved by the Metro Council on May 8, 2014, the number of funds and the maximum tax levy cannot be amended without review and certification by the Tax Supervising and Conservation Commission. Adjustments, if any, by the Metro Council to increase the level of expenditures in a fund are limited to no more than 10 percent of the total value of any fund's expenditures in the period between Metro Council approval in early May 2014 and adoption in June 2014.

Exhibit A to this Resolution will be available subsequent to the Tax Supervising and Conservation Commission hearing June 5, 2014. Exhibits B and C of the Resolution will be available at the public hearing on April 24, 2014.

ANALYSIS/INFORMATION

1. **Known Opposition** – Metro Council hearings will be held on the Proposed Budget on April 24, 2014 and May 8, 2014. Opportunities for public comments will be provided. Opposition to any portion of the budget will be identified during that time.
2. **Legal Antecedents** – The preparation, review and adoption of Metro's annual budget is subject to the requirements of Oregon Budget Law, ORS Chapter 294. Oregon Revised Statutes 294.635 requires that Metro prepare and submit its approved budget to the Tax Supervising and Conservation Commission by May 15, 2014. The Commission will conduct a hearing on June 5, 2014 for the purpose of receiving information from the public regarding the Metro Council's approved budget. Following the hearing, the Commission will certify the budget to the Metro Council for adoption and may provide recommendations to the Metro Council regarding any aspect of the budget.
3. **Anticipated Effects** – Adoption of this Resolution will put into effect the annual FY 2014-15 budget, effective July 1, 2014.
4. **Budget Impacts** – The total amount of the proposed FY 2014-15 annual budget is \$480,784,874 and 785.25 FTE.

RECOMMENDED ACTION

The Chief Operating Officer recommends adoption of Resolution No. 14-4515

Agenda Item No. 6.1

Ordinance No. 14-1328, An Ordinance Extending the Metro
Construction Excise Tax for Community Planning and
Development Grants.

Ordinances - First Read

Metro Council Meeting
Thursday, June 12, 2014
Metro, Council Chamber

BEFORE THE METRO COUNCIL

AN ORDINANCE EXTENDING THE METRO)
CONSTRUCTION EXCISE TAX FOR)
COMMUNITY PLANNING AND)
DEVELOPMENT GRANTS)
ORDINANCE NO. 14-1328
Introduced by Chief Operating Officer Martha
Bennett, with the concurrence of Council
President Tom Hughes

WHEREAS, in March of 2006 the Metro Council adopted Ordinance No. 06-1115, titled “An Ordinance Creating a New Metro Code Chapter 7.04 Establishing a Construction Excise Tax,” (“2006 CET Ordinance”); and

WHEREAS, the construction excise tax rate established in the 2006 CET Ordinance was 0.12% of the value of new construction as defined in the CET Ordinance; and

WHEREAS, the 2006 CET Ordinance and Code chapter contained a sunset provision based on a maximum amount collected of \$6.3 million, which amount was reached in 2009; and

WHEREAS, in 2007 the Oregon state legislature adopted Senate Bill 1036, which authorizes school districts to levy construction excise taxes to pay for school facility construction, and prohibits the establishment of new construction excise taxes by other local governments, but the law provides that the prohibition does not apply to a tax that is in effect as of May 1, 2007, or to the extension or continuation of such a tax, provided that the rate of tax does not increase from the rate in effect as of May 1, 2007; and

WHEREAS, on recommendation of an Advisory Group and the Metro Chief Operating Officer (COO) regarding the continuing need for funding regional and local planning, on June 11, 2009 the Metro Council adopted Ordinance No. 09-1220, extending the Metro CET for an additional five-year period (“2009 CET Ordinance”); and

WHEREAS, under the 2009 CET Ordinance Metro awarded a total of approximately \$3.7 million in grants to local governments for community planning and development inside the UGB and in new urban areas and urban reserves; and

WHEREAS, the 2009 CET Ordinance established an expiration date for the CET of September 30, 2014; and

WHEREAS, the CET program has succeeded in raising revenues in accordance with the expected timeframes to pay for planning work that could not have been funded otherwise; and

WHEREAS, in January of 2014 the Metro COO convened an Advisory Group consisting of a broad-based stakeholder group to advise the Metro COO regarding the community planning and development grants program and regarding the potential extension of Metro’s CET for another cycle of collections and distribution of planning and development grants; and

WHEREAS, after a series of meetings the Advisory Group recommended to the Metro COO that the CET should be extended from October 2014 to December 2020; and

WHEREAS, the Advisory Group’s studies and recommendations were presented to the Metro Policy Advisory Group (“MPAC”) on May 14, 2014 and MPAC voted to _____
_____ ; and

WHEREAS, the Metro Council finds that it is in the best interests of the region to continue the funding source provided by the CET, and Metro is willing to assist local governments to fund their planning that is required to make land ready for development by continuing to implement a region-wide CET; and

WHEREAS, as required by Senate Bill 1036, the rate of Metro's CET will not increase from the rate in effect as of May 1, 2007, which is 0.12%; and

WHEREAS, Metro will continue to exempt from the CET all new construction valued at less than \$100,000 and also the construction of low-income housing; and

WHEREAS, the Metro CET will maintain the CET's stated policy and purpose "to provide funding for regional and local planning that is required to make land ready for development after its inclusion in the Urban Growth Boundary;" and

WHEREAS, the awards shall be determined by the Metro Council after receiving recommendations from the Metro Chief Operating Officer, who shall have convened and received recommendations from a grant screening committee that shall review grant requests submitted by local jurisdictions; and

WHEREAS, Metro has incurred not insignificant costs in implementing the CET program and is willing to continue to incur implementation costs but finds that a 5% administration fee is appropriate to partially reimburse Metro for its administrative costs; and

WHEREAS, the Metro Council hereby directs the Metro COO to extend the Intergovernmental Agreements with local jurisdictions for collection of the CET and remittance of such funds to Metro consistent with this Ordinance, and also hereby directs the Metro COO to prepare yearly reports to the Metro Council, advising the Metro Council of the amounts collected from the CET and the status of the grant requests by the local jurisdictions; now therefore

THE METRO COUNCIL ORDAINS AS FOLLOWS:

1. Extension of Metro Construction Excise Tax. Effective ninety (90) days after the passage of this Ordinance, the Metro Construction Excise Tax established pursuant to Metro Code Chapter 7.04 shall be extended to provide that the Construction Excise Tax shall not be imposed on and no person shall be liable to pay any tax for any construction activity that is commenced pursuant to a building permit issued after December 31, 2020.

2. Metro Code Amendment. Metro Code Chapter 7.04 shall be amended consistent with this Ordinance, in the form attached hereto as Exhibit A.

3. Administrative Rules. The Metro Council hereby directs the Metro Chief Operating Officer to ~~propose~~promulgate additional Administrative Rules~~rules and regulations necessary for the administration and enforcement of the CET Code Chapter~~ consistent with Chapter 7.04 and this Ordinance, and to return to the Metro Council for its approval of those Administrative Rules by resolution prior to promulgating them for policy direction and to the Metropolitan Policy Advisory Committee for recommendations prior to adopting the Administrative Rules.

ADOPTED by the Metro Council this _____ day of June, 2014.

Tom Hughes, Council President

Attest:

Approved as to Form:

Recording Secretary

Alison R. Kean, Metro Attorney

Effective Date: _____, 2014.

Exhibit A
Ordinance No. 14-1328

METRO CODE – TITLE VII FINANCE
Chapter 7.04 CONSTRUCTION EXCISE TAX

7.04.225 Metro Administrative Fee

Metro shall retain ~~2.5~~ five percent (~~2.5~~%) of the taxes remitted to Metro for payment towards Metro's administrative expenses.

7.04.230 Sunset Provision

The Construction Excise Tax shall not be imposed on and no person shall be liable to pay any tax for any construction activity that is commenced pursuant to a building permit issued ~~on or after the last day of the month five years after the effective date of this amendment to Chapter 7.04; i.e., September 30, 2014~~ December 31, 2020.

STAFF REPORT

IN CONSIDERATION OF ORDINANCE NO. 14- 1328, FOR THE PURPOSE OF EXTENDING THE CONSTRUCTION EXCISE TAX FOR COMMUNITY PLANNING AND DEVELOPMENT GRANTS

Date: May 30, 2014

Prepared by: Gerry Uba

503-797-1737

gerry.uba@oregonmetro.gov

BACKGROUND

In November 2013, staff informed Metro Council that the construction excise tax which funds Community Planning and Development Grants will expire in September 2014. Staff also informed the Council that if it desired to maintain the construction excise tax for planning purposes, the tax must be extended not later than June 2014, because tax actions require a 90-day period prior to sunset date to be reauthorized. Council deliberations resulted in directing the Chief Operating Officer to convene stakeholders to review the Community Planning and Development Grants program and provide advice on extension of the tax.

2005 EXPANDED AREA PLANNING FUND COMMITTEE AND CYCLE 1 GRANT AWARD

As early as 2004, the region realized that many local governments do not have sufficient funding to complete the planning requirements in Title 11 of the Urban Growth Management Functional Plan for over 6,000 acres brought into the Urban Growth Boundary (UGB) in [list year or period of years]. In early 2006, a stakeholder advisory group convened by then- Chief Operating Officer Michael Jordan recommended creation of a construction excise tax to collect a total of \$6.3 million to fund planning in areas brought into the UGB from 2002 through 2005. In March 2006, Metro Council established the tax (Ordinance No. 06-1115), which took effect the following July 1. The tax is assessed at 0.12 percent of the total value of construction for which a permit is sought. Permits valued below \$100,000 and those issued to non-profit organizations for affordable housing are exempt from the tax. Permits valued more than \$10 million are assessed a flat fee of \$12,000.

Cycle 1 (2006) non-competitive grants to local governments committed the \$6.3 million for 26 concept planning projects in those areas brought into the UGB between 2002 and 2005. The concept plans established the planning framework for long-term sustainable urbanization and annexation for these new urban areas.

2009 CET ADVISORY GROUP AND CYCLES 2 AND 3 GRANT AWARDS

Due to the need for predevelopment and redevelopment planning for areas inside the UGB, an advisory group convened in 2009 and recommended extension of the CET. The Group recommended extending the sunset for additional five years, to September 2014. The Committee also recommended maintaining the existing tax structure, including the tax rate, exemptions and retention for administration of the tax.

The Metro Council extended the tax in 2009 (Ordinance 09-1220) for a five-year period. The scope of eligible projects was expanded to include existing urban area planning, new urban area planning, and urban reserve area planning. Grant allocations in two new Cycles (Cycle 2 and Cycle 3) were implemented in 2010 and in 2013.

Cycle 2 (2010) competitive grants to local governments committed \$3.7 million for 17 planning projects in areas inside the UGB (Resolution No. 10-4151). Cycle 3 (2013) competitive grants to local governments committed \$4.2 million for 19 planning projects (Resolution No. 13-4450) both inside and outside the UGB. Approximately 32 percent of the fund was allocated to planning projects in new urban areas and urban reserves, while 68 percent of available revenues was allocated to planning projects located inside the UGB. The outcomes of Cycle 2 and Cycle 3 projects fall into the following categories:

- Concept plans for establishing long-term sustainable urbanization and annexation for land added to the UGB
- Concept plans or comprehensive plans for establishing long-term sustainable urbanization and annexation for urban reserves, including how to secure financial and governance commitment
- Master plans for shovel-ready eco-industrial development
- Master plans for old industrial and employment areas
- Implementation strategies with a focus on redevelopment and potential transit stations
- Development strategies with a focus on infrastructure financing
- Zoning regulation updates to implement comprehensive plans and spur redevelopment
- Alternative transportation system performance measures for multi-modal mixed-use areas.

2014 PERFORMANCE ASSESSMENT OF THE COMMUNITY PLANNING AND DEVELOPMENT GRANTS PROGRAM

Metro contracted with a consulting firm, ECONorthwest, to conduct a performance assessment of the Community Planning and Development Grants program. Key findings and recommendations of the performance assessment are:

- 1) There is a lack of quantitative evidence of on-the-ground development can be attributed to:
 - a) Impact of the recession
 - b) Delayed start of grant projects
 - c) Too soon to measure progress of grant projects
- 2) The benefits of the grant program (based on qualitative research/interviews) are:
 - a) Planning could not have occurred without the grant
 - b) Planning happened sooner in some places because of the availability of funds
 - c) Partnerships were established and external resources leveraged
 - d) Innovative approaches and increased planning sophistication occurred
- 3) The recommendations focus on improvements that will enhance future program evaluation:
 - a) Some of those interviewed expressed uncertainty about what the program can accomplish, due to shifts in evaluation criteria. This can be resolved by providing clearer definition of the criteria to be consistent with program objectives
 - b) Prior to a new grant cycle (if the tax is extended), Metro should develop an intentional evaluation framework linking program goals with project activities and ultimate outcomes, using tools like a logic model.

- c) Metro should reevaluate the 50/50 split of Cycle 3 grant funds between projects inside UGB and in urban reserves and new urban areas
- d) Metro should consider requiring grantees to evaluate their own success and failures during the grant period
- e) Report interim and final evaluation findings, showing how projects compare on program goals, activities and ultimate outcomes.

2014 ADVISORY GROUP FOR POTENTIAL CONSTRUCTION EXCISE TAX EXTENSION AND COMMUNITY PLANNING AND DEVELOPMENT GRANTS PROGRAM REVIEW

In January 2014, the Chief Operating Officer convened an advisory group after consultation with the Metro Council. The charter of the advisory group was to review the grants program and recommend potential improvements to the program and provide advice on whether the tax should be extended or not. The advisory group recommendations were informed by the findings in the performance assessment report.

The advisory group met three times between January and March 2014 and its final recommendations were sent to the Chief Operating Officer in April 2014. The following is the summary list of the recommendations of the advisory group. Attachment A to this staff report provides a summary of the Advisory Group recommendations.

- Extend the construction excise tax from October 2014 to December 2020 and maintain the existing tax structure, including the tax rate and exemptions
- Maintain the same purpose of grant funds set forth in Ordinance No. 09-1220
- Distribute the October 2014 to December 2020 tax receipts in at least two grant cycles
- Set some percentage of projected revenue for mandated planning required in Metro’s Urban Growth Management Functional Plan Title 11, and the rest of the funds for various types of planning in other areas
- Identify local and regional needs for Community Planning and Development Grants and adjust the distribution of revenue accordingly
- Refine existing evaluation criteria to encourage strong projects that demonstrate an understanding of market interventions to achieve development
- Outcome of the Community Planning and Development Grants program should include clear outcome goals for each planning focus area and specific performance measures to evaluate the program.

MPAC RECOMMENDATIONS

The Metro Policy Advisory Committee (MPAC) reviewed and considered the recommendations of the Metro Chief Operating Officer and Stakeholder Advisory Group, and findings and recommendations in the grant program performance assessment report on May 14, 2014. On June 11, 2014, MPAC passed a motion recommending to Metro Council to _____ (extend / not extend?) the construction excise tax to _____.

ANALYSIS/INFORMATION

1. **Known Opposition**

There is no known opposition to the proposed legislation. As stated earlier, the Chief Operating Officer convened an advisory group which reviewed the grant program and reached consensus on their recommendations to her.

2. **Legal Antecedents**

After establishment of the construction excise tax in 2006, the Oregon Legislature changed the local taxing authority law in 2007, enacting Senate Bill 1036 which authorized school districts to levy construction excise taxes on new residential, commercial and industrial construction to pay for school facility construction. The bill also prohibited local governments from establishment of new construction excise tax. However the law “grandfathered” in existing construction excise taxes, such as Metro’s, established before May 1, 2007. The state preemption expires on January 2, 2018.

Oregon law allows an existing construction excise tax to be extended, provided the structure of the tax does not change. Because this ordinance would extend the existing construction excise tax, Metro is not required to establish a Tax Study Committee. The 2014 advisory group was aware of the provisions in state law before reaching agreement to recommend extension of the tax to December 2020. As stated earlier, the tax must be extended 90 days before an expiration date (September 30, 2014), because tax actions require a 90-day period prior to sunset date to be reauthorized. Metro Council must adopt this ordinance by June 30, 2014, for the tax to be effective by the expiration of the current tax.

3. **Anticipated Effects**

If the construction excise tax is extended, funding will be available for creating catalytic action plans that would remove barriers to development and result in on-the-ground development. The new fund would facilitate creation of strategic plans to enable planning and development projects, such as urban renewal planning, projected growth areas planning, pre-corridor planning, and infrastructure finance planning. The extension would also enable implementation of mandated concept planning in additional urban reserve areas.

If the construction excise tax is extended, the Advisory Group will be reconvened in fall 2014 to assist Metro complete refinement of existing and proposed evaluation criteria. Prior to solicitation of grant applications, local and regional planning needs will be identified so as to balance needs with grant resources. Upon refining the criteria, the Chief Operating Officer will present draft of the revised Administrative Rules for governing the Community Planning and Development Grants program to the Metro Council and MPAC for comments prior to adoption.

The grants program will be evaluated periodically, if the tax is extended, and outcome goals for each area of planning focus will be developed. Specific performance measures for each outcome will also be identified and used in the program evaluation.

4. **Budget Impacts**

Currently, Metro’s administrative reimbursement is 2.5 percent of the revenues collected (about \$50,000 per year). Local governments collecting the tax receive 5 percent administrative

reimbursement prior to submission of receipts to Metro. Grant awards require Metro to negotiate intergovernmental agreements with grantees and work closely with grantees to monitor progress of their projects. Over the years, the increase in the number of awards and planning projects has required additional staff time and resources of the Planning and Development Department and Office of Metro Attorney to administer the program. Staff hours in the last nine months, since the award of Cycle 3 grants were awarded in August 2013, was 1,780 hours (\$167,000). An increase of Metro's administrative reimbursement from 2.5 percent (about \$50,000 per year) to 5 percent (about \$100,000 per year) will help cover those expenses but still short of direct costs for the grant program (over \$150,000 per year).

5. Attachments

- Attachment A: Advisory Group Membership
- Attachment B: COO recommendations to Council President and Metro Council (the recommendations of the Advisory Group was attached to the COO recommendations)

RECOMMENDED ACTION

The Chief Operating Officer recommends extension of existing construction excise tax and implementation of modifications to the Community Planning and Development Grants program by adoption of this ordinance (see Attachment C).

ATTACHMENT A

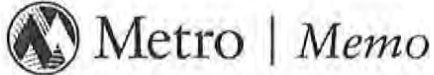
Advisory Group Membership 1/23/14

Name	Organization
Staff	
Andrew Singelakis	Washington County
Dan Chandler	Clackamas County
Ron Papsdorf	City of Gresham
Brant Williams	City of Lake Oswego
Susan Anderson	City of Portland
Colin Cooper	City of Hillsboro
Alice Cannon	City of Tualatin
Tony Konkol	City of Oregon City
Jillian Detweiler	TriMet staff
Advocacy Organizations	
Dave Nielsen	Homebuilders Association of Metro Portland
Tim Breedlove	Homebuilders Association of Metro Portland, Board Member
Betty Dominguez	Non-profit Housing Developers
Jane Leo	Portland Metro Association of Realtors
Willy Myers	Columbia Pacific Building Trades Council
Bernie Bottomly	Portland Business Alliance
Kelly Ross	NAIOP
Jason Miner	1000 Friends of Oregon
Dwight Unti	Urban development
Victor Merced	Social equity
Consultants	
Tim Smith	SERA
Jerry Johnson	Johnson Economics
John Spencer	Spencer Consultants

ATTACHMENT B

Chief Operating Officer Recommendations

[see next page]



Date: April 18, 2014
To: Council President Hughes and Metro Council
From: Martha Bennett, Chief Operating Officer
Subject: Recommendation on Construction Excise Tax (CET) extension and Community Planning and Development Grant Program

I am pleased to present my recommendations for extending Metro's construction excise tax and modifying the community planning and development. The construction excise tax funds a valuable grant program for the region and its communities, and I recommend you adopt Ordinance 14-1328, which extends the tax for six more years. Additionally, I recommend the Council direct me to implement the attached recommendations to improve the quality of grant applications and increase the likelihood of achieving the purpose of the grant program.

In January 2014, I appointed a 22-member Stakeholder Advisory Group representing varied interests in the private and public sectors to review the grant program and advise me on whether the tax should be extended and on refinements to the program. This group had productive discussions, and I appreciate their time and effort.

My recommendations are based on their work. I endorse the Advisory Group's recommendations which they will share with you at the April 29, 2014 Council work session

Highlights of the recommendations from the Stakeholder Advisory Group include:

- Extension of Metro's construction excise tax from September 30, 2014 to December 31, 2020;
- Modification of the Community Planning and Development Grant program to ensure Metro supports grants that assist communities in three areas: Meeting the requirements of Title 11 for concept planning, strategic planning projects designed to help areas develop or redevelop; and catalytic planning efforts that remove barriers currently preventing development or redevelopment in the short term;
- Refinement of criteria currently in the Administrative Rules next fall; and

The proposed refinement of the community planning and development program will encourage stronger grant applications for getting more areas in the region ready for development and redevelopment. My recommendations as well as those of the Advisory Group were informed by a performance assessment of the community planning and development grants program by an independent contractor (ECONorthwest), which you will also hear about on April 29.

In addition to the Advisory Group's recommendation (attached), I also recommend that Council increase Metro's administrative reimbursement from two-and-a-half- percent (2.5%) to five percent (5%). Since creation of the construction excise tax in 2006, local governments collecting the tax have retained five percent (5%) of the paid receipts as administrative fee. Metro has retained 2.5%), which goes into the general fund for administration of the. In reviewing the program since 2006, I have learned that the direct costs for administering this grant program have

greatly exceeded this amount. Increasing the reimbursement will not cover all of Metro's direct costs, but it will reduce the impact of this program on other general fund services.. .

Please let me or the project manager, Gerry Uba, know if you have any questions.

Attachment to COO Recommendations

RECOMMENDATIONS OF THE METRO STAKEHOLDER ADVISORY GROUP FOR POTENTIAL CONSTRUCTION EXCISE TAX EXTENSION AND COMMUNITY PLANNING AND DEVELOPMENT GRANTS PROGRAM REVIEW SUBMITTED TO METRO CHIEF OPERATING OFFICER FINAL -- April 18, 2014

1. Decision on Construction Excise Tax (CET) expiration:

The Stakeholder Advisory Group recommends the Metro Council extend the CET at the current tax rate from September 30, 2014 to December 31, 2020 for the purpose of funding the Community Planning and Development Grant Program.

2. Modifications to the Community Planning and Development Grant (CPDG) Program

A. Purpose of the grant funds

The Advisory Group recommends keeping the purpose of the program as stated in Ordinance No. 09-1220:

".....the purpose of funding grants for planning areas inside the UGB, future expansion areas, and urban reserves, with an emphasis on planning projects that advance the 2040 Regional Framework Plan and result in on-the-ground development....."

"...and Metro is willing to assist local governments to fund their planning"

B. Distribution of tax revenue

The Advisory Group recommends Metro undertake at least two grant cycles to distribute fund collected from the CET extension to 2020. The Advisory Group also recommends setting some percentage of projected revenue for mandated concept planning and comprehensive planning for urban reserves and new urban areas required in Metro's Urban Growth Management Functional Plan Title 11¹. The approximate percentage is shown in the chart below. If the amount of qualified grant requests for urban reserves and new urban areas fall below the approximate percentage for this distribution area, the remainder of funds will be allocated to grant requests for planning in other areas. Similarly, if the qualified grant requests exceed the approximate percentage, Metro will consider increasing the allocation to this category for the upcoming grant cycle. The Advisory Group also recommends Metro conduct an assessment prior to each grant cycle to determine which jurisdictions want to undertake

¹ Title 11 of Metro's Urban Growth Management Functional Plan requires concept planning for areas in urban reserves before consideration of urban growth boundary expansion into these areas, or comprehensive planning of areas added to the UGB.

concept planning and/or comprehensive planning for urban reserve areas and new urban areas.

The remaining revenue should be used for various types of planning within the existing Urban Growth Boundary. The approximate percentage is shown in the chart below.

The following chart identifies types of planning that should be eligible for funding, and a sample of goals and desired outcomes to be achieved within the stated timeline.

Focus of Planning	Planning Goals	Timeline (for building permits issued)	Outcome	Approximate Target of Projected Grant Funds
Mandated concept plan <u>and</u> comprehensive plan	<ul style="list-style-type: none"> • Meet Title 11 requirement • Vision for planning area • Strong local match / support 	10 years or more	<ul style="list-style-type: none"> • Concept Plan • Comprehensive plan • Likely addition to UGB with 10 yrs • Annexation • Identify additional planning needed 	25% - 30%
Strategic plan for development and redevelopment investments	<ul style="list-style-type: none"> • Urban renewal planning • Pre-corridor planning projects • Infrastructure and financial feasibility planning • Projected growth areas planning 	5 to 10 years	<ul style="list-style-type: none"> • Adopted redevelopment plan and implementation schedule • Adopted Funding strategy and implementation schedule 	70% to 75%
Catalytic action plan	<ul style="list-style-type: none"> • Barriers to development removed • Market evaluation/reality 	Less than 5 years	<ul style="list-style-type: none"> • Incentives created • Code creation, updating and maintenance • Recruit developer • Development agreements • Use of tools for improvement of development process 	

C. Understanding local and regional needs

The Advisory Group recommends Metro improve its understanding of the demand for grant support through a survey of local governments, or through solicitation of grants letters of intent, and adjust its distribution of resources accordingly.

3. **Guidelines for refining criteria to be included in the Administrative Rules for evaluating grant applications**

The Advisory Group recommends Metro work with stakeholders to refine existing evaluation criteria for the Administrative Rules, if the construction excise tax is extended. The refinement will encourage grant applicants to propose strong projects which demonstrate understanding of the market context and clearly stated outcomes. The Advisory Group recognizes proposed projects in urban reserve areas must address mandated Title 11 requirements, and recommends the stakeholders refine other criteria for evaluating projects in these areas.

The Advisory Group also recommends stakeholders assist to prioritize or weight the criteria to be used in future grant cycles, if the construction excise tax is extended. Following are recommended new criteria and a proposed approach for refinement of existing criteria.

- A. *The likelihood of implementation*: This criterion will evaluate the “will” to implement projects funded by the grant program. The Advisory Group discussed several dimensions that should be considered: support from governing body, public support and institutional support. The Advisory Group recommends that Metro require:
- i. Grant applications demonstrate that the appropriate governing body has approved the proposed project and grant application
 - ii. A certain percentage of match funds from the applicant
 - iii. A description of how the project will build or expand public support so that completed plans are likely to be implemented
 - iv. Where applicable, how voter-approved annexation and transit improvements will be addressed so that the outcome of proposed planning projects can be realized.
- B. *Equity criteria*: In Cycles 2 and 3 grant allocations, there were two equity-related criteria: – a prerequisite “social equity” criterion stated in the six Desired Outcomes adopted by the region to guide future planning (“...the benefits and burdens of growth and change are distributed equitably”), and a stand alone “revenue redistribution” criterion titled “equity” (“discuss whether and how the proposed planning grant will further the equitable distribution of funds, based on collections of revenues, past funding, and planning resource needs.”)

The Advisory Group recommends the stakeholders discuss and recommend to Metro how the prerequisite “social equity” criterion can be used to address concerns of historically disadvantaged-communities. The Advisory Group also recommends the stakeholders use the findings and recommendations of the Metro Equity Strategy Advisory Committee to refine this prerequisite criterion.

The Advisory Group recommends replacement of the stand alone “revenue redistribution” criterion with “growth absorption” criteria. The stakeholders should consider how this criterion should be used to ensure jurisdictions can absorb employment and population growth forecast by Metro for each jurisdiction, and recognize the needs of high growth areas.

- C. *Capacity of applicant criteria:* Applicants should describe the qualifications of staff and proposed consulting teams to carry out the planning projects.
- D. *Best practices criteria:* Grantees should be required to share lessons learned from the planning effort.

4. Program outcomes

- A. Outcome and performance measures

The Advisory Group recommends Metro develop clear outcome goals for each grant area and a specific performance measure for each outcome.

- B. Future evaluations

The Advisory Group recommends Metro periodically evaluate the Community Planning and Development Grants program using adopted performance measures.

Agenda Item No. 6.2

Ordinance No. 14-1341, For the Purpose of Amending the FY 2013-14 Budget and Appropriations Schedule and the FY 2013-14 through 2017-18 Capital Improvement Plan.

Ordinances - First Read

Metro Council Meeting
Thursday, June 12, 2014
Metro, Council Chamber

BEFORE THE METRO COUNCIL

AMENDING THE FY 2013-14 BUDGET AND) ORDINANCE NO. 14-1341
APPROPRIATIONS SCHEDULE AND THE FY)
2013-14 THROUGH 2017-18 CAPITAL) Introduced by Martha Bennett, Chief
IMPROVEMENT PLAN) Operating Officer, with the concurrence of
) Council President Tom Hughes

WHEREAS, the Metro Council has reviewed and considered the need to increase appropriations within the FY 2013-14 Budget; and

WHEREAS, Metro Code chapter 2.02.040 requires Metro Council approval to add any new position to the budget; and

WHEREAS, the need for the increase of appropriation has been justified; and

WHEREAS, adequate funds exist for other identified needs; and

WHEREAS, ORS 294.463(1) provides for transfers of appropriations within a fund, including transfers from contingency that do not exceed 15 percent of a fund's appropriations, if such transfers are authorized by official resolution or ordinance of the governing body for the local jurisdiction, and

WHEREAS, ORS 294.463(3) provides for transfers of appropriations or of appropriations and a like amount of budget resources between funds of the municipal corporation when authorized by an official resolution or ordinance of the governing body stating the need for the transfer, now, therefore,

THE METRO COUNCIL ORDAINS AS FOLLOWS:

1. That the FY 2013-14 Budget and Schedule of Appropriations are hereby amended as shown in the column entitled "Revision" of Exhibits A and B to this Ordinance for the purpose of transferring appropriations to provide for a change in operations.
2. That the FY 2013-14 through FY 2017-18 Capital Improvement Plan is hereby amended accordingly.
3. This Ordinance being necessary for the immediate preservation of the public health, safety or welfare of the Metro area in order to meet obligations and comply with Oregon Budget Law, an emergency is declared to exist, and this Ordinance takes effect upon passage.

ADOPTED by the Metro Council this _____ day of _____ 2014.

Tom Hughes, Council President

Attest:

Approved as to Form:

Troy Rayburn, Recording Secretary

Alison Kean, Metro Attorney

**Exhibit A
Ordinance No. 14-1341**

ACCT	DESCRIPTION	Current Budget		Revision		Amended Budget	
		FTE	Amount	FTE	Amount	FTE	Amount
General Fund							
Parks & Environmental Services							
<i>Materials & Services</i>							
<i>GOODS Goods</i>							
520100	Office Supplies		72,016		0		72,016
520500	Operating Supplies		112,665		0		112,665
521000	Subscriptions and Dues		6,326		0		6,326
521400	Fuels and Lubricants		75,891		0		75,891
521500	Maintenance & Repairs Supplies		143,462		0		143,462
522500	Retail		13,000		0		13,000
<i>SVCS Services</i>							
524000	Contracted Professional Svcs		330,903		0		330,903
525000	Contracted Property Services		173,945		0		173,945
525100	Utility Services		438,908		0		438,908
525500	Cleaning Services		25,278		0		25,278
526000	Maintenance & Repair Services		383,107		(65,787)		317,320
526500	Rentals		44,599		0		44,599
528000	Other Purchased Services		56,120		0		56,120
529800	Glendoveer Golf Operating Contract		2,344,363		0		2,344,363
<i>IGEXP Intergov't Expenditures</i>							
530000	Payments to Other Agencies		112,100		0		112,100
531000	Taxes (Non-Payroll)		225,866		0		225,866
<i>OTHEXP Other Expenditures</i>							
545000	Travel		8,095		0		8,095
545500	Staff Development		34,536		0		34,536
Total Materials & Services			\$4,651,180		(\$65,787)		\$4,585,393
TOTAL REQUIREMENTS		42.30	\$8,929,069	0.00	(\$65,787)	42.30	\$8,863,282

Exhibit A
Ordinance No. 14-1341

ACCT	DESCRIPTION	Current Budget		Revision		Amended Budget	
		FTE	Amount	FTE	Amount	FTE	Amount
General Fund							
General Expenses							
<i>Interfund Transfers</i>							
<i>INDTEX</i>	<i>Interfund Reimbursements</i>						
580000	Transfer for Indirect Costs						
	* to Risk Mgmt Fund-Liability		175,781		0		175,781
	* to Risk Mgmt Fund-Worker Comp		244,923		0		244,923
<i>EQTCHG</i>	<i>Fund Equity Transfers</i>						
581000	Transfer of Resources						
	* to General Revenue Bond Fund-Zoo		385,230		0		385,230
	* to Gen'l Asset Mgmt Fund-Genl Cap Acct		100,000		0		100,000
	* to Gen'l Revenue Bond Fund-Debt Serv Acct		1,295,441		0		1,295,441
	* to MERC Fund (Tourism Opp. & Compt. Acct)		418,633		0		418,633
	* to Gen'l Asset Mgmt Fund-General R&R		676,000		0		676,000
	* to Gen'l Asset Mgmt Fund-IT R&R		266,000		0		266,000
	* to Gen'l Asset Mgmt Fund-Parks Cap Account		323,165		65,787		388,952
	* to Gen'l Asset Mgmt Fund-MRC R&R		294,000		0		294,000
	* to Gen'l Asset Mgmt Fund-Zoo Cap Acct		200,000		0		200,000
	* to Gen'l Asset Mgmt Fund-Parks R&R		587,000		0		587,000
	* to Solid Waste Revenue Fund		153,401		0		153,401
586000	Interfund Loan - Principal						
	* to MERC		2,200,000		0		2,200,000
Total Interfund Transfers			\$7,319,574		\$65,787		\$7,385,361
<i>Contingency & Unappropriated Balance</i>							
<i>CONT</i>	<i>Contingency</i>						
	Contingency						
701002	* Contingency		3,213,334		0		3,213,334
701001	* Opportunity Account		250,000		0		250,000
701004	* Reserve for Future One-Time Expenditures		440,223		0		440,223
<i>UNAPP</i>	<i>Unappropriated Fund Balance</i>						
	Unappropriated Fund Balance						
805100	* Stabilization Reserve		2,575,000		0		2,575,000
805450	* PERS Reserve		2,893,403		0		2,893,403
805900	* Other Planning Department Carryover		466,982		0		466,982
805300	* Reserve for Future One-Time Expenditures		775,000		0		775,000
805900	* Reserved for Community Invest. Initiative		156,034		0		156,034
801003	* Reserved for TOD		5,083,671		0		5,083,671
801002	* Reserved for Local Gov't Grants (CET)		2,353,159		0		2,353,159
805900	* Reserved for Cost Allocation Adjustments		429,590		0		429,590
805900	* Reserved for Nature in Neighborhood Grants		58,327		0		58,327
805900	* Reserved for Metro Export Initiative		25,000		0		25,000
805900	* Reserved for Active Transportation		135,000		0		135,000
805400	* Reserve for Future Debt Service		995,535		0		995,535
Total Contingency & Unappropriated Balance			\$19,850,258		\$0		\$19,850,258
TOTAL REQUIREMENTS		457.84	\$116,824,274	0.00	\$0	457.84	\$116,824,274

Exhibit A
Ordinance No. 14-1341

ACCT	DESCRIPTION	Current		Revision		Amended	
		FTE	Amount	FTE	Amount	FTE	Amount
General Asset Management Fund							
General Asset Management Fund							
<i>Resources</i>							
<i>BEGBAL</i>	<i>Beginning Fund Balance</i>						
320500	Restricted for Capital		2,322,993		0		2,322,993
340000	Unassigned Balance		5,471,221		0		5,471,221
350000	Assigned Balance		899,778		0		899,778
<i>GRANTS</i>	<i>Grants</i>						
411000	State Grants-Direct		73,250		0		73,250
<i>INTRST</i>	<i>Interest Earnings</i>						
470000	Interest on Investments		29,000		0		29,000
<i>CAPGRT</i>	<i>Capital Contributions & Donations</i>						
475500	Capital Contributions & Donations		2,245,000		0		2,245,000
<i>EQTREV</i>	<i>Fund Equity Transfers</i>						
497000	Transfer of Resources						
	* from Solid Waste Revenue Fund		56,097		0		56,097
	* from General Fund (Regional Parks)		587,000		65,787		652,787
	* from General Fund-IT R&R		266,000		0		266,000
	* from General Fund-MRC R&R		294,000		0		294,000
	* from General Fund-Gen'l R&R		676,000		0		676,000
	* from General Fund		623,165		0		623,165
<i>INTSRV</i>	<i>Internal Service Transfers</i>						
498000	Transfer for Direct Costs						
	* from Natural Areas Fund		120,000		0		120,000
TOTAL RESOURCES			\$13,663,504		\$65,787		\$13,729,291
Total Materials & Services			\$1,151,775		\$0		\$1,151,775
<i>Capital Outlay</i>							
570000	Land		1,400,000		0		1,400,000
571000	Improve-Oth thn Bldg		2,115,942		0		2,115,942
572000	Buildings & Related		537,500		44,000		581,500
573000	Exhibits and Related		2,159,092		0		2,159,092
574000	Equipment & Vehicles		2,124,502		21,787		2,146,289
574500	Licensed Vehicles		242,541		0		242,541
575000	Office Furniture & Equip		427,963		0		427,963
576000	Railroad Equip & Facil		69,396		0		69,396
578800	Art and Collections		0		0		0
579000	Intangible Assets		38,000		0		38,000
Total Capital Outlay			\$9,114,936		\$65,787		\$9,180,723
<i>Contingency & Unappropriated Balance</i>							
<i>CONT</i>	<i>Contingency</i>						
	Contingency						
700000	* Contingency		2,710,481		0		2,710,481
<i>UNAPP</i>	<i>Unappropriated Fund Balance</i>						
	Unappropriated Fund Balance						
801000	* Oregon Zoo Projects Account		686,312		0		686,312
Total Contingency & Unappropriated Balance			\$3,396,793		\$0		\$3,396,793
TOTAL REQUIREMENTS			\$13,663,504	-	\$65,787		\$13,729,291

**Exhibit A
Ordinance No. 14-1341**

ACCT	DESCRIPTION	Current Budget		Revision		Amended Budget	
		FTE	Amount	FTE	Amount	FTE	Amount
MERC Fund							
MERC Fund							
<i>Resources</i>							
<i>BEGBAL</i>	<i>Beginning Fund Balance</i>						
340000	* Undesignated		24,211,557		0		24,211,557
<i>GRANTS</i>	<i>Grants</i>						
410500	Federal Grants - Indirect		100,000		0		100,000
411500	State Grant - Indirect		196,591		0		196,591
412000	Local Grant - Direct		10,000		0		10,000
412500	Local Grants - Indirect		30,000		0		30,000
412900	Intra Metro Grant		157,412		0		157,412
<i>LGSHRE</i>	<i>Local Gov't Share Revenues</i>						
413000	Transient Lodging Tax (3% Excise Tax Fund)		10,280,593		0		10,280,593
413300	Visitor Development Fund Allocation		3,420,902		0		3,420,902
<i>GVCNTB</i>	<i>Contributions from Governments</i>						
414500	Government Contributions		816,020		0		816,020
<i>CHGSVC</i>	<i>Charges for Service</i>						
450000	Admission Fees		1,675,767		0		1,675,767
451000	Rentals		7,160,695		0		7,160,695
455000	Food Service Revenue		12,360,725		1,000,000		13,360,725
456000	Retail Sales		8,500		0		8,500
457000	Merchandising		15,000		0		15,000
457500	Advertising		23,290		0		23,290
458000	Utility Services		1,676,700		0		1,676,700
459000	Commissions		1,895,659		0		1,895,659
462000	Parking Fees		2,988,694		0		2,988,694
464500	Reimbursed Services		2,745,409		0		2,745,409
464700	Reimbursed Services - Contract		502,484		0		502,484
465000	Miscellaneous Charges for Svc		249,804		0		249,804
<i>INTRST</i>	<i>Interest Earnings</i>						
470000	Interest on Investments		76,142		0		76,142
<i>DONAT</i>	<i>Contributions from Private Sources</i>						
475000	Donations and Bequests		75,000		0		75,000
476000	Sponsorship Revenue		134,000		0		134,000
<i>MISCRV</i>	<i>Miscellaneous Revenue</i>						
417000	Fine & Forfeitures		4,000		0		4,000
480500	Financing Transaction		50,599		0		50,599
489000	Miscellaneous Revenue		25,956		0		25,956
489100	Refunds and Reimbursements		1,250		0		1,250
<i>LOANRV</i>	<i>Interfund Loan - Resource</i>						
496000	Interfund Loan - Principal * from General Fund		2,200,000		0		2,200,000
<i>EQTREV</i>	<i>Fund Equity Transfers</i>						
497000	Transfer of Resources * from General Fund (MTOCA)		418,633		0		418,633
TOTAL RESOURCES			\$73,511,382		\$1,000,000		\$74,511,382
Total Personnel Services		174.50	\$17,741,183	-	\$0	174.50	\$17,741,183
<i>Materials & Services</i>							
<i>GOODS</i>	<i>Goods</i>						
520100	Office Supplies		317,981		0		317,981
520500	Operating Supplies		279,744		0		279,744
521000	Subscriptions and Dues		72,345		0		72,345
521400	Fuels and Lubricants		17,500		0		17,500
521500	Maintenance & Repairs Supplies		572,160		0		572,160
522500	Retail		11,000		0		11,000

**Exhibit A
Ordinance No. 14-1341**

ACCT	DESCRIPTION	Current Budget		Revision		Amended Budget	
		FTE	Amount	FTE	Amount	FTE	Amount
MERC Fund							
MERC Fund							
<i>SVCS</i>	<i>Services</i>						
524000	Contracted Professional Svcs		1,098,509		0		1,098,509
524500	Marketing Expense		2,964,742		0		2,964,742
524600	Sponsorship Expenditures		32,450		0		32,450
524700	Visitor Development Marketing		1,330,719		0		1,330,719
525100	Utility Services		2,543,190		0		2,543,190
525500	Cleaning Services		34,200		0		34,200
526000	Maintenance & Repair Services		1,241,463		0		1,241,463
526500	Rentals		499,362		0		499,362
528000	Other Purchased Services		1,007,544		0		1,007,544
528100	Other Purchased Services - Reimb		504,219		0		504,219
529100	Food and Beverage Services		10,455,500		1,000,000		11,455,500
529200	Parking Services		390,000		0		390,000
<i>IGEXP</i>	<i>Intergov't Expenditures</i>						
530000	Payments to Other Agencies		219,625		0		219,625
531000	Taxes (Non-Payroll)		22,500		0		22,500
532000	Government Assessments		2,200,000		0		2,200,000
<i>OTHEXP</i>	<i>Other Expenditures</i>						
545000	Travel		165,900		0		165,900
545500	Staff Development		101,600		0		101,600
549000	Miscellaneous Expenditures		85,575		0		85,575
Total Materials & Services			\$26,167,828		\$1,000,000		\$27,167,828
Capital Outlay							
571000	Improve-Oth thn Bldg		80,000		0		80,000
572000	Buildings & Related		4,108,812		500,000		4,608,812
574000	Equipment & Vehicles		821,005		0		821,005
575000	Office Furniture & Equip		292,800		0		292,800
Total Capital Outlay			\$5,302,617		\$500,000		\$5,802,617
Total Interfund Transfers			\$5,131,804		-		\$0
Contingency and Ending Balance							
<i>CONT</i>	<i>Contingency</i>						
701002	* General Contingency		1,922,099		(1,000,000)		922,099
706000	* Renewal and Replacement		2,584,922		(500,000)		2,084,922
701003	* New Capital/Business Strategy Reserve		5,049,742		0		5,049,742
709000	* Contingency for Capital (TL TAX)		254,605		0		254,605
<i>UNAPP</i>	<i>Unappropriated Fund Balance</i>						
805100	* Stabilization Reserve		620,500		0		620,500
805910	* New Capital/Business Strategy Reserve		586,240		0		586,240
805000	* Ending Balance		0		1,000,000		1,000,000
805200	* Renewal & Replacement		8,149,842		0		8,149,842
Total Contingency and Ending Balance			\$19,167,950		(\$500,000)		\$18,667,950
TOTAL REQUIREMENTS		174.50	\$73,511,382	-	\$1,000,000	174.50	\$74,511,382

Exhibit B
Ordinance 14-1341
Schedule of Appropriations

	<u>Current</u> <u>Appropriation</u>	<u>Revision</u>	<u>Revised</u> <u>Appropriation</u>
GENERAL FUND			
Communications	2,701,648	0	2,701,648
Council Office	3,938,637	0	3,938,637
Finance & Regulatory Services	4,628,354	0	4,628,354
Human Resources	2,219,337	0	2,219,337
Information Services	4,018,220	0	4,018,220
Metro Auditor	725,382	0	725,382
Office of Metro Attorney	2,061,480	0	2,061,480
Oregon Zoo	31,585,451	0	31,585,451
Parks & Environmental Services	8,929,069	(65,787)	8,863,282
Planning and Development	14,216,023	0	14,216,023
Research Center	3,644,374	0	3,644,374
Sustainability Center	3,916,131	0	3,916,131
Special Appropriations	5,350,265	0	5,350,265
Non-Departmental			
Debt Service	1,720,071	0	1,720,071
Interfund Transfers	7,319,574	65,787	7,385,361
Contingency	3,903,557	0	3,903,557
<i>Total Appropriations</i>	<u>100,877,573</u>	<u>0</u>	<u>100,877,573</u>
Unappropriated Balance	15,946,701	0	15,946,701
Total Fund Requirements	<u>\$116,824,274</u>	<u>\$0</u>	<u>\$116,824,274</u>
GENERAL ASSET MANAGEMENT FUND			
Asset Management Program	10,266,711	65,787	10,332,498
Non-Departmental			
Interfund Transfers	0	0	0
Contingency	2,710,481	0	2,710,481
<i>Total Appropriations</i>	<u>12,977,192</u>	<u>65,787</u>	<u>13,042,979</u>
Unappropriated Balance	686,312	0	686,312
Total Fund Requirements	<u>\$13,663,504</u>	<u>\$65,787</u>	<u>\$13,729,291</u>
MERC FUND			
MERC	49,211,628	1,500,000	50,711,628
Non-Departmental			
Interfund Transfers	5,131,804	0	5,131,804
Contingency	9,811,368	(1,500,000)	8,311,368
<i>Total Appropriations</i>	<u>64,154,800</u>	<u>0</u>	<u>64,154,800</u>
Unappropriated Balance	9,356,582	1,000,000	10,356,582
Total Fund Requirements	<u>\$73,511,382</u>	<u>\$1,000,000</u>	<u>\$74,511,382</u>

All other appropriations remain as previously adopted

STAFF REPORT

FOR THE PURPOSE OF AMENDING THE FY 2013-14 BUDGET AND APPROPRIATIONS SCHEDULE AND THE FY 2013-14 THROUGH 2017-18 CAPITAL IMPROVEMENT PLAN

Date: May 14, 2014

Prepared by: Kathy Rutkowski 503-797-1630

BACKGROUND

Since the adoption of the budget several items have been identified that necessitate amendment to the budget.

Oregon Convention Center Food and Beverage

The Visitor Venues have experienced the tail end of the great recession during the past several years. The number of scheduled events at the Oregon Convention Center for FY 2013-14 during budget development was very low compared to historical averages. Once FY 2013-14 commenced OCC booked several additional events. These additional events have most notably impacted Food & Beverage revenue and expenses.

Oregon budget law does not allow the recognition and direct appropriation of this additional revenue without the benefit of a supplemental budget. This action transfers from \$1.0 million from contingency to materials and services to provide for the needed increase in food and beverage expense. It also acknowledges the receipt of additional revenue but places the additional revenue in the unappropriated Fund Balance to replenish the reserves at year end

Oregon Convention Center Roof Replacement Project

The Oregon Convention Center Original Roof Replacement Project Phase II is budgeted in FY 2014-15 in the amount of \$2.85 million. The purpose of this proposed transfer of appropriation from Contingency to the OCC Roof Project is to begin the project early in May 2014 to take full advantage of good weather. We expect to spend approximately \$500,000 in May and June 2014. This budget amendment was presented to the Metropolitan Exposition and Recreation Commission (MERC) for approval on June 4th, during the MERC regular monthly meeting. The balance of the Project is budgeted and fully funded in the FY 2014-15 Budget.

Glendoveer Projects

In FY 2012-13, prior to the development of a detailed project budget, the cart barn project at Glendoveer golf course received a \$331,000 appropriation in the Parks Capital account. An existing solar project was rolled into the cart barn plan, increasing project funding by \$75,000. A grant from the Energy Trust of Oregon provided an additional \$34,950, with the expectation that Regional Parks operations would fund any expenditures over \$440,950. Now that the cart barn is complete, this amendment requests the transfer of \$44,000 from parks operations in the General Fund to the Parks Capital account of the General Asset Management Fund. This action amends Metro's Capital Improvement Plan.

This amendment also transfers \$21,787 from the General Fund to the Parks Capital account of the General Asset Management Fund to correct a prior year coding error. Several expenditures from FY 2012-13, including a golf ball dispenser and cleaner and an Opt In survey about Glendoveer were charged to the Parks Capital account but were meant to be charged to the General Fund.

ANALYSIS/INFORMATION

1. **Known Opposition:** None known.
2. **Legal Antecedents:** ORS 294.463(1) provides for transfers of appropriations within a fund, including transfers from contingency that do not exceed 15 percent of a fund's appropriation, if such transfers are authorized by official resolution or ordinance of the governing body for the local jurisdiction. ORS 294.463(3) provides for transfers of appropriations or of appropriations and a like amount of budget resources between funds of the municipal corporation when authorized by an official resolution or ordinance of the governing body stating the need for the transfer. Metro code chapter 2.02.040 requires the Metro Council to approve the addition of any position to the budget. Metro's adopted financial policies require any project exceeding \$100,000 or an existing CIP project increasing greater than 20 percent to receive Council approval.
3. **Anticipated Effects:** This action provides for changes in operations as described above; acknowledging addition food and beverage revenue at the Oregon Convention Center and providing for associated expenditures; providing appropriation in the current year to accelerate the Oregon Convention Center roof replacement project; correct prior year coding errors; and to fund Glendoveer project expenditures that were over the amount provided for in the budget.
4. **Budget Impacts:** This action has the following impact on the FY 2013-14 budget:
 - Acknowledges \$1.0 million in additional food and beverage revenue at the Oregon Convention Center and places the revenue in the ending reserves to be carried forward to FY 2014-15.
 - Transfers \$1.0 million from the Oregon Convention Center contingency to provide for additional food and beverage expenditures associated with the increased revenue.
 - Transfers \$500,000 from the Oregon Convention Center contingency to accelerate the roof replacement project taking advantage of the good weather conditions. The project was fully funded in FY 2014-15.
 - Transfer \$44,000 from the Regional Parks operations in the General Fund to the Parks Capital Account in the General Asset Management Fund to provide full funding for the Glendoveer Cart Barn project.
 - Transfer \$21,787 from the Regional Parks operations in the General Fund to reimburse the Parks Capital Account in the General Asset Management fund for coding errors made in FY 2012-13 for expenditures that should have been charged to the General Fund.
 - Amends the FY 2013-14 through FY 2017-18 Capital Improvement Plan for the projects described above.

RECOMMENDED ACTION

The Chief Operating Office recommends adoption of this Ordinance.

Agenda Item No. 6.3

Ordinance No. 14-1339, For the Purpose of Amending Metro
Code 7.03 (Investment Policy) For Fiscal Year 2014-2015.

Ordinances - First Read

Metro Council Meeting
Thursday, June 12, 2014
Metro, Council Chamber

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AMENDING METRO)
CODE 7.03 (INVESTMENT POLICY) FOR)
FISCAL YEAR 2014-2015)
ORDINANCE NO. 14-1339
Introduced by Martha Bennett, Chief
Operating Office in concurrence with
Council President Tom Hughes

WHEREAS, Metro Code Section 7.03 contains the investment policy which applies to all cash-related assets held by Metro; and

WHEREAS, the Investment Advisory Board annually reviews and approves the Investment Policy for submission to Metro Council; and

WHEREAS, the Investment Coordinator has proposed several minor changes to the Investment Policy; and

WHEREAS, the changes are a result of a review of Metro’s investment policy by the Oregon Short Term Fund (OSTF) board and include a more robust section on internal controls; clarification on maximum percentages that exposure applied to both corporate debt and commercial paper and not singular to each category; addition of a better benchmark for yield comparisons; and extension of the maximum maturity limit in the short term fund to include the long term fund; and.

WHEREAS, the Investment Advisory Board on January 16, 2014 voted to recommend these changes, to Metro Code 7.03 and submit to the Metro Council for approval and adoption; now therefore,

THE METRO COUNCIL ORDAINS AS FOLLOWS:

- 1. That Metro Code Chapter 7.03 is hereby amended as attached hereto in Exhibit A to this ordinance.
- 2. That this Ordinance being necessary for the health, safety, or welfare of the Metro area, for the reason that the new fiscal year begins, July 1, 2014 and Oregon Budget Law requires the adoption of a budget prior to the beginning of the fiscal year, and that re-adoption of the Investment Policy should coincide with the adoption of the annual budget, an emergency is declared to exist and this Ordinance shall take effect immediately, pursuant to Metro Charter Section 39(1).

ADOPTED by the Metro Council this 19th day of June 2014.

Tom Hughes, Council President

Attest:

Approved as to Form:

Troy Rayburn, Recorder

Alison Kean Campbell, Metro Attorney

STAFF REPORT

IN CONSIDERATION OF ORDINANCE NO. 14-1339 FOR THE PURPOSE OF AMENDING AND RE-ADOPTING METRO CODE 7.03 (INVESTMENT POLICY) FOR FISCAL YEAR 2014-2015 AND DECLARING AN EMERGENCY

Date: April 25, 2014

Prepared by: Calvin Smith
Telephone: 503-797-1612

BACKGROUND

Metro Code, Chapter 7.03 contains the Investment Policy that applies to all cash-related assets held by Metro. Metro code requires the annual review and readopting with the assistance of the Investment Advisory Board who are appointed on staggered terms by the Council President. This Investment Policy is being submitted to Council for review and re-adoption in accordance with Section 7.03.080 of Metro Code.

The format of Metro's Investment Policy conforms to the Oregon State Treasury's Sample Investment Policy for Local Governments and the Government Finance Officers Association's (GFOA) Sample Investment Policy. This allows Metro's policy to be readily compared to investment policies of other local governments that have adopted the same GFOA format.

The changes to the Metro Investment Policy this year all relate to the response letter from our Director of Finance Tim Collier to the Oregon Short Term Fund (OSTF) board that addressed the OSTF last review of Metro's Investment Policy. While none of the changes that were suggested by the OSTF were deemed a material issue, the items noted were good areas to tighten up our wording and clarify the Metro Investment Policy. All the adjustments to the Metro Investment Policy were reviewed by the Metro Investment Advisory Board (IAB). Areas that were updated in the policy included; A more robust section on internal controls (Section 7.03.040(b)); clarification on maximum percentages that exposure applied to both corporate debt and commercial paper and not singular to each category; adding a better benchmark for yield comparisons; extending the maximum maturity limit in the short term fund to include the long term fund. The Investment Advisory Board (IAB) members reviewed recommendations by the Director of Finance and the Investment Coordinator and agreed to all changes. The IAB recommends Council amend the code for these items and readopt the code as amended.

ANALYSIS/INFORMATION

1. **Known Opposition:** None.
2. **Legal Antecedents:** Metro Code, Chapter 7.03, Investment Policy, Section 7.030.080(b) proscribes that the policy shall be subject to review and re-adoption annually by the Metro Council in accordance with ORS 294.135.

Chapter 7.03 was formerly Chapter 2.06 (readopted April 9, 1998; amended December 10, 1998; readopted April 15, 1999; readopted April 27, 2000; readopted December 11, 2001; readopted October 3, 2002; renumbered by Ordinance No. 02-976, Sec. 1; readopted June 12, 2003; amended and readopted April 7, 2005, by Ordinance No. 05-1075; readopted April 20, 2006, by Ordinance 06-1114; readopted June 21, 2007 by Ordinance 07-1149; readopted June 26, 2008 by Ordinance 08-1190; readopted June 25, 2009 by Ordinance 09-1216.;readopted June 17, 2010 by Ordinance 10-

1243; readopted by Resolution 11-4272 June 23,2011; readopted by Ordinance 12-1280 June 21, 2012; readopted by Ordinance 13-1303 May 2.2013.)

3. Anticipated Effects: N/A

4. Budget Impacts: N/A

RECOMMENDED ACTION: Staff recommends re-adoption as amended of Metro Code Chapter 7.03 by Resolution No. 14-1339.

Agenda Item No. 7.1

Ordinance No. 14-1329B, For the Purpose of Amending Title 4
of the Urban Growth Management Functional Plan Regarding
the Establishment of Trails and Associated Facilities in
Regionally Significant Industrial Areas.

Ordinances – Continued from May 29

Metro Council Meeting
Thursday, June 12, 2014
Metro, Council Chamber

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AMENDING	)	ORDINANCE NO. 14-1329 A <u>B</u>
TITLE 4 OF THE URBAN GROWTH)	
MANAGEMENT FUNCTIONAL PLAN	)	Introduced by Martha J. Bennett, Chief
REGARDING THE ESTABLISHMENT OF	)	Operating Officer, with the concurrence of
TRAILS AND ACCESSORY FACILITIES IN	)	Tom Hughes, Council President
REGIONALLY SIGNIFICANT INDUSTRIAL)	
AREAS)	

WHEREAS, on December 16, 2010 the Metro Council adopted Ordinance No. 10-1244B, which included amendments to Title 4 (Industrial and Other Employment Areas) of the Urban Growth Management Functional Plan (UGMFP); and

WHEREAS, those amendments included the addition of new protections for Regionally Significant Industrial Areas (RSIAs) under Metro Code Section 3.07.420.D that require cities and counties within the Metro region to adopt land use regulations for RSIAs that “prohibit the siting of parks intended to serve people other than those working or residing in the RSIA”; and

WHEREAS, on February 28, 2013 the Metro Council adopted Resolution No. 13-4415 approving Metro’s Ice Age Tonquin Trail Master Plan, which describes a proposed 22-mile regional trail facility connecting the Tualatin River to the Willamette River and includes a preferred trail alignment that crosses through an area southwest of the City of Tualatin that is mapped with an RSIA designation; and

WHEREAS, on November 1, 2013 the Land Use Board of Appeals (LUBA) issued an opinion in *Terra Hydr v. City of Tualatin*, LUBA No. 2013-016, holding that the proposed regional trail described by Metro’s Ice Age Tonquin Trail Master Plan fell within the meaning of a “park” as that word is used in Metro Code 3.07.420.D and therefore would not be allowed within the RSIA; and

WHEREAS, under Metro’s 2006 Natural Areas bond measure and Metro Resolution No. 06-3672B, Metro was provided funds to purchase property, including easements for regional trails, from willing sellers only; and

WHEREAS, on April 23, 2014, the Metro Policy Advisory Committee voted to recommend that the Metro Council approve the proposed amendment to Title 4 in order to ensure that the Metro Code does not prohibit trails and accessory facilities from being located within industrial areas in the Metro region; and

WHEREAS, the Metro Council has determined that the protections created in Metro Code 3.07.420.D should not be construed to prohibit trails and accessory facilities that provide active transportation options and pedestrian and bicycle connectivity from crossing through an RSIA; now therefore,

THE METRO COUNCIL ORDAINS AS FOLLOWS:

1. Section 3.07.420.D of the Metro Code is hereby amended as follows:

“D. Cities and counties shall review their land use regulations and revise them, if necessary, to prohibit the siting of schools, places of assembly larger than 20,000 square feet or parks intended to serve people other than those working or residing in the RSIA. Nothing in this subsection is intended to prohibit trails and facilities accessory to and in support of trails from being located within an area designated RSIA on Metro’s Title 4 Map, including but not limited to trailhead amenities, parking areas, benches, information kiosks, restrooms, shelters, bicycle racks, picnic areas and educational facilities. Where possible, trails and accessory facilities should be planned and located in a manner that limits impacts on industrial uses while still fulfilling the purpose of the trail and providing a positive experience for trail users.”

2. The Metro Council hereby adopts the findings of fact and conclusions of law set forth in Exhibit A, attached and incorporated into this ordinance, in support of its decision to amend Section 3.07.420.D of the Metro Code.

ADOPTED by the Metro Council this _____ day of May 2014.

Tom Hughes, Council President

Attest:

Approved as to Form:

Troy Rayburn, Recording Secretary

Alison R. Kean, Metro Attorney

SUPPLEMENTAL STAFF REPORT

IN CONSIDERATION OF ORDINANCE NO. 14-1329B, FOR THE PURPOSE OF AMENDING TITLE 4 OF THE URBAN GROWTH MANAGEMENT FUNCTIONAL PLAN REGARDING THE ESTABLISHMENT OF TRAILS AND ASSOCIATED FACILITIES IN REGIONALLY SIGNIFICANT INDUSTRIAL AREAS

Date: June 4, 2014

Prepared by: Roger Alfred

PROPOSED ACTION

Adoption of Ordinance No. 14-1329B amending Title 4 of Metro's Functional Plan to expressly allow the establishment of trails and related facilities within Regionally Significant Industrial Areas.

FINAL REVISED ORDINANCE AND STATUS

At the continued hearing on May 29, 2014, staff presented the Metro Council with an amended version of the proposed ordinance that included changes agreed upon with NAIOP. In testimony provided on behalf of NAIOP regarding the ordinance, Kelly Ross suggested that the word "trails" be added to the last sentence of the amended portion of Ordinance No. 14-1329B. OMA agreed to include that final clarifying revision, which is reflected in the attached version of the ordinance.

At the request of the attorney representing the Tonquin Industrial Group (TIG), the Metro Council agreed to hold the record open for one week, until June 5, 2014, for submittal of additional written evidence and argument. Prior to the Council meeting on June 12, 2014, Metro staff will distribute to the Council all materials received during the seven-day open record period that closes on June 5, 2014, along with proposed findings for consideration by the Council on June 12, 2014.

Materials following this page were distributed at the meeting.

612140-01

MAKING A GREAT PLACE
Metro



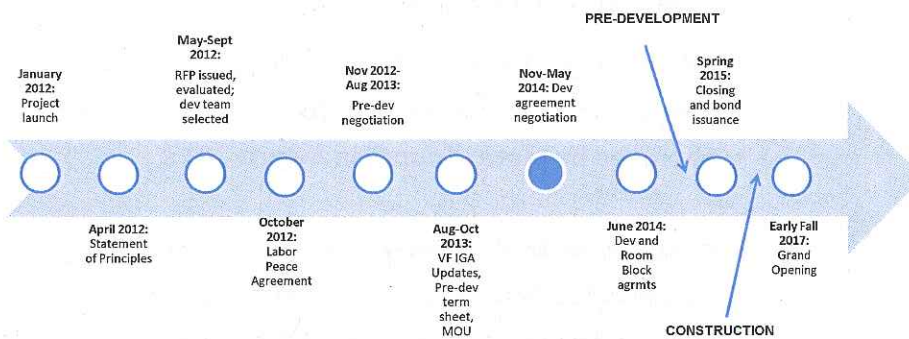
Oregon Convention Center Hotel

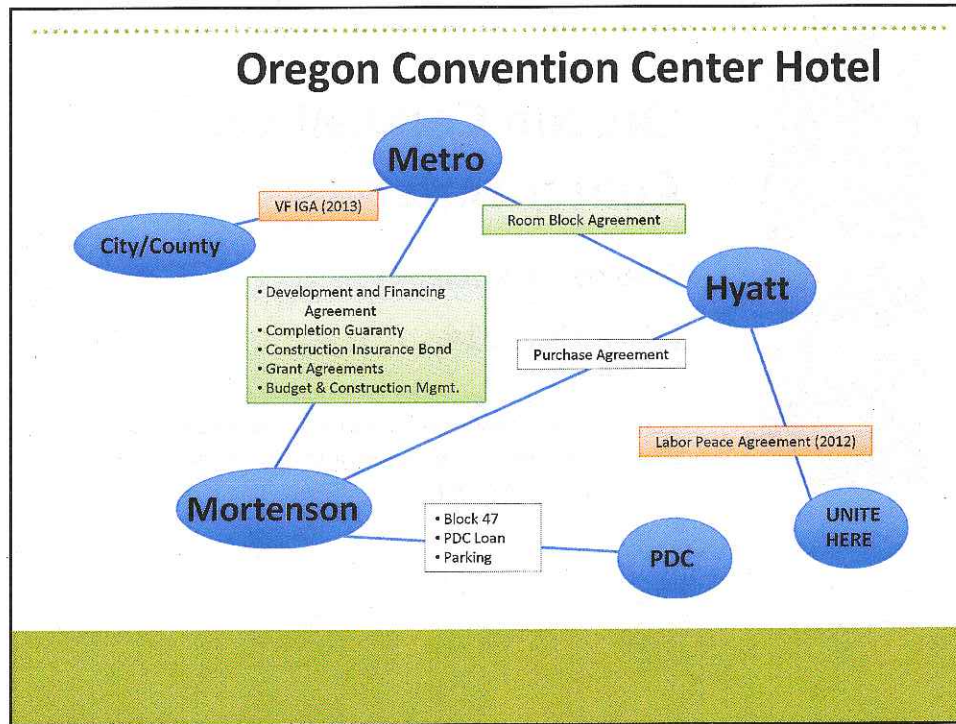
Metro Council

June 12, 2014

Scott Cruickshank, Oregon Convention Center, Executive Director
Hillary Wilton, Metro, Senior Development Project Manager
Ashley McCarron, Metro Attorney

Oregon Convention Center Hotel





Oregon Convention Center Hotel

OCC Hotel Project Term Sheet

- Relatively detailed list of expectations
- Ranging from basic (operator) to specific (amenities)
- Approved by Metro Council in August 2013

Memorandum of Understanding

- Additional considerations for public partners
- Approved by Metro Council in October 2013

Documents formed basis for negotiations

Oregon Convention Center Hotel

Proposed Development and Finance Agreements

- Labor Peace Agreement: between Hyatt and UNITE HERE
- Room Block Agreement
- Metro Grant Agreement
- Metro Grant of Revenue Bond Proceeds
- Project Funding Agreement
- Guaranty of Completion
- Hyatt Project Pro-forma
- Budget and Construction Management Process

Oregon Convention Center Hotel

Project Goals reflected in the Development and Finance Agreement

- Location: North of the OCC
- Brand/size: 600 room Hyatt Regency
- Amenities: Extra ballroom and meeting spaces
- Operational requirements: Quality standards and room block
- Construction requirements: LEED Silver or higher
- Employment and contracting requirements: Business and workforce equity, MWESB, FOTA

Oregon Convention Center Hotel

Proposed Development Agreement other terms:

- Predevelopment Costs
- PDC – separate agreements
- Design and operating standards
- Oversight during construction
- Risk Management
- Project Budget

Oregon Convention Center Hotel

Proposed Development Agreement Funding:

Mortenson/Hyatt:	~\$134 million
Metro grant (OCC reserves):	\$4 million
PDC loan* (OCC URA):	\$4 million
State lottery:	\$10 million
Revenue bonds**	\$60 million (max.)
<u>Total</u>	<u>\$212 million</u>

* PDC loan repaid by Mortenson/Hyatt

** Revenue bonds repaid by taxes paid by future visitors staying at OCC hotel

Oregon Convention Center Hotel

Proposed Room Block Agreement

- Block: 500 room block 36+ months in advance; 300 room block 24+ months in advance
- Quality : upper-upscale hotel
- Longevity: RBA runs with the land, binds all future purchasers

Oregon Convention Center Hotel

Proposed Schedule

Pre-Development	Summer 2014
Design Review	Summer 2014
Bond Issuance	Spring 2015
Closing	Spring 2015
Construction	Summer 2015
Grand Opening	Fall 2017

Oregon Convention Center Hotel

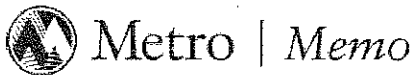
Public Hearing June 19

Metro Council Decision June 26

600 NE Grand Ave.
Portland, OR 97232-2736
503-797-1700
503-797-1804 TDD
503-797-1797 fax

www.oregonmetro.gov

61214C-02



Date: June 12, 2014

To: Tom Hughes, Council President
Sam Chase, Councilor
Carlotta Collette, Councilor
Shirley Craddick, Councilor
Craig Dirksen, Councilor
Kathryn Harrington, Councilor
Bob Stacey, Councilor

From: Kathy Rutkowski, Budget Coordinator

Cc: Martha Bennett, Chief Operating Officer
Tim Collier, Director of Finance and Regulatory Services
Elissa Gertler, Director of Planning and Development
Council Policy Coordinators

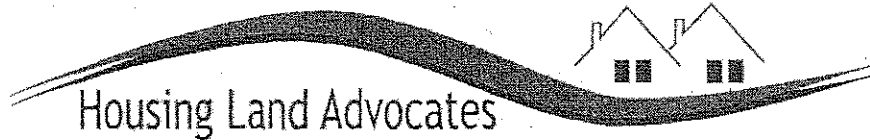
Re: **Budget Note for Councilor Chase Amendment**

The following budget note is proposed as an addendum to the amendment proposed by Councilor Chase.

Budget Note:

The FY 2014-15 budget will provide \$200,000 for a two-year pilot program to address the concepts outlined in the Metro Workforce Housing Implementation amendment proposed by Councilor Chase and the management response prepared by the Chief Operating Officer and Planning & Development Director. The Council will convene in July 2014 to develop and approve a work plan identifying program purpose and objectives. No expenditure of funds shall be made for this purpose until such time as the work plan is approved by the Council.

61214C-03



June 12, 2014

BY EMAIL

Metro Council President Tom Hughes
Councilor Shirley Craddick, District 1
Councilor Carlotta Collette, District 2
Councilor Craig Dirksen, District 3
Councilor Kathryn Harrington, District 4
Councilor Sam Chase, District 5
Councilor Bob Stacey, District 6
600 NE Grand Ave.
Portland, OR 97232

RE: Councilor Chase Amendment to the FY 2014-14 Budget Dated June 6, 2014 Titled Metro Workforce Housing Implementation

Dear Metro Councilors:

The Housing Land Advocates (HLA) is an advocacy organization dedicated to using land use planning and legal action to address affordable housing conditions in Oregon. We have reviewed the above-titled budget amendment, and take this opportunity to express our concern that while HLA supports the intent of the amendment, the two-year workplan for workforce housing analyses proposed by Councilor Chase will not achieve the measurable gains in affordable housing that are needed by our community – gains that are needed *today* by constituents. I write to you on behalf of our board to urge you to forgo further workgroup studies in favor of setting timelines and benchmarks for achieving increases in affordable housing stock and reductions in homelessness in the Metro region. To that end, we address each proposal/objective in turn:

- Objective 1 acknowledges that much time, money, and efforts have been spent developing the tools and data for workforce housing development. While city and county codes and permitting programs could undoubtedly be updated or streamlined to facilitate greater efficiency in housing developments, the recent and rapid proliferation of multifamily and condo buildings in the Metro region is evidence that these codes are not a significant existing barrier to housing development. SDC waivers will be impractical for local governments that cannot afford to bear the loss of programmatic fees, and such waivers will only serve to transfer the burden to other areas – a proposal that is unlikely to garner across-the-board support. However, a supplemental fund may be helpful to fill such a gap, or an authorization to factor in some part of the waived charges when formulating SDC rates may be a prudent alternative.
- Objective 2 would prioritize workforce housing development in those peripheral areas that already sustain a disparate portion of the Metro's low-cost housing stock or have limited transit and accessibility options, and target state agencies for improvements instead of furthering incentives and improvements where they are needed at the local level. HLA does not see LUBA/LCDC timelines as a primary impediment to the maintenance and development of affordable housing but rather the lack of local and

61214C-04



Metro | Memo

Date: June 12, 2014

To: Metro Council

From: Gerry Uba, Community Planning and Development Grants project manager

Subject: Ordinance No. 14-1328: Extending the Metro Construction Excise Tax for Community Planning and Development Grant Program

The subject ordinance is one of the items in the agenda for your meeting this Thursday, June 12th. The materials in the meeting packet you have did not reflect all your comments at the April 29th work session. Attached are the updated meeting materials for this item (#6.1) on the agenda.

Your key comments about some of the languages in Ordinance No. 14-1328 are reflected in the CLEAN and REDLINE versions included in the attached document. Also included in the attached document is the staff report. I am sorry for any inconvenience this may have caused you.

Thanks

BEFORE THE METRO COUNCIL

AN ORDINANCE EXTENDING THE METRO	)	ORDINANCE NO. 14-1328
CONSTRUCTION EXCISE TAX FOR)	
COMMUNITY PLANNING AND	)	Introduced by Chief Operating Officer Martha
DEVELOPMENT GRANTS	)	Bennett, with the concurrence of Council
	)	President Tom Hughes

WHEREAS, in March of 2006 the Metro Council adopted Ordinance No. 06-1115, titled "An Ordinance Creating a New Metro Code Chapter 7.04 Establishing a Construction Excise Tax," ("2006 CET Ordinance"); and

WHEREAS, the construction excise tax rate established in the 2006 CET Ordinance was 0.12% of the value of new construction as defined in the CET Ordinance; and

WHEREAS, the 2006 CET Ordinance and Code chapter contained a sunset provision based on a maximum amount collected of \$6.3 million, which amount was reached in 2009; and

WHEREAS, in 2007 the Oregon state legislature adopted Senate Bill 1036, which authorizes school districts to levy construction excise taxes to pay for school facility construction, and prohibits the establishment of new construction excise taxes by other local governments, but the law provides that the prohibition does not apply to a tax that is in effect as of May 1, 2007, or to the extension or continuation of such a tax, provided that the rate of tax does not increase from the rate in effect as of May 1, 2007; and

WHEREAS, on recommendation of an Advisory Group and the Metro Chief Operating Officer (COO) regarding the continuing need for funding regional and local planning, on June 11, 2009 the Metro Council adopted Ordinance No. 09-1220, extending the Metro CET for an additional five-year period ("2009 CET Ordinance"); and

WHEREAS, the 2009 CET Ordinance established an expiration date for the CET of September 30, 2014; and

WHEREAS, the CET program has succeeded in raising revenues in accordance with the expected timeframes to pay for planning work that could not have been funded otherwise; and

WHEREAS, in January of 2014 the Metro COO convened an Advisory Group consisting of a broad-based stakeholder group to advise the Metro COO regarding the community planning and development grants program and regarding the potential extension of Metro's CET for another cycle of collections and distribution of planning and development grants; and

WHEREAS, after a series of meetings the Advisory Group recommended to the Metro COO that the CET should be extended from October 2014 to December 2020; and

WHEREAS, the Advisory Group's studies and recommendations were presented to the Metro Policy Advisory Group ("MPAC") on May 14, 2014 and MPAC voted to _____; and

WHEREAS, the Metro Council finds that it is in the best interests of the region to continue the funding source provided by the CET, and Metro is willing to assist local governments to fund their

planning that is required to make land ready for development by continuing to implement a region-wide CET; and

WHEREAS, as required by Senate Bill 1036, the rate of Metro's CET will not increase from the rate in effect as of May 1, 2007, which is 0.12%; and

WHEREAS, Metro will continue to exempt from the CET all new construction valued at less than \$100,000 and also the construction of low-income housing; and

WHEREAS, the Metro CET will maintain the CET's stated policy and purpose "to provide funding for regional and local planning that is required to make land ready for development after its inclusion in the Urban Growth Boundary;" and

WHEREAS, the awards shall be determined by the Metro Council after receiving recommendations from the Metro Chief Operating Officer, who shall have convened and received recommendations from a grant screening committee that shall review grant requests submitted by local jurisdictions; and

WHEREAS, Metro has incurred not insignificant costs in implementing the CET program and is willing to continue to incur implementation costs but finds that a 5% administration fee is appropriate to partially reimburse Metro for its administrative costs; and

WHEREAS, the Metro Council hereby directs the Metro COO to extend the Intergovernmental Agreements with local jurisdictions for collection of the CET and remittance of such funds to Metro consistent with this Ordinance, and also hereby directs the Metro COO to prepare yearly reports to the Metro Council, advising the Metro Council of the amounts collected from the CET and the status of the grant requests by the local jurisdictions; now therefore

THE METRO COUNCIL ORDAINS AS FOLLOWS:

1. Extension of Metro Construction Excise Tax. Effective ninety (90) days after the passage of this Ordinance, the Metro Construction Excise Tax established pursuant to Metro Code Chapter 7.04 shall be extended to provide that the Construction Excise Tax shall not be imposed on and no person shall be liable to pay any tax for any construction activity that is commenced pursuant to a building permit issued after December 31, 2020.

2. Metro Code Amendment. Metro Code Chapter 7.04 shall be amended consistent with this Ordinance, in the form attached hereto as Exhibit A.

3. Administrative Rules. The Metro Council hereby directs the Metro Chief Operating Officer to propose revised administrative rules consistent with Chapter 7.04 and this Ordinance, and to seek direction from the Metro Council prior to developing revised administrative rules, and to return to the Metro Council for its approval of those administrative rules by resolution prior to promulgating them.

ADOPTED by the Metro Council this _____ day of June, 2014.

Tom Hughes, Council President

Attest:

Approved as to Form:

Recording Secretary

Alison R. Kean, Metro Attorney

Effective Date: _____, 2014.

Exhibit A
Ordinance No. 14-1328

METRO CODE – TITLE VII FINANCE
Chapter 7.04 CONSTRUCTION EXCISE TAX

7.04.225 Metro Administrative Fee

Metro shall retain five percent (5%) of the taxes remitted to Metro for payment towards Metro's administrative expenses.

7.04.230 Sunset Provision

The Construction Excise Tax shall not be imposed on and no person shall be liable to pay any tax for any construction activity that is commenced pursuant to a building permit issued after December 31, 2020.

61214C-06

 Metro | Memo

Date: June 12, 2014

To: Council President Hughes and Metro Council

From: John Williams, Deputy Director, Planning and Development Department

Re: *MPAC Recommendation on Extension of Construction Excise Tax for Community Planning and Development Grants*

On Wednesday, June 11, 2014, the Metro Policy Advisory Committee (MPAC) voted unanimously to recommend to Metro Council to extend the construction excise tax (CET) to December 2020 via Ordinance 14-1328.

Previously on May 14, MPAC received and discussed the recommendations of Metro Chief Operating Officer to Metro Council to extend the CET, as well as the recommendations of the stakeholder advisory group to Metro's Chief Operating Officer, results of the Community Planning and Development Grant program assessment, Ordinance No. 14-1328 (draft), and staff report to the ordinance.

During the discussion, MPAC members expressed their support for the Community Planning and Development Grants. Some of the local leaders stated that some important planning projects underway in their jurisdictions could not have been possible without the planning grants.

61214C-07

SUPPLEMENTAL STAFF REPORT

IN CONSIDERATION OF ORDINANCE NO. 14-1329B, FOR THE PURPOSE OF AMENDING TITLE 4 OF THE URBAN GROWTH MANAGEMENT FUNCTIONAL PLAN REGARDING THE ESTABLISHMENT OF TRAILS AND ASSOCIATED FACILITIES IN REGIONALLY SIGNIFICANT INDUSTRIAL AREAS

Date: June 4, 2014

Prepared by: Roger Alfred

PROPOSED ACTION

Adoption of Ordinance No. 14-1329B amending Title 4 of Metro's Functional Plan to expressly allow the establishment of trails and related facilities within Regionally Significant Industrial Areas.

FINAL REVISED ORDINANCE AND STATUS

At the continued hearing on May 29, 2014, staff presented the Metro Council with an amended version of the proposed ordinance that included changes agreed upon with NAIOP. In testimony provided on behalf of NAIOP regarding the ordinance, Kelly Ross suggested that the word "trails" be added to the last sentence of the amended portion of Ordinance No. 14-1329B. OMA agreed to include that final clarifying revision, which is reflected in the attached version of the ordinance.

At the request of the attorney representing the Tonquin Industrial Group (TIG), the Metro Council agreed to hold the record open for one week, until June 5, 2014, for submittal of additional written evidence and argument. Prior to the Council meeting on June 12, 2014, Metro staff will distribute to the Council all materials received during the seven-day open record period that closes on June 5, 2014, along with proposed findings for consideration by the Council on June 12, 2014.

“D. Cities and counties shall review their land use regulations and revise them, if necessary, to prohibit the siting of schools, places of assembly larger than 20,000 square feet or parks intended to serve people other than those working or residing in the RSIA. Nothing in this subsection is intended to prohibit trails and facilities accessory to and in support of trails from being located within an area designated RSIA on Metro’s Title 4 Map, including but not limited to trailhead amenities, parking areas, benches, information kiosks, restrooms, shelters, bicycle racks, picnic areas and educational facilities. Where possible, trails and accessory facilities should be planned and located in a manner that limits impacts on industrial uses while still fulfilling the purpose of the trail and providing a positive experience for trail users.”

2. The Metro Council hereby adopts the findings of fact and conclusions of law set forth in Exhibit A, attached and incorporated into this ordinance, in support of its decision to amend Section 3.07.420.D of the Metro Code.

ADOPTED by the Metro Council this _____ day of May 2014.

Tom Hughes, Council President

Attest:

Approved as to Form:

Troy Rayburn, Recording Secretary

Alison R. Kean, Metro Attorney

**Exhibit A to Ordinance No. 14-1329B
Findings of Fact and Conclusions of Law**

The Metro Council adopts these findings in support of Ordinance No. 14-1329B, which amends Title 4 of the Urban Growth Management Functional Plan (UGMFP) to expressly allow trails and accessory facilities in areas designated as Regionally Significant Industrial Areas (RSIAs) on Metro’s Title 4 map. A detailed explanation of the background of the Ice Age Tonquin Trail Master Plan (IATTMP) and the LUBA decision in *Terra Hydr, Inc. v. City of Tualatin*, ___ Or LUBA ___ (LUBA No. 2013-016, November 1, 2013) that created the need for this legislative amendment is provided in the staff report to the Metro Council dated April 24, 2014, which is hereby adopted and incorporated by reference as part of these findings.

A. Procedural background

Metro provided notice of the proposed text amendment to DLCD on March 13, 2014. The draft amendment was reviewed and revised by the Metro Technical Advisory Committee (MTAC) at its meetings on March 19, 2014 and April 2, 2014. At the close of its meeting on April 2, 2014, MTAC voted to recommend approval of the amendment, as revised, to the Metro Policy Advisory Committee (MPAC). MPAC reviewed the proposed amendment at its meeting on April 23, 2014 and voted to recommend the amendment for approval by the Metro Council. The first evidentiary hearing before the Metro Council was held on May 8, 2014, at which point the hearing was continued for three weeks, until May 29, 2014. At the close of the May 29, 2014 public hearing, the Metro Council voted to close the public hearing but to hold open the written record for seven days until June 5, 2014 for the submittal of additional written evidence and testimony, and to deliberate regarding adoption of the proposed amendment and supporting findings at its meeting on June 12, 2014. Materials were timely submitted during the seven-day open record period by counsel for the Tonquin Industrial Group, the Port of Portland, and Metro staff, and those documents are hereby accepted by the Metro Council as part of the record.

B. The purpose of this amendment is to clarify the intent of the Metro Council to allow trails and associated facilities in RSIAs.

The Metro Council adopted Title 4 in 1997 for the purpose of providing and protecting a supply of sites for employment and industrial uses. The prohibition on “parks” in RSIAs was added by Metro in 2010, when the Metro Council amended Title 4 to include a requirement that cities and counties adopt land use regulations for RSIAs that “prohibit the siting of schools, places of assembly larger than 20,000 square feet or parks intended to serve people other than those working or residing in the RSIA.” Metro Ordinance No. 10-1244B. The amendment in 2010 was motivated in part by a situation that arose in 2007 in the City of Happy Valley, where approximately 70 acres that had been included in the UGB for industrial purposes and designated RSIA by Metro were purchased by public entities and converted to school and park uses. Because the city had not yet adopted local plan and code provisions that would have protected the land for industrial use, almost half of a 150-acre RSIA was converted to non-industrial uses. As explained in a work session memorandum to the Metro Council on the subject: “Title 4 of the Functional Plan is silent on use of Industrial and RSIA land for schools and parks, thus it is not

prohibited.” July 31, 2007 Work Session Worksheet, page 2 (Attachment 10 to May 29, 2014 staff report).

Documents in the record reveal that the staff reports for the 2010 amendments to Title 4 proposed a broader prohibition on “recreational facilities and parks,” suggesting an original staff intent to also prohibit facilities such as trails. July 20, 2010 Memorandum to MPAC, page 4 (Attachment 11 to May 29, 2014 staff report); November 19, 2010 Staff Report to Metro Council, page 17 (Attachment 12 to May 29, 2014 staff report). In fact, the MPAC recommendation to the Metro Council was to “amend Title 4 to prohibit new schools, places of assembly, recreational facilities and parks.” *Id.* However, the “recreational facilities” portion of the staff proposal and MPAC’s recommendation was removed prior to adoption of Ordinance No. 10-1244B, indicating that the Metro Council’s intent was to limit the prohibition to “parks” and not all “recreational facilities,” such as trails.

In 2008 the Metro Council appointed a Blue Ribbon Committee for Trails to evaluate where regional trails fit in the region’s priorities and to recommend strategies for expanding the region’s trail network. The committee’s final report recommended that regional trails are vitally important to local communities because they provide alternative transportation routes and ways to connect with nature. The committee also concluded that investments in bike and pedestrian travel will produce significant environmental, livability, health and economic benefits to the region. A copy of the committee’s final report describing the region-wide benefits provided by trails is included in the record as Attachment 6 to the May 29, 2014 staff report.

Both before and since the 2010 amendments to Title 4, Metro has been continuously working on the planning and development of a system of trails to provide active transportation options and connectivity throughout the region, including trails that cross through RSIA. For example, the Peninsula Crossing Trail, completed in 2002, crosses through an RSIA in North Portland, and sections of the Springwater Trail were planned and constructed through an RSIA in southeastern Gresham in 2000. Metro’s planning work on the Tonquin Trail began with a feasibility study in 2004 and a public planning process that began in 2009, continued through the 2010 amendments to Title 4, and culminated with the Metro Council’s adoption of the Ice Age Tonquin Trail Master Plan (IATTMP) in February 2013. The Metro Council approved a master plan for the Tonquin Trail that passes through an RSIA, like many other trails that Metro and other local governments have planned and developed across industrial areas and RSIA. As noted in the staff report, the following existing and planned trails in the Metro region include segments that cross through RSIA:

- Columbia Slough Trail and Marine Drive Trail, North and NE Portland (existing)
- Springwater Corridor, Gresham (existing)
- Gresham-Fairview Trail Phase 5 (proposed)
- Willamette River Greenway, North and NW Portland (proposed)
- 40-Mile Loop Trail, Gresham (proposed)
- Clackamas Bluffs Trail, Happy Valley (proposed)
- Waible Creek Greenway, Hillsboro (proposed)

The Metro Council finds that the relatively small acreage requirements associated with a 20-foot trail easement and related trail amenities do not create the same type of threat to industrial uses presented by the wholesale conversion of entire lots or parcels into schools or parks. Therefore, the Metro Council has never viewed trails and related facilities to fall within the prohibition on “parks” under section 3.07.420.D of the Metro Code. The Metro Council finds that the primary purpose of the 2010 amendments was to prohibit large tracts of industrial land from being converted by local governments to public uses with significant acreage requirements such as parks and schools, and that the addition of the prohibition on “parks” in RSIA in 2010 was not intended to also prohibit the siting of trails and associated facilities in RSIA.

Because the word “park” is not defined in Title 4, in the *Terra Hydr* case LUBA consulted a dictionary definition of that word and concluded that the definition was broad enough to include the Tonquin Trail and related amenities as described in the IATTMP. However, as evidenced by the ongoing planning and development of the trails listed above both before and since 2010, and the removal of “recreational facilities” from the list of RSIA prohibitions in Ordinance No. 10-1244B, the Metro Council’s intent is not, and has never been, to prohibit trails in RSIA.

Therefore, the purpose of this amendment is to clarify that the intent of the Metro Council is not to include trails and accessory facilities within the meaning of the word “parks” for purposes of the Title 4 use restrictions in RSIA. This amendment also operates to remove any potential uncertainty regarding the legal status of existing trails in RSIA arising out of the LUBA opinion in *Terra Hydr*. It is not the intent of the Metro Council in adopting this amendment to impede industrial uses or create any unavoidable conflicts with industrial uses. Rather, as stated in the portion of the code amendment that was included in response to NAIOPs concerns, Metro and local governments should plan and develop trails and related amenities in a manner that minimizes potential impacts on industrial uses.

The Metro Council finds that there are multiple examples across the region of trails that successfully pass through industrial areas without causing unworkable conflicts or demonstrated safety problems. Examples include a segment of the proposed North Portland Willamette Greenway that crosses directly through the Swan Island Industrial Area, the Marine Drive Trail, which includes approximately 8.5 miles crossing through an RSIA along the Columbia River in North and Northeast Portland, and the northern portion of the Springwater Corridor south of OMSI that is located immediately between an active rail line and the Ross Island Sand & Gravel cement batch plant, including a location where the trail crosses the primary access point for Ross Island’s cement mixer trucks and other heavy equipment.

Regarding the Tonquin Trail and the segment that crosses through the Tonquin Industrial Group (TIG) properties, Metro has no condemnation authority for those acquisitions, and may only negotiate purchases of easements from willing sellers. This prohibition on the use of condemnation is the result of language included in Metro’s 2006 Natural Areas bond measure and Metro Resolution No. 06-3672B. As explained at the May 8, 2014 hearing by Metro Sustainability Center Director Jim Desmond, the “willing seller” requirement also applies to local governments who receive grants from the 2006 bond funds. Accordingly, if the trail is

located through the TIG area, the specific location of the trail will be the result of negotiation and agreement with the property owners, ensuring that it would be sited in a way that minimizes potential conflicts with industrial uses in a manner that is acceptable to the property owners.

The amendment includes a list of specific “accessory facilities” that will not be prohibited in RSIA’s, but only so long as those facilities are “accessory to and in support of” a trail. It is not the intent of the Metro Council to allow RSIA’s to be filled with those types of facilities and thereby become *de facto* parks; rather, the purpose of this amendment is only to allow such facilities if they directly support a trail. The code amendment includes the list of examples of specific types of facilities in response to LUBA’s conclusion in the *Terra Hydr* case, which was based in part on the description in the IATTMP of the types of park-like facilities that could be associated with the trail and trailheads. Metro is including the list of facilities as examples designed to make it clear that not just trails, but also the identified types of accessory facilities, are allowed to be sited in RSIA’s.

Kelly Ross on behalf of the Oregon Chapter of NAIOP raised concerns at the public hearing on May 8, 2014 regarding the extent to which the proposed amendments to Title 4 would reduce existing protections in RSIA’s and allow unchecked establishment of recreational facilities and *de facto* parks in those areas, so long as there was a trail somewhere in the vicinity. In response to NAIOP’s concerns, the proposed code language has been amended to clarify that any recreational facilities may only be allowed in an RSIA if they are “accessory to and in support of” a trail. Metro staff also included new language in the ordinance at the request of NAIOP explaining that Metro may only use its available bond money to purchase easements for regional trails such as the Tonquin Trail from willing sellers, and may not use condemnation authority. Finally, also at NAIOP’s request, the code language has been amended to state that trails and accessory facilities to a proposed trail should be planned and located in a manner that limits impacts on industrial uses while still fulfilling the purpose of the trail and providing a positive experience for trail users. With these amendments, NAIOP has indicated that they do not oppose Ordinance No. 14-1329B.

C. Findings regarding potentially applicable approval criteria

1. Metro Regional Framework Plan (RFP) policies

Under RFP 7.3, Metro’s functional plans must be “consistent with the policies of the RFP.” There are two potentially applicable policies in the RFP, policies 1.4.4 and 1.4.6, which are addressed below.

a. RFP Policy 1.4.4 – Protecting RSIA’s from incompatible uses

RFP 1.4.4 states that it is the policy of the Metro Council to “require, through the Urban Growth Management Functional Plan, that local governments exercise their comprehensive planning and zoning authorities to protect Regionally Significant Industrial Areas from incompatible uses.” This policy is implemented through Title 4 of the UGMFP, which requires local governments to adopt land use regulations that limit the size and location of retail commercial uses and professional services in RSIA’s. MC 3.07.420.B. Since 2010, Title 4 has

also included the section being amended by this decision, which prohibits “schools, places of public assembly larger than 20,000 square feet or parks intended to serve people other than those working or residing in the RSIA.” MC 3.07.420.D. Title 4 also includes limitations on the division of lots or parcels 50 acres or larger into smaller lots or parcels. MC 3.07.410.F.

The existing provisions of Title 4 are consistent with RFP 1.4.4 and are specifically designed to protect RSIA's from incompatible uses. The Metro Council finds that Title 4 will continue to be consistent with RFP 1.4.4 with the amendment to MC 3.07.420.D adopted in Ordinance 14-1329B. As described above in Section B of these findings, it was never the intent of the Metro Council to include trails and associated facilities within the meaning of the prohibition on “parks” in Title 4. Consistent with that original intent, the Metro Council finds that trails and related facilities are not “incompatible” with industrial uses. This fact is evidenced by numerous examples of trails throughout the Metro region that cross through heavy industrial areas, including RSIA's, without creating unmanageable conflicts with existing industrial uses and operations.

For example, an existing portion of the proposed North Portland Willamette Greenway includes approximately two miles of trail that crosses directly through the Swan Island Industrial Area, which is designated RSIA under Title 4. Much of the trail through Swan Island has been in place since the 1980s, but parts have been built through the RSIA more recently, including a portion along North Ballast Street that was built in 2012. Correspondence in the record from Sarah Angell, Director of the Swan Island Transportation Management Association (a program of the Swan Island Business Association), states that “the Swan Island TMA is very concerned that the legality of the existing North Portland Greenway trail that passes through Swan Island has been called into question by a recent LUBA opinion interpreting Title 4.” Ms. Angell goes on to explain that the industrial employers on Swan Island are strong proponents of the Greenway trail and would like to see it expanded:

“A dense industrial employment district (and RSIA), host to more than 10,000 jobs primarily in trades and manufacturing, Swan Island exemplifies that its trail infrastructure – far from incompatible with industrial operations – is actually essential to the vitality of its businesses and the functionality of the Island as a whole. With just one access road and near-term expansion at Daimler Trucks North America, Vigor and UPS, FedEx’s return and the PCC Trades Education Center coming to the Island, our industrial employers advocate for more pedestrian infrastructure now more than ever.

“* * * In just several years, bike commuter miles among Daimler Trucks North America’s workforce have tripled thanks in part to the newly complete Waud Bluff trail, segments of the North Portland Greenway trail and the *Going to the River* multiuse path. The success of this infrastructure has demonstrated that bikes in industrial/freight areas are not incongruent but instead have resulted in more clearly defined spaces that guide travel behavior and make for safer roadways; an outcome particularly appreciated by Swan Island’s many truck drivers.”

Consistent with the above-stated views of industrial employers on Swan Island regarding compatibility of bikes with industrial and freight operations, the City of Portland provided crash data and a related map for the Swan Island industrial area indicating that activity related to increased bicycle use of the Greenway Trail and connecting streets has not resulted in traffic compatibility problems with existing uses on the island. As the city's information shows, there have only been two crashes involving bicycles and automobiles on the Greenway Trail and roads that provide access to the Greenway Trail on Swan Island between 2000 and 2012. Email from Clay Veka of City of Portland dated June 5, 2014.

TIG argues that Swan Island is a different type of industrial area from the TIG area, and that the Greenway Trail is also different in that it starts and stops on the island and is mostly adjacent to office uses. While there may be differences between the existing Greenway Trail on Swan Island and the Tonquin Trail as proposed in the IATTMP, the Metro Council finds that evidence regarding the Swan Island Business Association's support for this amendment to Title 4 and its strong support for increasing bicycle and pedestrian activity through an industrial enclave (and RSIA) is compelling evidence that such activity is not incompatible with industrial uses. Similarly, the Port of Portland submitted an email to the Metro Council dated May 8, 2014 that identifies many of its industrial properties and developments, and states that "Our industrial developments typically include trails and some accessory trail uses as these are important amenities in most industrial areas."

Another example is the Marine Drive Trail, which includes approximately 8.5 miles crossing through an RSIA along the Columbia River in North and Northeast Portland. That trail has been in place since the 1980s, and industrial land owners have generally welcomed the trail. One industrial landowner, Staples, Inc., donated land in 2011 to facilitate the completion of a new segment of the trail. *See* Attachment 9 to May 29, 2014 staff report. A dozen other industrial landowners have sold land to Metro since 2008 for completion of the trail. Many of these landowners have expressed their appreciation of the trail and their desire for its completion. They see it as an asset because it draws bicyclists off busy roads like Marine Drive, and because it offers employees a place to walk during breaks. Memorandum from Robert Spurlock to Metro Council dated June 5, 2014. The Metro Council relies on this testimony as evidence that there is no inherent incompatibility between trails and industrial operations, and finds that TIG has not provided substantial evidence to support a conclusion that trails and industrial uses must be viewed as being incompatible, particularly given the number of existing examples of trails that cross through industrial areas and RSIA's in the Metro region. In the absence of evidence in the record indicating that these existing trails are causing unworkable conflicts with industrial uses in RSIA's, the Metro Council cannot conclude that this amendment to Title 4 fails to "protect RSIA's from incompatible uses" under RFP 1.4.4.

Evidence in the record indicates that even trails that are subject to very high levels of use may still be compatible with heavy industrial uses adjacent to the trail. As described at the May 8, 2014 hearing, the northern portion of the Springwater Corridor crosses through the central eastside industrial area before connecting with the Eastbank Esplanade near OMSI. As depicted on photographs in the record, a portion of that trail segment is located immediately between an active rail line and the Ross Island Sand & Gravel (RISG) cement batch plant, including a location where the trail crosses the primary access point for RISG's cement mixer

trucks and other heavy equipment. As shown in the photos, the sole RISG access point to this heavy industrial operation approaches the trail from a challenging angle and in order to exit the facility, cement mixer trucks must directly cross the trail either via a dangerous hard right turn or a nearly parallel crossing if the trucks are proceeding north. Attachments 4 and 5 to May 29, 2014 staff report. The RISG cement plant operates from dawn to dusk and includes heavy cement mixer traffic and flatbed trucks carrying loads of ready-mix concrete. That portion of the Springwater Corridor was opened in 2005 and currently has approximately 5,000 daily users, which equates to approximately 28,000 per week and 1.5 million per year. However, data provided by the City of Portland show that there has been only one accident in this general area involving a bicycle since 2003, and that crash was not at the RISG location. Memorandum from Robert Spurlock dated June 5, 2014; email message from Roger Geller of City of Portland dated June 3, 2014.

Consistent with the existing provisions of Title 4, the Metro Council expressly interprets the term "incompatible" in RFP 1.4.4 to not encompass trail uses in industrial areas, because such uses are not inherently incompatible. Unlike other uses prohibited or limited in RSIAs under Title 4, to the extent there are any potential conflicts that could arise between trail uses and industrial uses, the trail uses may be made compatible through design elements such as signage, striping, lighting, fences, and other safety features that are designed to increase safety and minimize potential conflicts. Examples of these types of design features were described by Metro staff Robert Spurlock at the May 8, 2014 hearing and in his memorandum to the Metro Council dated June 5, 2014. As explained in that memorandum:

"The design of each of these trails incorporates elements similar to those included on the attached list of safety features. Using safety features such as these, and the types of traffic safety features described in Chapter 4 of the Ice Age Tonquin Trail Master Plan, the Ice Age Tonquin Trail and other trails to be developed in the future through industrial areas can be designed to minimize potential conflicts with industrial operations and ensure the trail will be compatible with industrial uses." Spurlock Memorandum, page 2.

Also, at the request of NAIOP, the Metro Council has included additional language in this code amendment designed to minimize the potential impacts from accessory facilities by directing such facilities, where possible, to be planned and located in a manner that limits impacts on industrial uses and ensures compatibility. With regard to the Tonquin Trail segment that is the focus of the present dispute, in order for that trail to be located through the TIG area, the specific location of the trail will be the result of negotiation and agreement between Metro and the property owners, ensuring that it would be sited and designed in a way that minimizes potential conflicts with industrial uses and is compatible with their operations. This is true not only for the trail itself, but also any related facilities and amenities.

The TIG argues that the Tonquin Trail is incompatible with industrial uses because it will be open for use 24 hours a day, seven days a week, which creates a possibility of criminal activity, particularly at night. First, as a purely practical matter, there is no realistic way to "close" a 22-mile trail that includes on-street facilities, paths adjacent to roadways, and dozens of trail-roadway intersections. Also, because the development of a regional trail such as the

Tonquin Trail necessarily requires a specific type of federal transportation funding, the Federal Highway Administration requires that such trails must be “transportation” facilities (not recreational) that may not have restricted hours of operation. *See* 23 USC 217(i). This is true of the other regional trails discussed above that cross through industrial areas, which are all necessarily open for use at all times. The Metro Council finds that the evidence in the record does not support a conclusion that trails in RSIA are incompatible with industrial uses due to being operational on a 24/7 basis.

The Metro Council also finds that the evidence submitted by TIG’s economist regarding nefarious activity along the Springwater Corridor does not require a conclusion that any and all trails are inherently “incompatible” with industrial uses under RFP 1.4.4. Rather, such issues may be addressed on a property-by-property basis in order to reduce concerns and limit potential conflicts. *See* Memorandum from Robert Spurlock dated June 5, 2014. In the event the TIG property owners ultimately elect to sell easements for the development of the Tonquin Trail, any concerns related to the protection of property may be addressed as part of that acquisition process through design requirements, such as lighting and fencing. Such issues may also be addressed as part of any local planning process involving the local jurisdiction with land use authority over the relevant segment of the trail.

b. RFP Policy 1.4.6 – ensuring supply of 50-acre tracts

RFP 1.4.6 states the following policy of the Metro Council: “Consistent with policies promoting a compact urban form, ensure that the region maintains a sufficient supply of tracts 50 acres and larger to meet demand by traded-sector industries for large sites and protect those sites from conversion to non-industrial uses.” This policy is also implemented in part through Title 4 of the UGMFP, which includes limitations on the division of lots or parcels 50 acres or larger in industrial areas into smaller lots or parcels. MC 3.07.410.F; 3.07.430.D. Metro also has a statutory obligation to ensure that the UGB includes sufficient land to provide a 20-year regional supply for employment and industrial purposes. Metro takes its obligations in this regard very seriously, and in the most recent UGB amendment in 2011 added a single 330-acre site north of Hillsboro to the UGB specifically to be included as an RSIA for large-lot industrial use, in furtherance of the policy established by RFP 1.4.6.

The Metro Council does not agree with the TIG’s assertion that allowing trails to be located in RSIA means that Metro is not meeting its obligations under RFP 1.4.6 to maintain a sufficient supply of 50-acre tracts of industrial land and to protect such sites from conversion to non-industrial uses. As noted above, Metro’s primary obligation regarding maintaining a sufficient supply of industrial land is met every five years, when Metro undertakes the analysis required to determine whether or not there is a need to expand the UGB for industrial uses, and then expands the boundary if such a need exists. Further, amending Title 4 to allow for the future possibility of a trail to be located within the TIG area (if the property owners are ultimately willing to sell easements for the trail) has no direct or immediate effect upon the current supply of 50-acre tracts of industrial land. There is no reduction in the amount of inventoried industrial land in the region that will result from this decision, and there will be no impact on Metro’s forthcoming Urban Growth Report analysis of available industrial land for purposes of determining whether a UGB expansion is necessary.

For the same reasons, the Metro Council finds that this decision does not indicate that Metro is failing to protect large sites from conversion to non-industrial uses under RFP 1.4.6. This amendment to Title 4 does not take any property out of an RSIA or any other industrial zoning designation. In the event that a regional trail such as the Tonquin Trail is ultimately established in an industrial area through purchases from willing sellers, there will be no change in the underlying plan or zoning designations for the property. A regional trail of the type contemplated by the IATTMP will typically be 12 feet wide and require no more than a 20-foot wide easement. Although the actual establishment of a trail will introduce a new active transportation and recreational use in the industrial area, the Metro Council finds that it will not result in the wholesale “conversion” of the site to non-industrial use within the meaning of RFP 1.4.6.

Further, RFP 1.4.6 includes a significant caveat that the policy to protect large industrial sites must also be “consistent with policies promoting a compact urban form.” The policies promoting a compact urban form are set forth in Section 1.1 of the RFP, and include at least four separate policies that directly implicate the importance of supporting and establishing regional trails in the Metro region. Most notably, RFP 1.1.6 establishes a policy to “enhance compact urban form by developing the Intertwine, an interconnected system of parks, greenspaces and trails readily accessible to people of the region.” As described in the IATTMP at page 92, the Tonquin Trail will be part of the Intertwine system, as will other future regional trails. Further, RFP 1.1.3 includes a policy to “promote successful, walkable communities,” and RFP 1.1.8 establishes a policy to “promote a compact urban form as a key climate action strategy to reduce greenhouse gas emissions.” Active transportation strategies and regional trail development are key elements of Metro’s efforts to reduce greenhouse gas emissions. As noted in the IATTMP, “increasing active transportation benefits the region by reducing greenhouse gas emissions and congestion.” IATTMP at page 25.

The provisions of RFP 1.4.6 must be applied in a manner that is “consistent with” the policies in RFP 1.1 regarding a compact urban form. Therefore, the Metro Council interprets all of these policies together to conclude that, even if the policy to protect large industrial sites from conversion to non-industrial uses could be read to apply to this decision, the Metro Council is obligated to consider that more general policy in light of the multiple specific policies in RFP 1.1 that expressly require Metro to develop trails, promote walkable communities, and reduce greenhouse gas emissions. Therefore, to the extent that this decision could be construed to “convert” industrial sites to non-industrial uses, the Metro Council concludes that, on balance, allowing trails and accessory facilities in RSIA is more “consistent with policies promoting a compact urban form” than not allowing such uses.

C. Responses to other issues

This section provides responses to other arguments raised by TIG that do not appear to be related to any applicable approval criteria.

1. Transportation issues

TIG submitted a report prepared by Chris Clemow, a traffic engineer with Group Mackenzie, raising issues under the state transportation planning rule (TPR). However, there is no basis on which this legislative text amendment to Title 4 of the UGMFP can be read to require a demonstration of compliance with OAR 660-012. The TPR applies to plan or code amendments that will significantly affect a transportation facility. This decision has no traffic-related implications and does not meet any of the three alternative definitions of "significantly affect" under the TPR. Mr. Clemow's assertion appears to be based on the mistaken belief that this text amendment approves a trailhead use in the TIG area. However, this amendment does not cause or otherwise result in the development of any specific facilities in any particular locations. As explained by LUBA in *Terra Hydr v. Metro*, the IATTMP consists of a non-binding set of recommendations that do not constitute a final land use decision. The IATTMP map that identifies a potential trailhead in the TIG area does not create a binding requirement regarding the establishment of a trailhead in that location. Rather, the map provides recommendations regarding a preferred alignment and potential trailhead locations. The present decision is yet another step removed from the IATTMP, and has absolutely no impact on transportation facilities; therefore, the TPR does not apply.

2. Goal 9

TIG suggests that adopting this amendment will be contrary to the Goal 9 rule, OAR 660-009-0015, because the decision will convert a large amount of land designated RSIA to nonindustrial conflicting uses. First, as described above, this decision does not convert any industrial land to other designations or uses, it removes an unintended prohibition on trails from being located in RSIA's. Regardless, there is no basis to apply Goal 9 or the Goal 9 rule to this amendment. The provisions of Goal 9 and the Goal 9 rule expressly apply to cities and counties, and not to Metro. The Goal 9 rule cited by TIG's attorney only applies to Metro in the context of Metro's inventory of 20-year employment land needs under OAR 660-024-0040(5), and not in the context of this legislative text amendment to the UGMFP.

61214C-09



Metro | Memo

Date: Friday, June 06, 2014
To: Metro Council
From: Roger Alfred, OMA
Subject: Materials received during open record period
Ordinance No. 14-1329B

At the close of the May 29, 2014 hearing regarding the amendments to Title 4 proposed in Ordinance No. 14-1329B, the Metro Council voted to hold the record open for one week, until June 5, 2014, for the submittal of additional evidence and written testimony.

This memo transmits to the Council the following documents that were received during the seven-day open record period:

- Correspondence from Tonquin Industrial Group attorney Dorothy Cofield dated June 5, 2014, with Exhibits marked A-J.
- Memorandum from Metro staff Robert Spurlock dated June 5, 2014, attaching a list of safety-related improvements from the Trolley Trail Master Plan.
- Email from Roger Geller of the City of Portland dated June 3, 2014 regarding crash data for the Springwater Corridor in the central eastside industrial area.
- Email from Clay Veka of the City of Portland regarding crash data for the Swan Island industrial area, attaching a table of crash data and a map of crash locations (the entire 110-page table is not provided here, since the results are summarized in the email transmittal, but the table is included in the record).
- Email from Lise Glancy of the Port of Portland dated June 5, 2014 regarding proposed revisions to the new Title 4 code language.

The record is closed and all evidence and comments are now before the Council. At the next meeting on June 12, 2014 the Council may consider proposed findings that will be provided by staff and deliberate to a final decision on the proposed amendments.



JUN 5 2014 PM 3:43

Dorothy S. Cofield,
Attorney at Law

VIA HAND DELIVERY

June 5, 2014

Metro Council President Tom Hughes
Councilor Shirley Craddick
Councilor Carlotta Collette
Councilor Craig Dirksen
Councilor Kathryn Harrington
Councilor Same Chasse
Councilor Bob Stacey
600 NE Grand Ave.
Portland, Oregon 97232-2736

RE: Ordinance No. 14-1329B For the Purpose of Amending Title 4 of the Urban Growth Management Functional Plan Regarding the Establishment of Trails and Associated Facilities in Regionally Significant Industrial Areas

Dear Council President Hughes and Councilors:

Please include this letter and its eleven (11) exhibits in the record of the above referenced proceeding. Please also provide this firm with notice of the decision(s) resulting from the above-referenced matter.

This firm represents McGuire Bros. LLC and Steve McGuire (undeveloped industrial land at Tax Lot 100 T2S, R1W Sec 34 AC); Terra Hydr Inc., Tonquin Industrial LLC and Hank Stukey (11670 SW Waldo Wy., Sherwood); and Mark Brown, McCammant Properties Inc. and Brown Transfer Inc. (23105 SW McCammant Dr., Sherwood) in conjunction with Attorney Wendie Kellington and her firm's representation of these and other Tonquin Industrial Group (TIG) members as set forth in her letter of May 27, 2014.

At the Metro May 27th, 2014 public hearing on the above-referenced ordinance, a supplemental staff report was submitted into the record of the proceeding. In order to review and rebut the supplemental staff report and its thirteen attachments, Metro kept the record open for an additional 7 (seven) days for new evidence and testimony.

This letter will address the supplemental staff report and its thirteen attachments; respond to Metro's questions and discussion at the May 27th public hearing and provide reasons why Ordinance No. 14-1329B should not be adopted, or at a minimum, remove the proposed Tonquin Ice Age Trail and related facilities (IATT) in the Tonquin Regionally Significant Industrial Area (RSIA) because the trail and its related amenities will severely adversely impact development of the TIG properties as a RSIA.

Dr. Eric Fruits reviewed the supplemental staff report, evidence submitted from a representative of the Swan Island TMA, as well as the proposed amendment to Ordinance No. 14-1329(B), regarding allowing trails and related trailhead amenities such as public restrooms, gathering areas, shelters, parking lots, picnic areas, coffee kiosks anywhere in the RSIA's. Dr. Fruits' letter is attached as Exhibit "A" to this letter.

Dr. Fruits points out that the portions of the Willamette Greenway Trail and Columbia Slough Trail that pass through the other RSIA's identified in the staff report including the Swan Island TMA are not in any way comparable to the proposed TIG RSIA and IATT. Exhibit 1 to the Supplemental Staff Report shows that in these other trails near other RSIA's, that the trails run alongside, rather than cut through the industrial areas. Dr. Fruits explains that the proposed IATT and facilities that the proposal is designed to allow is nothing like the facilities cited in the staff report. He also explains that these trails in Attachments A-C also do not have any accessory uses like public restrooms, public parking lots and so forth that the proposal is designed to allow

Dr. Fruits explains that Attachment 6 of the Supplemental Staff Report -- a 2008 report is irrelevant to RSIA's as the report does not even mention industrial areas.

Dr. Fruits rebuts Attachments 7 and 8 as documents published by advocacy groups. The Metro submitted articles focus on residential, retail and tourism related activities associated with trails. For these reasons, Attachments 7 and 8 are irrelevant to the present discussion of amending Title 4 to allow trails and park amenities in RSIA's.

Dr. Fruits concludes that although there is impressive volume to the Supplemental Staff Report and its 13 attachments, they do nothing to change the conclusion that removing the Title 4 protections from RSIA's would cause significant adverse effects on ability of RSIA's to attract, develop, maintain or expand industrial uses.

As noted, Metro legal counsel introduced a letter from the Swan Island Transportation Management Association (Swan Island TMA). The letter professes to be from industrial users in the Swan Island Industrial RSIA. But really the Swan Island TMA is comprised of majoritively by government organizations such as Portland Department of Transportation (PDOT); Portland Community College; Port of Portland; US Coast Guard; Portland Development Commission; and Trimet so there is no surprise that the Swan Island TMA supports the Title 4 amendments. *See Attached Exhibit "B."* There is nothing to suggest that actual industrial use operators would not completely agree with Dr. Fruits. The TMA letter is not credible as many of these government

organizations also benefit financially from the proposed amendments in the way of state, regional and federal parks, recreation and transportation dollars and projects. Also, it is not clear that these government agencies actually have bricks and mortar businesses on Swan Island that are affected by the trails and accessory uses contemplated by the Title 4 amendments.

In presenting the letter, Metro's legal counsel did not explain the difference between the Swan Island RSIA and the Tonquin RSIA. Metro Council should carefully review the attached letter from Hank Stuckey, the president of Terra Hydr. *See Attached Exhibit "C."*

As Mr. Stuckey correctly explains, Swan Island is a very different type of industrial area with a business park which is primarily office and commercial fairly well separated from the heavy industrial activity. Furthermore, as shown in Attachment 1 and 2 of the supplemental staff report, the Swan Island trail begins and ends on Swan Island, which means it can arguably be seen as local rather than regional scale. The proposed amendments allow regional if not national scale parks in RSIA's. Compare Attachment 1, "Proposed Segments" with the IATTMP submitted by Ms. Kellington.

To further rebut the Swan Island Business TMA's letter of support, Steve McGuire, the owner of McGuire Bearing, made a site visit to Swan Island. Mr. McGuire writes that:

"I went back down to Swan Island to observe the trail and take some pictures today. The trail does not abut any heavy industrial usage. It runs along the river and is entirely next to office buildings only. It dead ends on one end at Union Pacific Railway property. I observed three transient camps located approximately 20-40 ft from the trail. I took pictures. The only place where the trail would come close to any heavy industrial activity is where Hoffman Construction is working on a project and the trail is completely fenced off with no pedestrian access at all. It is marked "No Trespassing". Other portions of the trail feature six-foot cyclone fences with an additional couple of feet of barbed wire on top to keep trail users away from what appears to be electrical equipment. The trail has the definite look of a park at certain sections including benches and tables and even an exhibit about the history of Portland."

In contrast to the Swan Island TMA letter and e-mail from the Port of Portland government affairs spokesperson supporting trails and related trail amenities in RSIA's in the attached Exhibit "D," Mr. McGuire also notes that vandalism along the trail seems to be a real problem, as evidenced by the signs on the Hoffman Construction property. *See Exhibit D, Photo 4.* That photograph demonstrates that where the trail is partially blocked by heavy equipment due to construction, the trail users must cut across a vacant lot – which is a trespass on private property. The trail then runs through two parking lots to get to the other side of the construction site so trail users are forced to go off of the trail for quite a stretch. *See Exhibit D, Photo 1, 2 and 3.*

Mr. McGuire also saw three transient camps associated with the trail all as Dr. Fruits explained in detail in his first memorandum occurs on the Springwater Trail and would be

expected: One is twenty (20) feet from the trail. *See* Exhibit D, Photo 5, 6, 7 and 9. The trash and debris associated with the s camps that have easy access to the RSIA via the Swan Island trail is clearly not an “important amenity” in a RSIA. In contrast to the Port of Portland e-mail that states trails and accessory trail uses are an “important amenity” on its Swan Island properties, Mr. McGuire’s photos show the trails are not a plus for industrial users, but require expensive fencing to keep out trespassers associated with the trail. *See* Exhibit D, photo 8. We also wish to note that there is nothing to suggest that the writer of the Port of Portland email had any authority from the Port of Portland to write her email. No minutes of any Port governing body meeting show the matter was even brought up to the Port. It is unlikely the Port’s governing body would support its governmental affairs spokesperson’s email because the proposed amendments put the Port at a significant disadvantage to other ports such as in Los Angeles, which don’t invite and prioritize recreational facilities in industrial sanctuaries.

Another issue raised in the record including at the May 27th public hearing and supplemental staff report, is safety. At the May 27th hearing, staff reported that there have not been many bicycle crashes related to the Springwater Corridor Trail which is next to Ross Island Sand and Gravel. In response to questions from Metro, its legal counsel asked the City of Portland for information about safety conditions in the industrial areas through which the Springwater Corridor Trail passes. *See Attached* Exhibit F. The e-mail posits that there was only one bike-automobile crash in a nine year period and it was caused by “not yielding to a stop sign.” Also, the crash was not on the trail but at 4th and Caruthers. This city evidence is weak at best: there is no mention of the other public trails in other RISAs and their accident records. Metro should find staff’s testimony and evidence on trail safety woefully incomplete are not persuasive.

In contrast to the lack of evidence of safety on trails in RSIA’s, the TIG asked Mackenzie to do a traffic count on Tonquin Road which abuts the future IATT. Mackenzie reports that Tonquin Road is an arterial comprised of 46.9% heavy vehicle traffic. In a 24-hour period, there were a total of 8,161 vehicles on Tonquin Road. Without a doubt the traffic study in the record documents a very dangerous transportation problem where the IATT trailhead is proposed to be sited. Additionally, as documented by Dr. Fruits in his May 8, 2014 Executive Summary to this Council, in the past month alone there have been three fatal accidents as the intersection of industrial and recreational uses. One of the fatal accidents occurred in the TIG RSIA near a proposed trailhead and interpretative center. In each of these incidents that Dr. Fruits documents, the fatality occurred at night or early morning in an area in which an industrial use is in close proximity to open space and/or recreational use. Dr. Fruits concludes that trails and their related recreational uses are not compatible with industrial use. Metro fully acknowledges that the trail and its accessory uses will not be compatible by adding the amendment to Ordinance No. 14-1329 A, resulting in 1329B as follows:

“Where possible, accessory facilities should be planned and located in a manner that limits impacts on industrial uses, while still fulfilling the purpose of the trail and providing a positive experience for trail users.” Ordinance 14-1329B (emphasis added).

By *adding* language that conflicts should be limited, Metro has enforced the idea that there are conflicts. Even worse, the language makes it clear, when it isn't possible, the authorized park facilities (the public parking lots, the picnic areas, the public restrooms) accessory facilities can be sited anyway with the overarching goal to protect the trail uses "experience". Under the proposal, significant adverse impacts on and significant increases in the cost of doing business for industrial users, are secondary to the recreationalists' trail experience. Without a doubt there will be negative impacts to industrial users when the trail and the park accessory facilities the proposal newly allows will create twenty four hour a day, seven day a week use of RSIA's including the TIG RSIA with no security; potential 200 foot building setbacks imposed by Washington County regulatory programs regarding Regional Parks (which LUBA held the IATTMP to be); public gatherings and the like associated with the trail and unlimited list of accessory uses which include but are not limited to such things as coffee kiosks, parking lots, picnic areas, educational facilities, interpretative facilities and other public 24 x 7 amenities that have no place in an industrial sanctuary. Ordinance No. 14-1329B makes industrial use accessory to the proposed recreational uses of the IATT, in a complete reversal of what a "Regionally Significant Industrial Area" is supposed to be – protected from other conflicting uses. See Exhibit A, p. 2.

The supplemental staff report did not address the trespass impacts on Swan Island which present safety issues as well as trespass problem. The IATT is different than the portions of the Willamette Greenway Trail and the Columbia Slough Trail because for the most part, they aren't finished and they are mostly trails. However, when the regional trail system is fully developed, there will be very negative impacts to industrial uses.

One certain impact is the conversion of industrial land to trail use as the Union Pacific Railroad (UP) property demonstrates. The attached article explains the Union Pacific property on Swan Island and a private road "Cement Road" is illegally used by many bicyclists. It recently had a trespassing incident resulting in a complaint to the City of Portland. See Attached Exhibit G. The bicyclist, despite "No Trespassing" signs, was trespassing on the UP property and was fined \$6000.00 by private railroad police. Thus, trespass is a real concern for industrial property owners for good reason.

What is interesting to note about the UP property is that the property owner, UP, has been very opposed to the public use of Cement Road for a bicycle path on its property. *See Attached Exhibit H.* However, due to continued pressure from the city to acquire it, UP may capitulate to public ownership of its private property. The article notes that UP has posted "No Trespassing" and "Private Property" signs at its northern entrance at the end of N. Portland Center Way but "many of Swan Island's 10,000 employees who ride bikes to work still use the road." As recently as December 2012, UP remained opposed. What has happened with the UP property and Cement Road is similar to what is proposed for the IATT and will result in the same problems: pressure from the local government (Tualatin) to acquire the trail from TIG. Cement Road is the poster child for the way these public attractants in industrial areas leads to these problems of trespass and vandalism and theft getting so bad industry has to sell industrial land to get rid of the problem and the public has to pay to buy perfectly good industrial land and convert it to

recreational use. The “blogs” that are in Exhibit G from bicycle riders commenting on the Cement Road complaint sound like anarchy. *See* Exhibit G, page 4 of 44.

The TIG have been assured that their private property will not be condemned because Metro’s Greenspace Bond Measure only allows voluntary acquisition of greenspace, such as trails. However, as shown in the UP example, it is certain the heavy hand of government once it decides to implement the IATT will result in the TIG losing their private property in a number of sneaky ways such as: pressuring property owners to sell the trail property; imposing 200 foot setbacks; or conditioning the dedication of the IATT in an annexation or other development permit.

Mark Brown, one of the TIG property owners, testified at the May 27th public hearing that the Tualatin Mayor had stated dedication of the IATT will be a condition of annexation of the TIG properties at a meeting off the record. *See* Exhibit E. Because cities routinely condition annexation, it is highly credible that Tualatin, which has developed a transportation plan (TSP) showing the IATT, would require dedication of the trail from the TIG annexation properties. Furthermore, the Basalt Creek Transportation Refinement Plan Recommendations list developer contributions as a way of funding the IATT (one of the listed projects that need funding). *See* Exhibit I, page 10.

Nick Storie, one of the TIG members, submitted a letter and exhibits into the record on May 27, 2014 that is attached as Exhibit J. Mr. Storie testifies that where the IATT is proposed to be located will restrict future use of the existing rail line for the industrial users. As an example, Mr. Storie has submitted a “before and after” photograph of the Springwater-OMSI Rail-With-Trail showing how an industrial facility would become obstructed to connecting to an existing rail line.

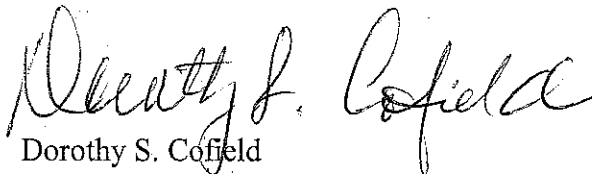
Another TIG member, Albertson Trucking Inc. explains the impact of the proposed IATT is very real and very destructive to the future use of their property for industrial uses. The Albertsons were shown a map by Metro that puts the IATT inside their eastern property line by at least 100 feet to meet Clean Water Services setback requirements. *See Attached* Exhibit K. A setback is not a voluntary seller: It is a regulatory device that will take the TIG properties for the IATT and accessory uses without eminent domain and without being willing. The Albertsons hope and invite the Council to visit the TIG properties and see for themselves that the TIG properties are nothing like the other RSIA and will be severely impacted by the proposed IATT.

Metro should not adopt Ordinance No. 14-1329B. TIG has repeatedly asked Metro to work with it to come up with an alignment that does not destroy industry. Councilor Collette asked at the May 27th hearing to see an alignment that would move the proposed IATT closer to the neighborhood. The Metro Council is in the position of leadership to finally resolve this controversy and protect the RSIA and in particular the TIG RSIA. The Council should direct staff that the IATT alignment and facilities must be removed the TIG RSIA. It should further direct staff to:

- (1) Authorize regional trails in RSIA's only as a last resort after reasonable alternatives are exhausted and then only if there is substantial evidence that such facilities:
 - (a) Are limited to trails;
 - (b) Are aligned in a way that does not significantly and adversely affect existing and future RSIA industry and does not increase the cost of RSIA industry;
 - (c) Will not result directly or indirectly in regulatory burdens on existing or future industrial uses from such facilities (including no setbacks or land dedication requirements);
 - (d) Will not result directly or indirectly in changes to existing or future industrial operations;
 - (e) Can be installed in a way that is safe and secure for industry and trail users;
 - (f) Will not reduce or impair the movement of freight or foreclose rail use or spurs;
 - (g) Will be closed from dusk to dawn.

Thank you for this opportunity to comment. We look forward to the Council's deliberations along these lines on June 12, 2014.

Very truly yours,



Dorothy S. Coffield

DSC:dsc
Enclosures

CC: Clients

Eric Fruits, Ph.D.
President & Chief Economist

June 5, 2014

Metro Council President Tom Hughes
Councilor Shirley Craddick
Councilor Carlotta Collette
Councilor Craig Dirksen
Councilor Kathryn Harrington
Councilor Sam Chase
Councilor Bob Stacey
600 NE Grand Ave.
Portland, OR 97232-2736

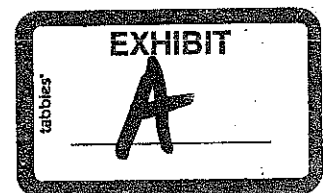
RE: Ordinance No. 14-1329B – Comments on Supplemental Staff Report

Dear President Hughes and Metro Council:

I am the president and chief economist at Economics International Corp. and an adjunct professor at Portland State University's department of economics. I submitted written comments and testimony to the May 8, 2014, Metro Council meeting.

Counsel for Tonquin Industrial Group asked Economics International Corp. to comment on the Supplemental Staff Report dated May 29, 2014. In preparing my comments, I have relied on my general expertise and knowledge regarding economics, finance, and statistics as well as publicly available information. This analysis and conclusions are subject to change as new or revised information is obtained. My comments are as follows.

- **Title 4 protections were a deliberate action by Metro to preserve land for industrial uses.** Attachment 11 of the Supplemental Staff Report (p. 4) demonstrates that Metro was deeply concerned that conflicting uses—such as recreational and park uses—were eroding the availability of industrial land. The effect of such erosion was to “diminish the region's capacity for industrial employment.” As a result, Metro adopted the Title 4 protections under consideration in this ordinance.

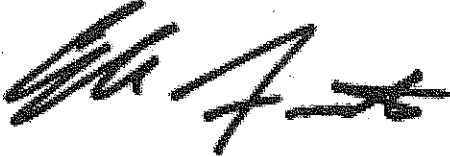


- **The portions of the Willamette Greenway Trail and Columbia Slough Trail that pass through RSIA are not in any way comparable to the proposed Ice Age Tonquin Trail.** Attachments 1 through 3 of the Supplemental Staff Report are maps that shows portions of the Willamette Greenway Trail and Columbia Slough Trail that coincide with a RSIA. Exhibit 1 shows that, in fact, the trails—for the most part—run *alongside*, rather than cut through the RSIA. In addition, the maps in the Supplemental Staff Report show no portions of the trails that create new traffic intersections or cut through driveways or railway lines. In addition, these sections do not appear to have any parking lots, interpretive facilities, coffee kiosks, and other notable amenities that are incompatible with industrial activities.
- **The proposed park-like uses of the Ice Age Tonquin Trail are incompatible with the industrial activities protected by RSIA.** Attachment 6 of the Supplemental Staff Report is a 2008 report from the Blue Ribbon Committee for Trails. To a large extent, the report is irrelevant with respect to RSIA as any mention of “industry” or “industrial” is absent from the report. Nevertheless, the report concludes (p. 4), “Greenways are like parks. They are places for families and friends to be together and places to find solitude and connect with nature.” On the other hand, Metro itself has recognized that RSIA were created out of recognition that industrial activities are an entirely inappropriate place for gatherings of “families and friends.”
- **Title 4 protections are crucial to maintaining the value of RSIA lands for industrial uses.** Attachments 7 and 8 of the Supplemental Staff Report are articles published by trail advocacy groups, describing the relationship between the existence of trails and urban and suburban economic development. The articles focus on residential, retail, and tourism related activities. As such, to a large extent, the articles are irrelevant with respect to RSIA as any mention of “industry” or “industrial” are absent from the articles. The economic benefits of trails is not in question. Rather, the key issue is one of land use balance and incompatibility. In establishing RSIA, Metro recognized that non-industrial uses were eroding away available industrial land and, in turn, eroding valuable economic opportunities.

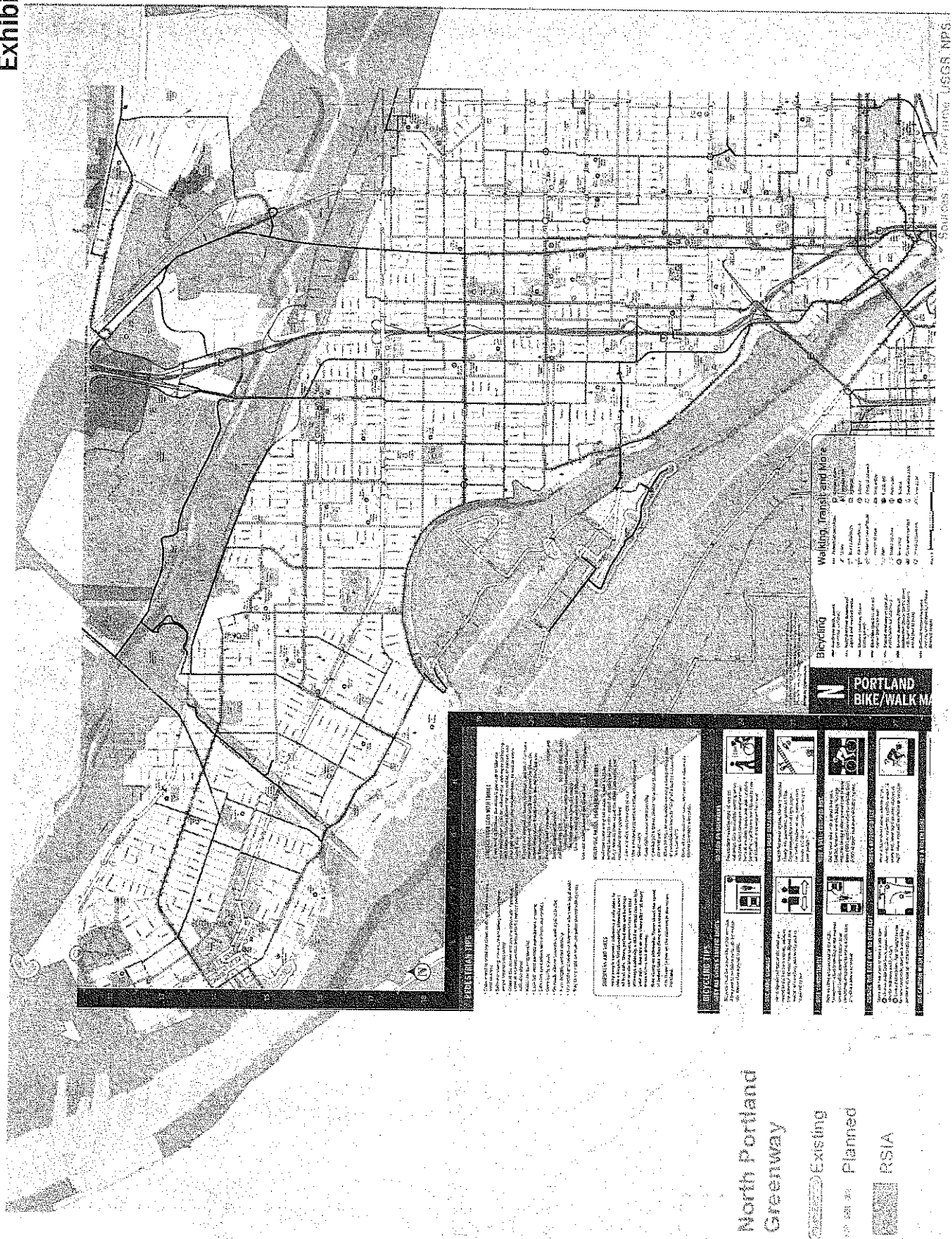
The information provided in the Supplemental Staff Report does nothing to change the conclusion that removing the Title 4 protections from RSIA would be a mistake. Removal of the protections would eliminate the promised safeguards that an RSIA designation was designed to provide to industrial land users. With the protections

removed, the value of land within an RSIA for industrial uses would be severely diminished, if not eliminated.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Eric Fruits", with a stylized flourish at the end.

Eric Fruits, President
Economics International Corp.



Sources: East, Guilford, USGS, NPS.

PORTLAND BIKE/WALK MAP

LEGEND

- Existing
- Planned
- RSIA

BIKING TIPS

- Always wear your seat belt.
- Always wear your seat belt.
- Always wear your seat belt.

WALKING TIPS

- Always wear your seat belt.
- Always wear your seat belt.
- Always wear your seat belt.

PORTLAND BIKE/WALK MAP

North Portland Greenway

Existing

Planned

RSIA

Work here

Leading the region into the future

Member directory

Jobs on Swan Island

Training

Member directory

Our members build, move, design, treat, install, train and much more. They range in size from small, family-owned businesses to large, publicly-traded corporations. In fact, they run the gamut of the world of work. What they all have in common is their location on Swan Island and their dedication to providing quality services and products.

Here is a brief introduction to SIBA members:

Andersen Construction



In 1950 Andersen started providing both design and build services. Since then, the market demand has shifted to the point where today, more than 80% of our work assignments involve providing contract management and general contract services. We provide clients and project designers with responsive and accurate estimating, innovative value engineering, life-cycle analysis, and meaningful constructability input.

Bridgetown Printing

Bridgetown Printing is a full-service printing facility that specializes in high end sheet-fed offset and



digital printing with complete bindery, mailing and fulfillment services. However, we go beyond the traditional definition of a commercial printer. As a part of the Consolidated Graphics network (NSE: CGX), we create value by delivering end-to-end print production and management solutions that are based on the needs of our customers to fuel growth, reduce costs and mitigate risks.

The overall business strategy of Bridgetown Printing is to be the market leader in the commercial printing industry by combining the customer service and responsiveness of a well-managed local printing facility with the competitive advantages provided by our large, international organization, Consolidated Graphics.

You might also be interested in:

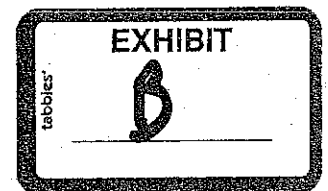
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About Swan Island

About SIBA

Historic N/NE Portland Today

SEARCH ASSIST ADVERTISEMENT



CH Murphy/Clark Ullman



PRESSURE VESSEL AND REFRACTORY SPECIALISTS
CH MURPHY|CLARK-ULLMAN INC

A combination of two companies, C H Murphy|Clark-Ullman, Inc. represents over 125 years of experience in industrial boiler and furnace maintenance. Full time Engineering and Drafting staff utilize the latest in Mechanical and Thermal Design Software, as well as Computer Aided Drafting software. Full time Quality Control and Safety departments ensure that all projects are completed correctly on time and in the safest way possible. Our safety record is among the best in the industry.

Our warehouses are stocked with the most commonly used tube, plate, and refractory materials for emergency repairs of industrial furnaces, boilers, heat exchangers, and pressure vessels. For more specialized parts, our cooperative arrangements with key suppliers allow us to obtain the needed materials quickly, when time is crucial.

Concentra Swan Island

Concentra, a subsidiary of Humana Inc., is a national health and well-being



organization focused on improving America's health, one patient at a time. Concentra has become a leader in consumer health care services by delivering primary and urgent care services, physical therapy, occupational medicine, and prevention and wellness programs. Through its acclaimed patient-first focus, clinical excellence, and integrated wellness programs, the company makes good health accessible and affordable.

At its Swan Island Clinic, Concentra offers an extensive range of services, including workers comp injury treatment, injury treatment, occupational health services, drug screening, physicals, urgent care, health and wellness services and immunizations.

Daimler Trucks North America

Daimler Trucks
 North America



LLC, a Daimler company, is the largest heavy-duty truck manufacturer in North America and a leading producer of medium-duty trucks and specialized commercial vehicles.

Headquartered in Portland, Oregon, Daimler Trucks North America LLC manufactures, sells, and services several renowned commercial vehicle brands. Through company's affiliates, Daimler Trucks North America LLC is also a leading provider of heavy- medium-duty diesel engines and other components. The company's strategic partners in the North American commercial vehicles market include Daimler Truck Financial and TravelCenters of America.

Dr. Martens

DSU Peterbilt & GM Truck, Inc.

When Diesel Service Unit (DSU) opened in 1945,



we didn't have much in the way of assets. In fact, our first shop was set up under a tarp hung from a telephone pole. Aside from fresh Oregon air, about all we could offer our early customers was the 30 years combined experience on trucks and diesel engines of our three young mechanics.

Today, DSU sells Peterbilt, GMC, and Isuzu trucks, as well as parts for all makes. Our service technicians are well trained by each of the manufacturers and have years of experience.

Our employees enjoy excellent benefits that are the talk of the industry. DSU's philosophy is to promote from within. Most are long-term employees with an average of over 11 years work experience. Now, with approximately 200 employees, we feel we are keeping up with the founders' idea of treating customers and their needs as if we were customers too. This great idea has resulted in our having one of the best reputations in the trucking industry. Our customers consistently rank us tops in all categories for customer service.

E.E. Schenck Company

EFI Recycling
EFI Recycling has been serving the Portland area's commercial recycling needs since



2001, and is proud to be one of the largest locally owned and operated recycling companies in the Northwest. EFI specializes in recycling paper,

corrugated cardboard, plastic film, newspaper and magazines. The EFI business model positively impacts the environment by removing waste from landfills, reusing already processed materials, and reducing the demand for new paper, corrugated, and plastic.

Our facilities on Swan Island make us strategically located to service an extensive area and are outfitted with the most sophisticated technology to collect and recycle a wide array of paper, cardboard and plastic film products.

EnviroShred NW, a division of EFI, has been serving the greater Northwest by offering on-site and off-site paper shredding services since 2007. EnviroShred NW can safely shred confidential and sensitive documents for businesses of any size. Whether it's a one-time purge or ongoing shredding service, EnviroShred NW can meet your secure paper shredding needs.

Eyelevel

EYELEVEL's

culture is about listening...



working harder... responding quicker...being proactive, and always searching for the best. Exceeding expectations is in our DNA.

Our clients want to make strong connections with their customers. Connections that are personalized, engaging and interactive. EYELEVEL's marketing, retail and technology insight enables us to create inspiring brand experiences across every channel.

Instead of developing the experiences separately, we design, produce, and implement physical store environments and seamlessly connect them with digital brand experiences. Leading Brands work with our World Class teams on integrated solutions delivering higher traffic, bigger sales and stronger brand preference. Our specialties include fixture production, interactive displays, marketing and design support, apps, and global logistics.

We have been based on Swan Island from our beginning in 2007. Swan Island is great for us because it is a central location for our office and our several warehouses, with easy access to transport and shipping.

Indoor Billboard

We are a family run industrial laundry in Portland specializing in rental logo mats and restroom products.



Mel Shulevitz founded the company in 1976. At that time, there was no one in the industry marketing such a concept.

Today, led by the next generation of the Shulevitz family, Indoor Billboard continues to be a recognized national leader in the field and a trailblazer in the industry.

Kroger Swan Island Dairy

Kroger Manufacturing is the manufacturing division of The



Kroger Co. – one of the nation's largest supermarket operators with fiscal 2006 sales of \$66 Billion and 305,000 employees and one of the largest manufacturers of private label brand products in the United States. We manufacture more than 5,000 food and non-food products in our 41 manufacturing plants. Our private label grocery items represent approximately 24% of the Company's sales.

Lucky Distributing/BCS America

NW Paper Box

Olsa Resources

Portland Bureau of Transportation

The Portland Bureau of Transportation is a community partner in shaping a livable city.



We plan, build, manage and maintain an effective and safe transportation system that provides people and businesses access and mobility. We keep Portland moving.

The Bureau of Transportation maintains the \$8.4 billion investments in infrastructure facilities from streets and structures to traffic signals and street lights. As the state's largest urban area, protection of our way of life requires creativity in order to balance the competing uses, complexity, age, and size of the transportation system.

Portland stands as a national leader in innovative transportation solutions. Planning and constructing solutions to meet the demands of a growing city and region, while maintaining our economic vitality and neighborhood character, requires the Bureau of Transportation to leverage its limited resources. Stewardship of Portland's mobility and livability is our primary responsibility.

Portland Community College – Cascade Campus

Located in
North Portland,
Portland
Community
College's
Cascade



**Portland
Community
College**

Cascade Campus

Campus is known for its quality educational programs and close connections with neighborhood communities.

In the fall of 2014, the Cascade Campus will expand to include a workforce training center on Swan Island. The Swan Island center will be home to a variety of career and technical programs, including PCC Pre-Apprenticeship, Facilities Maintenance Technology and Electrical Trades.

Portland Development Commission

Created
by
Portland
voters in
1958, the



PORTLAND
DEVELOPMENT
COMMISSION
www.pdc.us

Portland Development Commission (PDC) helps make Portland one of America's most livable cities. As Portland's urban renewal and economic development agency, PDC focuses on explicit investments in business expansion and retention, workforce training, innovation, catalytic projects and an ecosystem that nurtures entrepreneurs and small businesses, with particular emphasis on the city's signature industry clusters: athletic and outdoor, clean technology, advanced manufacturing software.

Port of Portland



PORT OF PORTLAND

Established in 1891 by the Oregon Legislature, the Port of Portland owns four marine terminals, three airports (Portland International, Hillsboro, and Troutdale) and five industrial parks—the oldest being Swan Island where, in 1927, the Port's first airport was dedicated by Charles Lindbergh. The Port has sold or continues to lease many job-producing sites on Swan Island. The mission of the Port is to enhance the region's economy and quality of life by providing efficient cargo and air passenger access to national and global markets.

Portland Screw Company
Portland Screw



Company is a local family-owned fastener company.



We service all industries, becoming true partners with our customers. The company relocated to Swan Island in 1970 after construction of our current site. The central location, easy access for customers and vendors, and site amenities, keep Portland Screw Company a vital member of the Swan Island Community.

PSI

PSI is one of the country's largest consulting



engineering firms, locally and nationally recognized for providing integrated services in several disciplines, including geotechnical engineering, materials testing and special inspection, environmental consulting, industrial hygiene services, metallurgical and chemical testing and consulting, and facilities engineering and consulting. Today, we employ approximately 2,000 skilled professionals in 100 offices nationwide. We offer you the responsiveness and concern of a local firm, backed by the resources of a national company. Our local project managers have full responsibility for getting the job done, and the authority and the resources to ensure that the work is completed quickly, correctly and economically.

Stack Metallurgical

Stack Heat Treating opened on January 9, 1984 and



we changed our name to Stack Metallurgical Services Inc. in 1995. We started out with a couple of atmosphere furnaces and companion draws. Since then, we have grown into the most versatile provider of heat treating services in the Pacific Northwest.

Building on a foundation of Quality, Service and Competitive Pricing, Stack has long sought to present to its customers an attitude of trust and reliability with regards to the processing and handling of their material. This attitude is maintained by having all personnel consider themselves Customer Service Representatives, regardless of position or level of responsibility within the company. Our goal has always been to

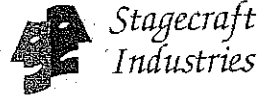
give our customers more than they expect at a competitive price.

This circle of events allows us to grow while giving security to our employees and customers. In the simplest form, our Company's goals are:

1. Do It Right (QUALITY)
2. Do It On Time (SERVICE)

Stagecraft Industries

Stagecraft is a manufacturer and installer of equipment found in performing arts centers, arenas, school theaters, TV studios, churches and museums. With a company history that spans over 50 years, our work can be found in thousands of facilities.



*Stagecraft
Industries*

www.stagecraftindustries.com

TCM



forward thinking. forward building

Founded in 1953, TCM is a full service, union mechanical contracting firm offering Project Management, Design-Build/Design-Assist services, 3D CAD and Building Information Modeling (BIM), fabrication of sheet metal and piping assemblies and products, and installation of complete mechanical systems that include: plumbing, piping, medical gas piping, high purity piping, HVAC, refrigeration and air delivery systems.

TCM strives to provide innovative, collaborative and safe solutions to a diverse group of clients in a number of industries with many projects serving the high tech, industrial, mission critical/data center and healthcare markets. TCM brings a long-standing history and belief that a locally-owned company and its people should above all else take pride in the products and services they provide. At TCM we recognize that it takes a strong team of talented, committed and hard-working individuals in order to be a successful, forward thinking company.

Tice Electric

Tice Electric is a highly respected Portland,



Oregon based union electrical contracting firm that prides itself upon quality service. In continuous operation since 1934, Tice offers a wide array of

electrical services and can deliver a solution to fit any electrical project.

Our licensed journeymen electricians, linemen and project managers rely upon their years of experience to offer the most cost-effective and well-designed solution for any electrical project. In addition, we demonstrate our commitment to integrity by presenting our customers with all options so that together we can discover the solution that best meets their needs.

With our relocation to Swan Island from SE Portland in 2006, we consolidated all of our satellite offices and facilities to one location. This move improved our overall efficiency so that we can continue to provide quality service at a fair price for the years to come.

TILT

TILT is a
Portland, OR
based
restaurant
brand focused
on handcrafting



the finest scratch recipe biscuits, gourmet burgers and old fashioned fruit and cream pies on planet earth. We don't believe in cutting corners, so we choose to do a few things and do them very well. We have one menu and everything on the menu is served all day, every day. If you want breakfast for dinner, who are we to tell you that you can't have it? If you're in the mood for one of our amazing burgers for breakfast, we will not stand in your way. Oh, and the pie! Our pie is so good, it will make you smile from ear to ear with every bite, just like grandma's pie used to do! Make sure you connect with us on Facebook/tiltitup | Twitter: @tiltitup | Instagram: @tiltitup.

Trimet

UPS

At UPS, we love logistics. But what's it really all about? From our early roots as a Seattle, Washington bike-messenger company to our present day, multi-billion-dollar global corporation, our team has held a singular focus – empowering commerce around the world. We have become the world's largest package delivery company and a leading global provider of specialized transportation and logistics services.



Every day, we choreograph the infinite movements of goods, funds, and information in more than 200 countries and territories. From

global giants to local mom and pop businesses, we improve distribution networks and manage supply chains to help our customers to do what they do best. That's how we make the world work better.

US Bank

US Coast Guard

Vigor Industrial

Our legacy dates back a century with historic shipyards like Todd Pacific, Kaiser and Cascade General. Our subsidiaries and our 2,000 workers are specialists: new construction and large-scale metalworking at US Fab; commercial ship repair at Vigor Marine; U.S. Navy and Coast Guard program with Vigor Shipyards; topside teams from Washington Marine Repair; Alaska Ship & Drydock who does it all, shipbuilding and repair; Specialty Finishes for blasting and coating.



We're privately owned and publicly minded. We value training, hard work and smart thinking. We hold every employee accountable for success: theirs, ours, and our customers. We minimize barriers and respond quickly to market conditions and customers' needs. We're serious about safety and environmental stewardship.

Walter E. Nelson

Wanke Cascade

Site design by Grapheon. Copyright 2014 Swan Island Business Association



June 04, 2014

METRO COUNCIL
600 NE Grand Avenue
Portland OR 97232-2736

RE: Ordinance 14-1329B

My businesses are represented by the Tonquin Industrial Group (TIG), and include Tonquin Industrial LLC, Terra Hydr Inc. and Trade Tool & Supply Corporation. These businesses employ over fifteen people, operate at a profit, and pay considerable taxes, operating and supporting heavy industry.

In 2004 our TIG members lobbied Metro to be included in the Urban Growth Boundary, to promote and protect our properties as a Regionally Significant Industrial Area (RSIA). Together we have over fifty acres, ideally suited by geography and infrastructure, to engage in heavy industrial activity.

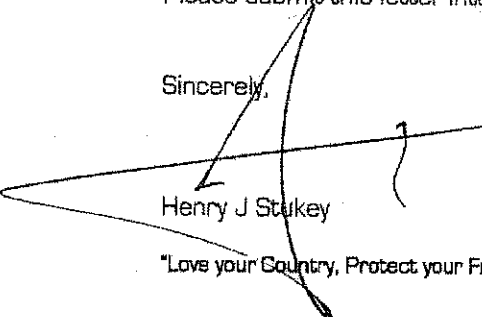
Since 2011 we have been in continuous battle, with various governmental entities, to protect the sanctity of our RISA and the opportunities for jobs, revenue and tax base created by same.

Ordinance 14-1329B is another affront by Metro in the promotion of a flawed vision. The Ice Age Tonquin Trail (IATT) is simply not compatible with industrial activity, rail and heavy truck traffic.

Information in Metro's Supplemental Staff Report, with reference to Swan Island and Port of Portland support of trails, has no merit on the TIG issue. Trails as described in these industrial business park settings actually serve to direct pedestrian traffic away from heavy industrial activity. In contrast, the proposed IATT alignment invites recreational amenities into the heart of industrial activity.

Please submit this letter into the record as my objection to the proposed ordinance.

Sincerely,



Henry J Stuke

"Love your Country, Protect your Freedom, Limit your Government"



McGUIRE
Beating Company

2125 Commercial St. N.E.
Salem, Oregon 97303-6613
(503) 581-2000
FAX: (503) 581-7608

June 4, 2014

Dorothy Cofield
Cofield Law Office
8705 SW Nimbus Ave., Suite 380
Beaverton, Oregon 97008

Re: *Swan Island – Metro Ordinance 14-1329B*

Dear Dorothy,

After the Metro public hearing last week, I reviewed the Swan Island Business Association's letter supporting trails in the Swan Island RSIA. I found it hard to believe the trail supported industrial businesses as the letter states, so I went back down to Swan Island to observe the trail and take some pictures today.

The trail does not abut any heavy industrial usage. It runs along the river and is entirely next to office buildings only. It dead ends on one end at Union Pacific Railway property. I observed three transient camps located approximately 20-40 feet from the trail. I took pictures as attached.

The only place where the trail would come close to any heavy industrial activity is where Hoffman Construction is working on a project and the trail is completely fenced off with no pedestrian access at all. It is marked "No Trespassing".

Other portions of the trail feature six-foot cyclone fences with an additional couple of feet of barbed wire on top to keep trail users away from what appears to be electrical equipment.

I hope my testimony and photos of the Swan Island RSIA demonstrate that it is very different than the TIG properties and the proposed IATT which goes right through the middle of the RSIA. Under Metro's proposed ordinance, the TIG area will be divided by a seven day a week, twenty-four hour a day trail and amenities and 200' setbacks from the trail imposed by Washington County which will further take land out of industrial use.

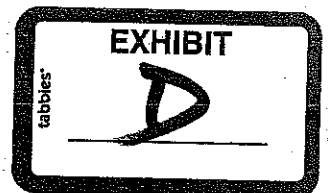
Thank you for submitting my letter and photographs into the record.

Very truly yours,



Steve McGuire

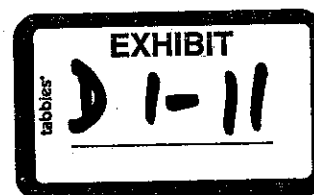
Portland • Seattle • Tacoma • Spokane • Eugene • Boise • Salem

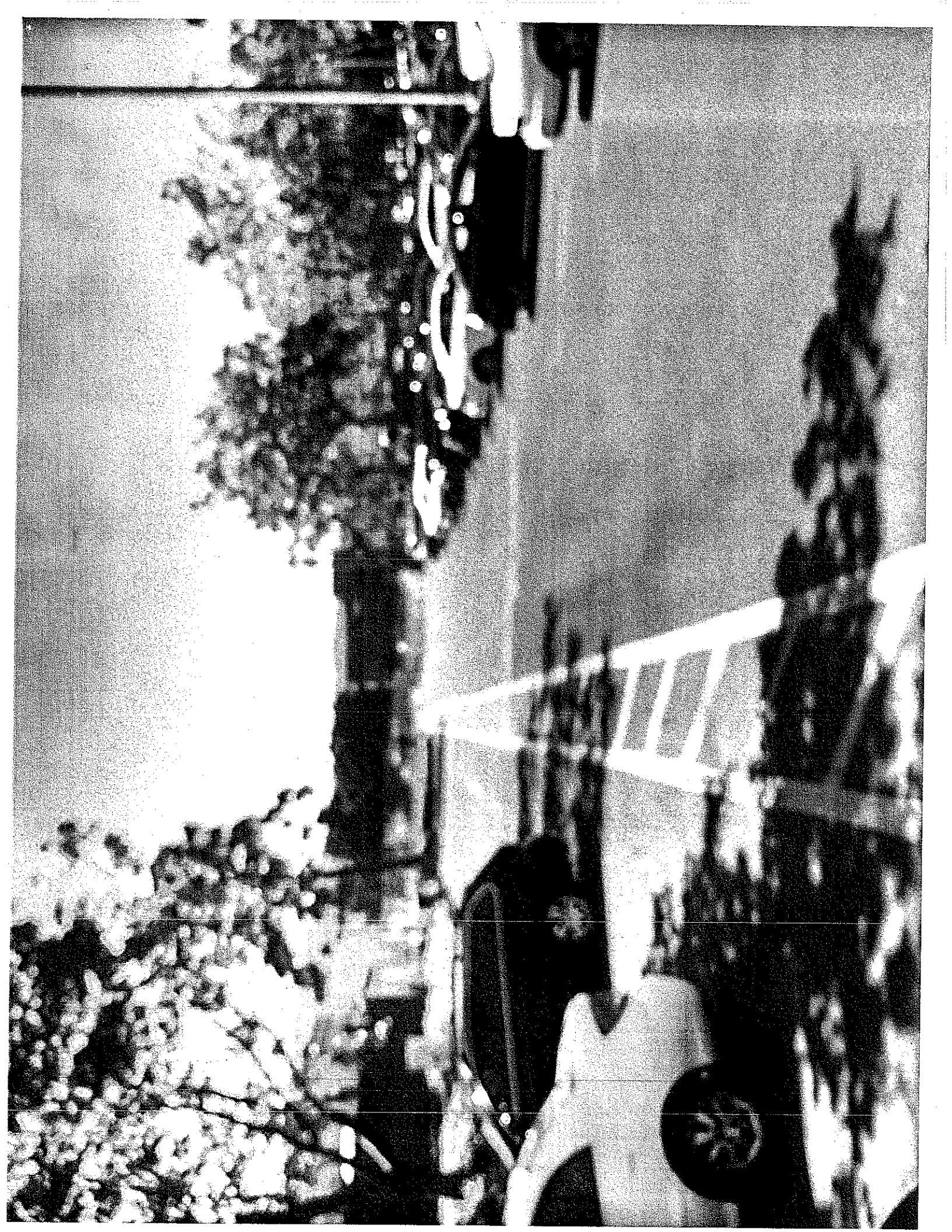


Dorothy Cofield

From: stevemcguire@yahoo.com
Sent: Wednesday, June 04, 2014 4:57 PM
To: cofield@hevanet.com
Subject: Another parking lot
Attachments: IMG_20140604_150429_319.jpg

Sent from Yahoo Mail on Android



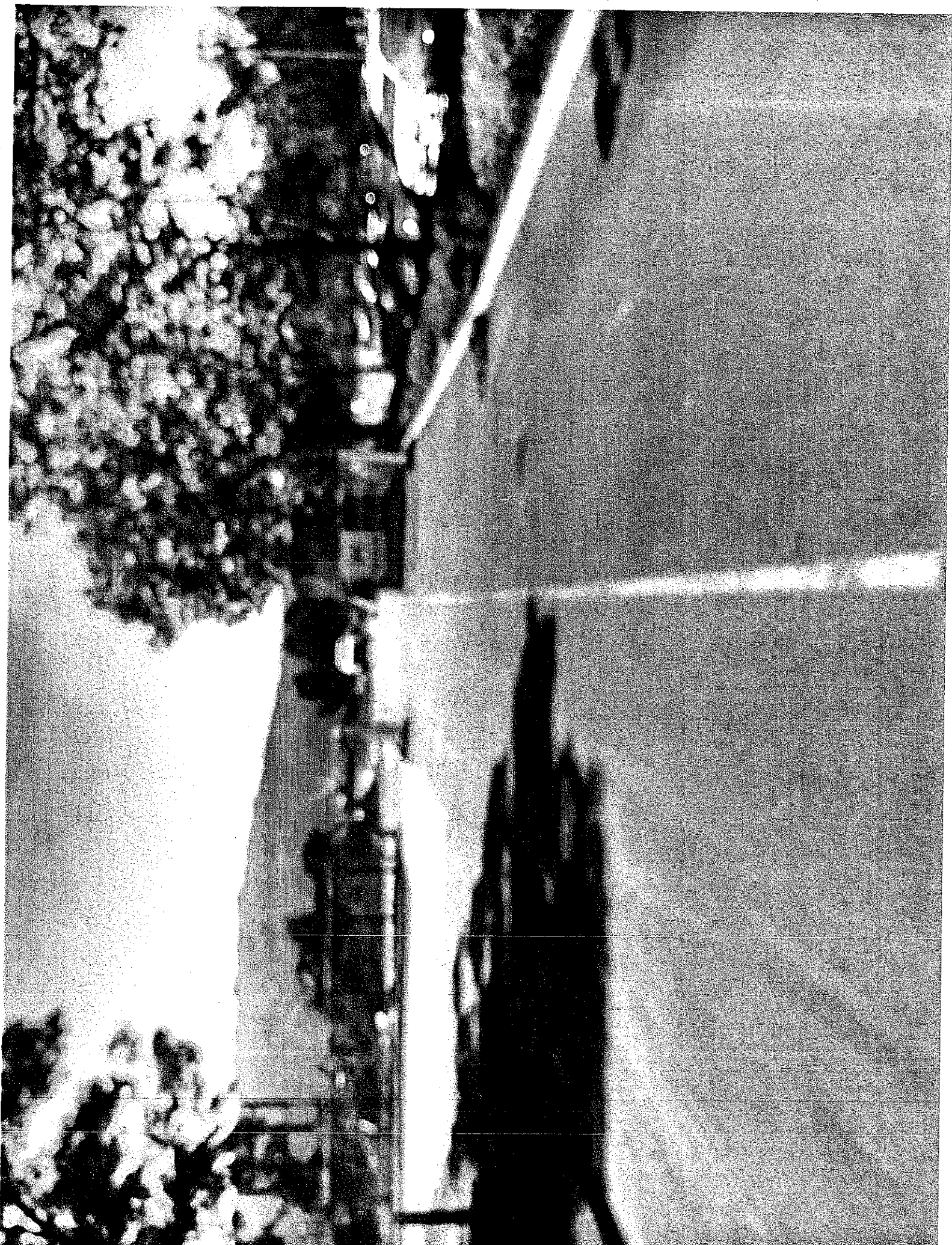


Dorothy Cofield

From: stevemcguire@yahoo.com
Sent: Wednesday, June 04, 2014 4:54 PM
To: cofield@hevanet.com
Subject: Through parking lot
Attachments: IMG_20140604_150330_932.jpg

Detours through parking lot

Sent from Yahoo Mail on Android

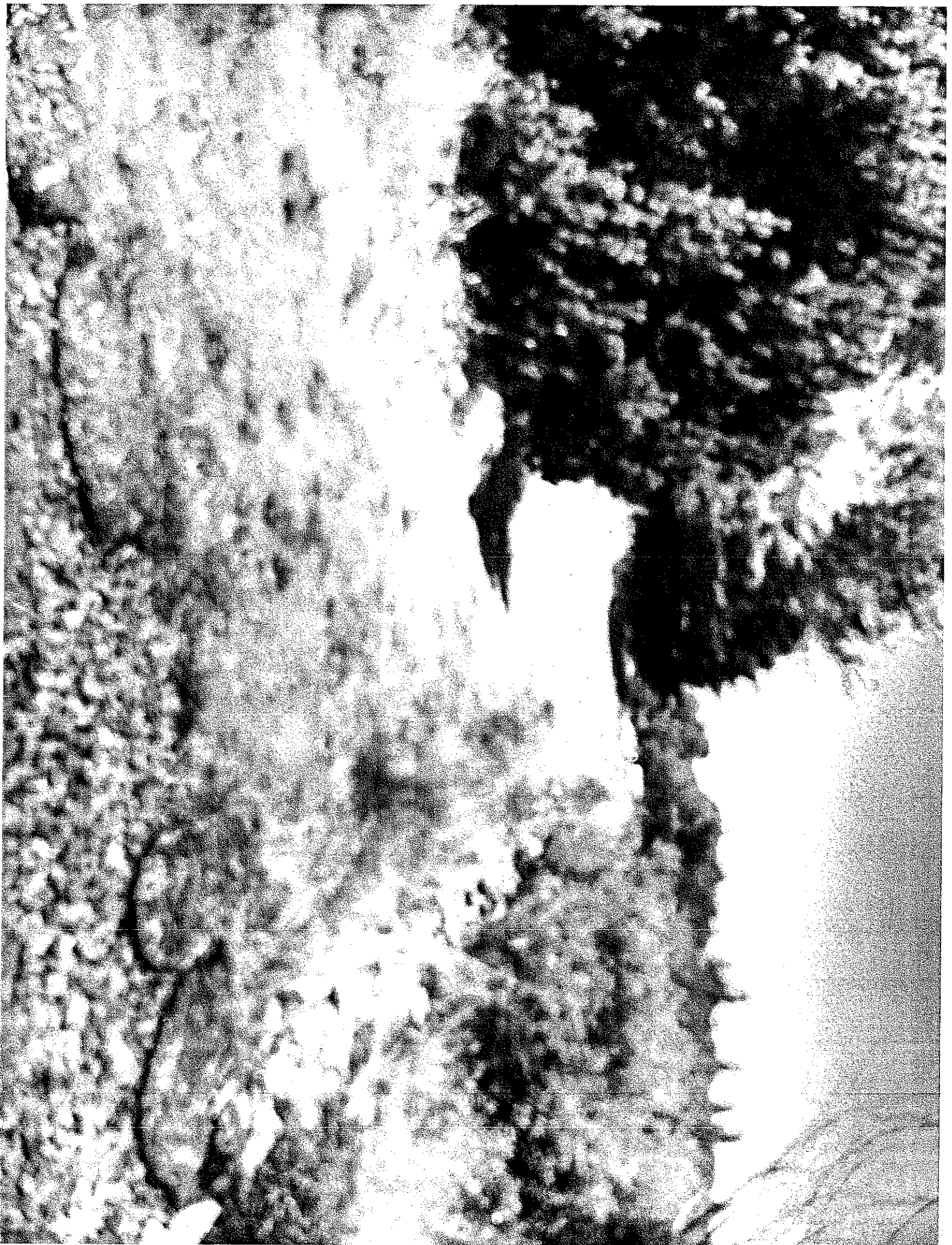


Dorothy Cofield

From: stevemcguire@yahoo.com
Sent: Wednesday, June 04, 2014 4:52 PM
To: cofield@hevanet.com
Subject: Vacant lot
Attachments: IMG_20140604_150101_452.jpg

Trail cuts through vacant lot

Sent from Yahoo Mail on Android

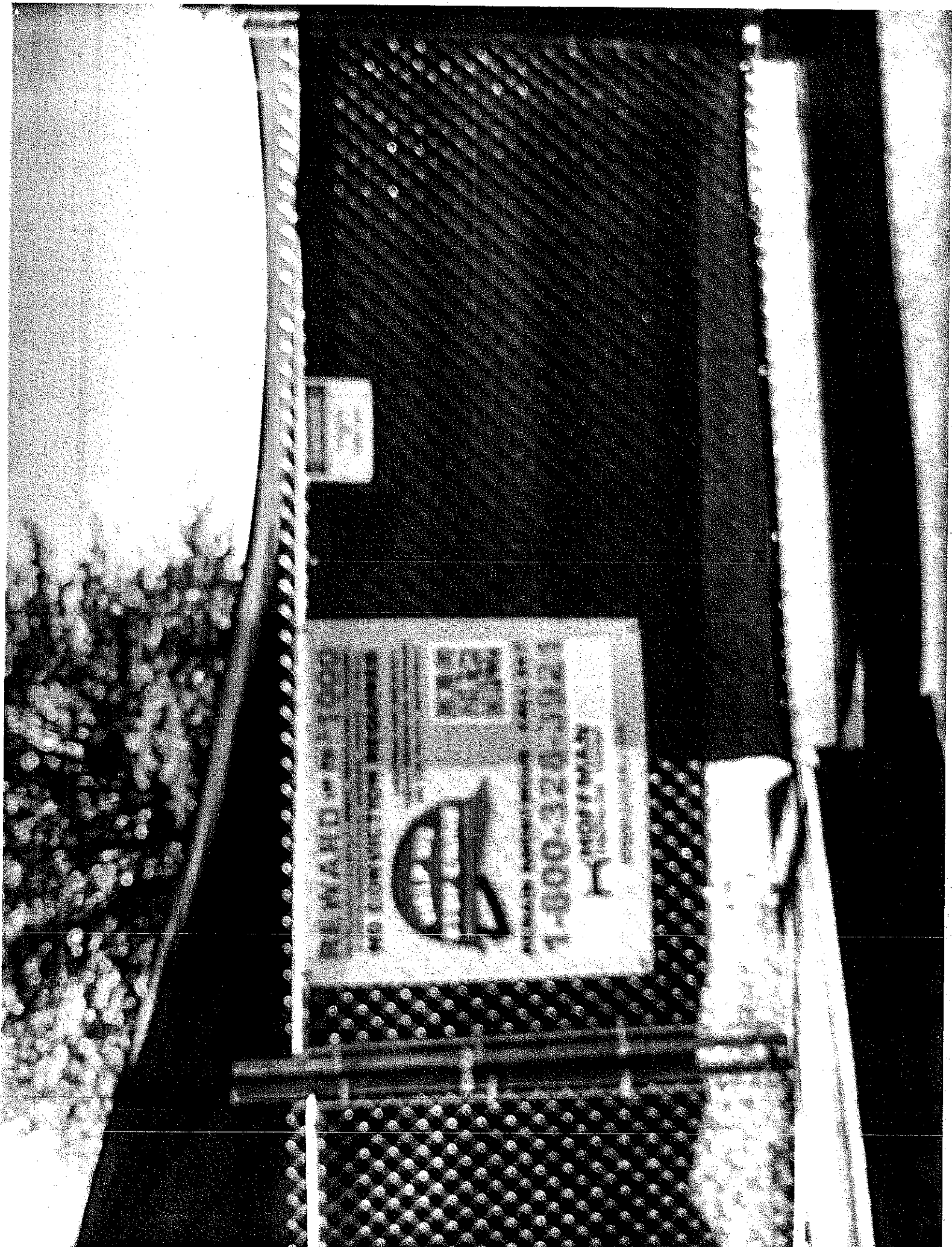


Dorothy Cofield

From: stevemcguire@yahoo.com
Sent: Wednesday, June 04, 2014 4:50 PM
To: cofield@hevanet.com
Subject: Trail ends at hoffman
Attachments: IMG_20140604_145840_650.jpg

Keep out

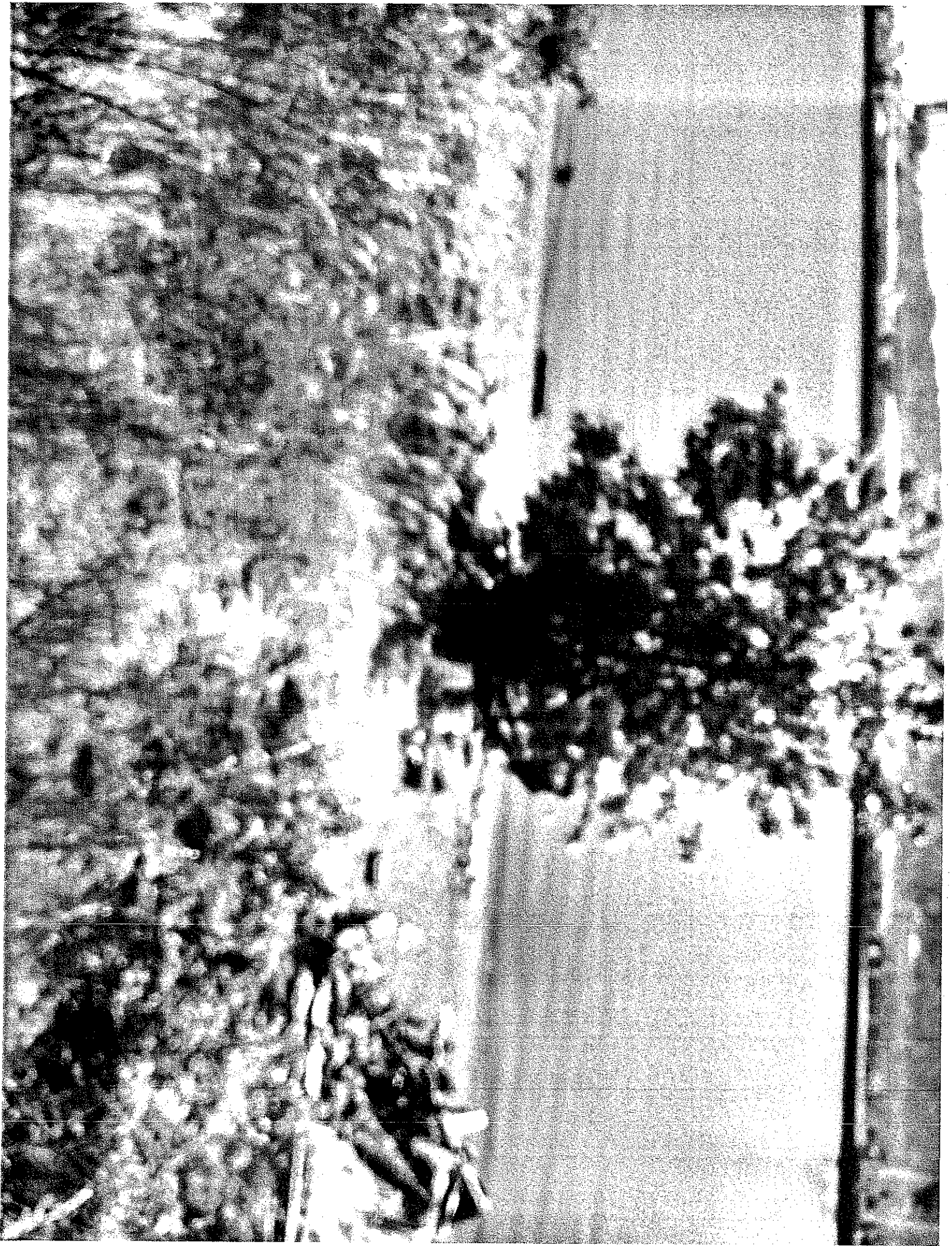
Sent from Yahoo Mail on Android



Dorothy Cofield

From: stevemcguire@yahoo.com
Sent: Wednesday, June 04, 2014 4:46 PM
To: cofield@hevanet.com
Subject: Third camp
Attachments: IMG_20140604_145434_734.jpg

As seen from trail
Sent from Yahoo Mail on Android



Dorothy Cofield

From: stevemcguire@yahoo.com
Sent: Wednesday, June 04, 2014 4:32 PM
To: cofield@hevanet.com
Subject: Camp
Attachments: IMG_20140604_145116_813.jpg

As seen from trail

Sent from Yahoo Mail on Android

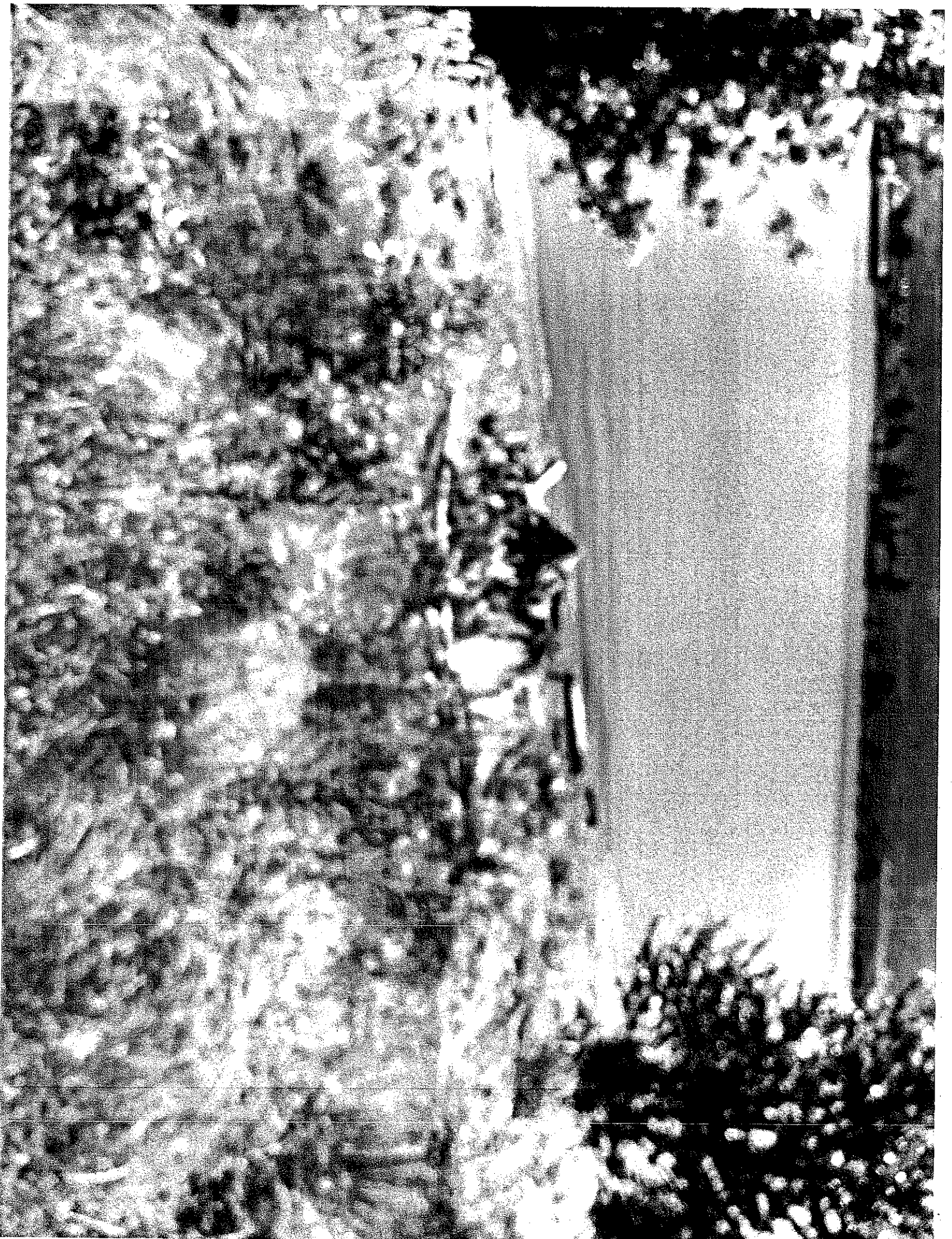


Dorothy Cofield

From: stevemcguire@yahoo.com
Sent: Wednesday, June 04, 2014 4:32 PM
To: cofield@hevanet.com
Subject: Second camp
Attachments: IMG_20140604_145419_875.jpg

Another transient camp

Sent from Yahoo Mail on Android



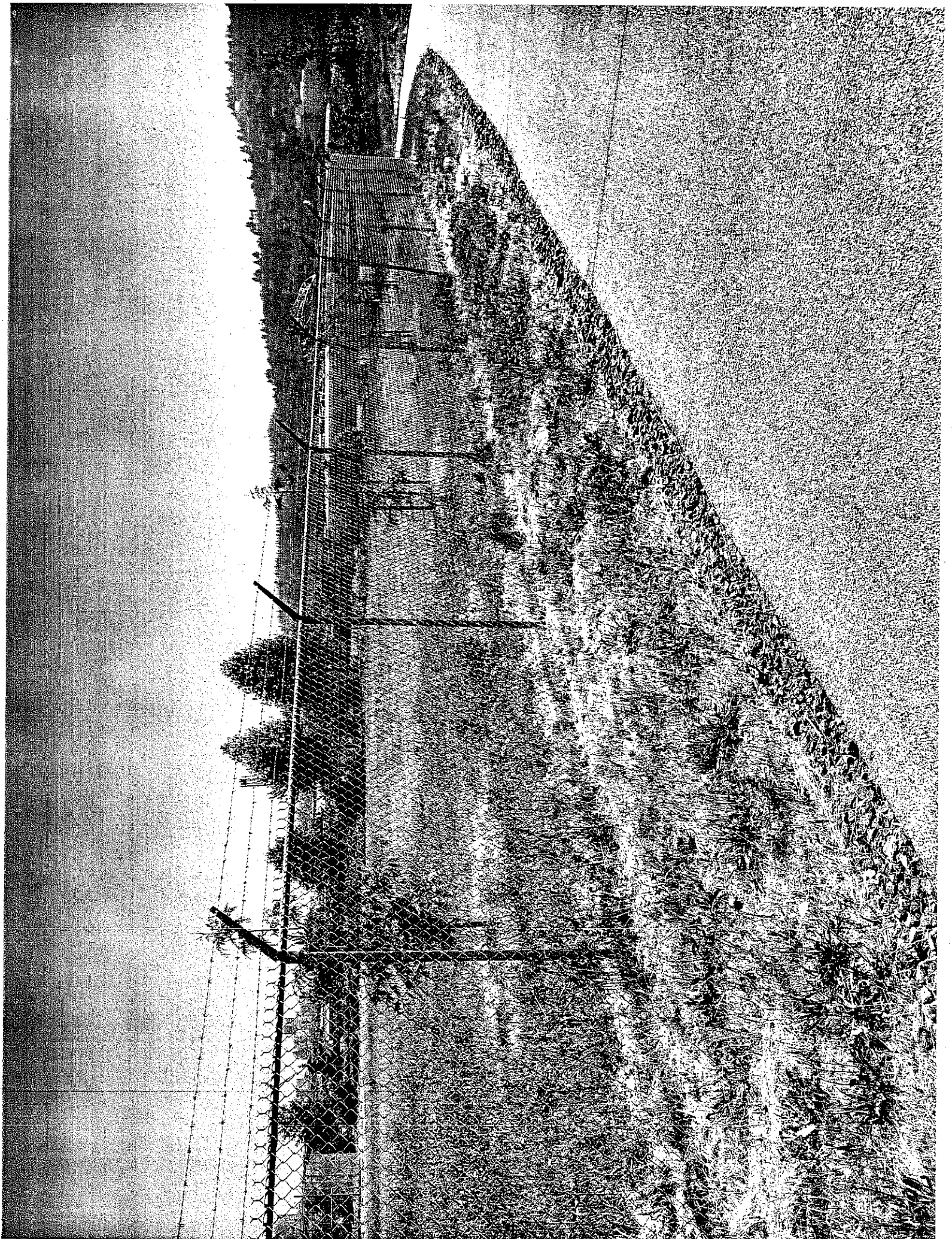
Dorothy Cofield

From: stevemcguire@yahoo.com
Sent: Wednesday, June 04, 2014 4:22 PM
To: cofield@hevanet.com
Subject: Trail pics
Attachments: IMG_20140604_144236_839.jpg

Here are some pictures

Sent from Yahoo Mail on Android

8



Dorothy Cofield

From: stevemcguire@yahoo.com
Sent: Wednesday, June 04, 2014 4:27 PM
To: cofield@hevanet.com
Subject: Transient camp
Attachments: IMG_20140604_145236_199.jpg

About 20 feet from trail

Sent from Yahoo Mail on Android

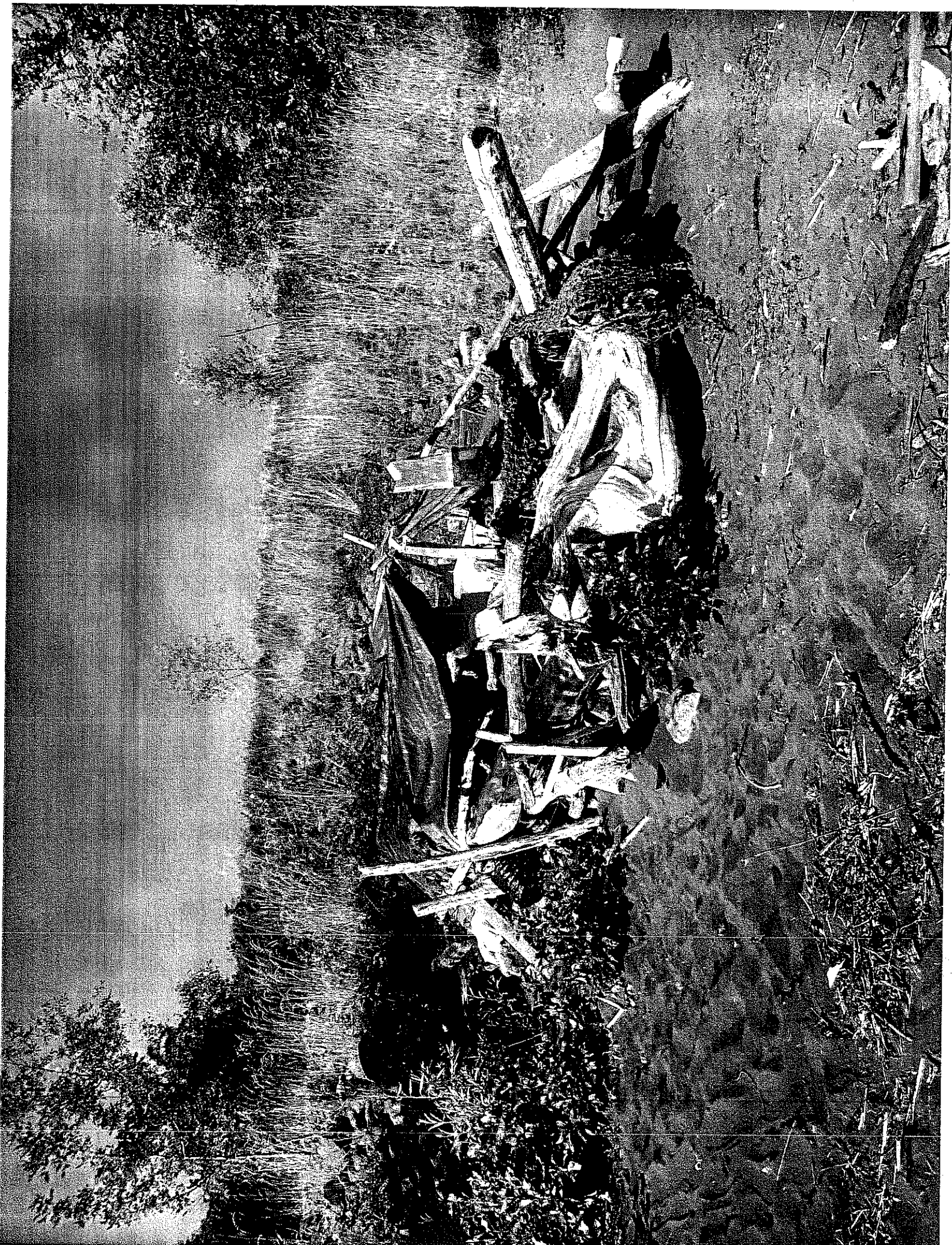


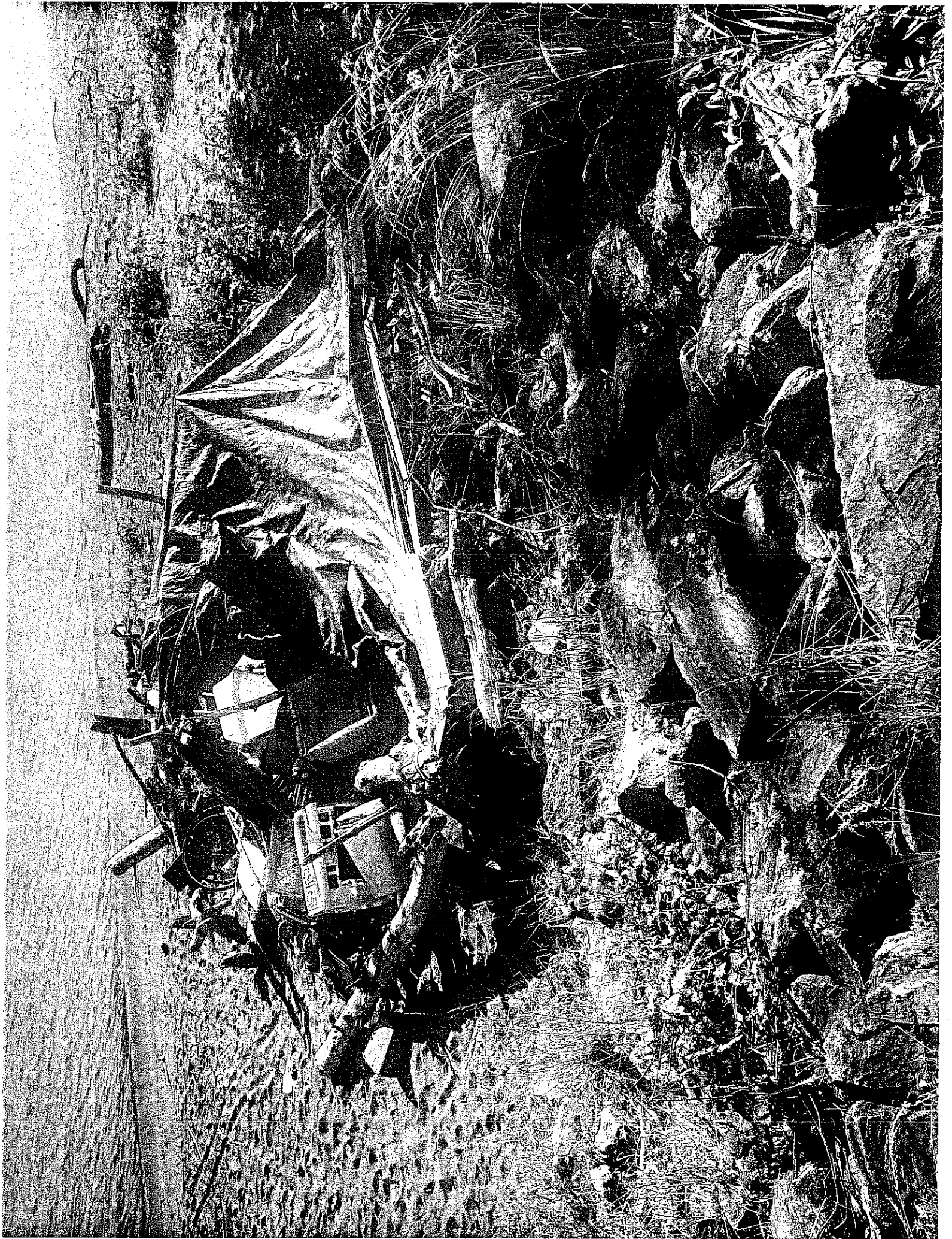
Dorothy Cofield

From: stevemcguire@yahoo.com
Sent: Wednesday, June 04, 2014 6:56 PM
To: cofield@hevanet.com
Subject: Close up of camp 2
Attachments: IMG_20140604_172850_509.jpg; IMG_20140604_173039_177.jpg

Here's some more shots of second camp

Sent from Yahoo Mail on Android





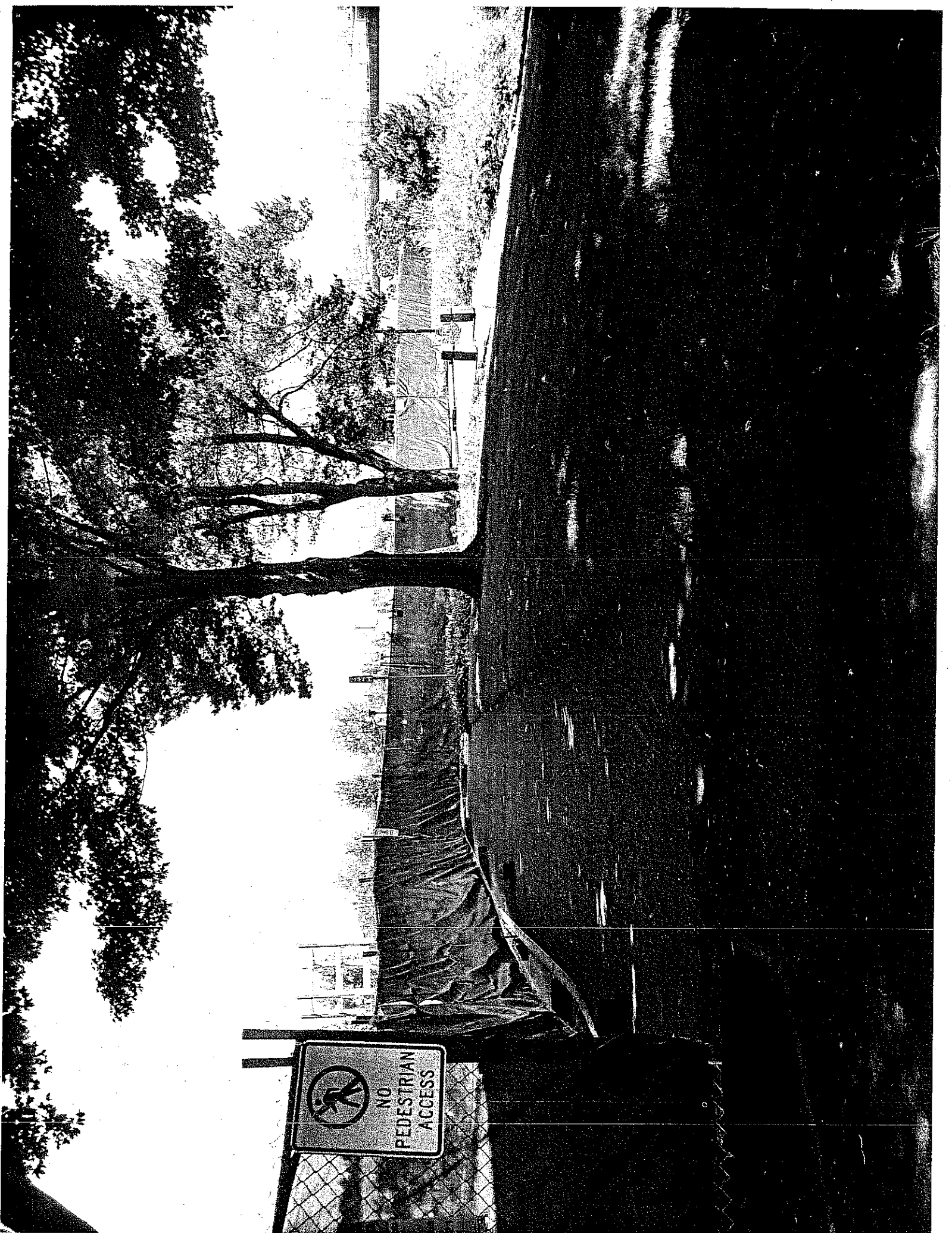
Dorothy Cofield

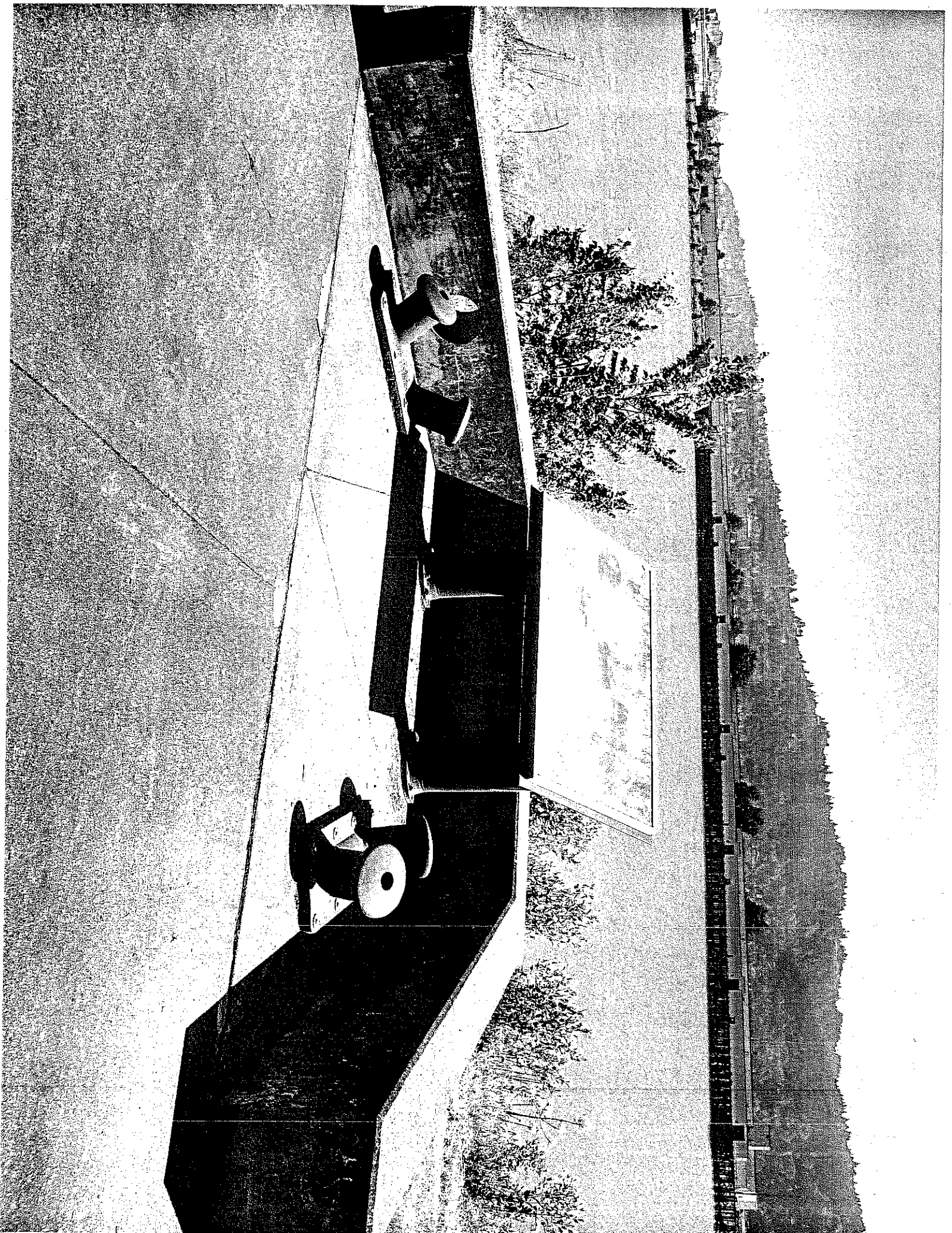
From: stevemcguire@yahoo.com
Sent: Wednesday, June 04, 2014 4:59 PM
To: cofield@hevanet.com
Subject: Other side of Hoffman project
Attachments: IMG_20140604_150801_837.jpg

Trail resumes on other side of project

Sent from Yahoo Mail on Android

11







Portland Oregon
Local Cartage
Statewide
PLUS 7
WESTERN
STATES



Demand Responsive Service

P.O. Box 1166
Tualatin, OR 97062-1166
(503) 234-2660
1-800-321-2660
fax 503-233-6180

VIA HAND DELIVERY

June 5, 2014

Metro Council President Tom Hughes
Councilor Shirley Craddick
Councilor Carlotta Collette
Councilor Craig Dirksen
Councilor Kathryn Harrington
Councilor Same Chasse
Councilor Bob Stacey
600 NE Grand Ave.
Portland, Oregon 97232-2736

RE: Ordinance No. 14-1329B – Comments on Supplemental Staff Report

Metro Chair and Council,

With all due respect, I oppose proposed ordinance 14-1329B.

Oregon, Land Use Board of Appeals, has held for The Tonquin Industrial Group, (TIG) because of prohibitions against parks in RSIA's.

Metro, should not just change the rules because of a decision that upheld property rights and the importance of protecting industrial uses in RSIAs but rather decide our RSIA is worth protecting and move the alignment and various IATT facilities out of the RSIA. This is an easy task. There is no reason to put the trail and facilities in the RSIA. As aligned and allowed under the proposed amendments, the trail and facilities take valuable industrial land and convert it to recreational use; significantly increases the cost of doing business in the RSIA because of needs for additional security, delays and other problems; it interferes with freight movements; forecloses a needed and desired rail spur; and is a disincentive to industry to locate in the Metro area because Metro will have made clear it is unfriendly to industry. There is talk of rail service beyond the scope of WES for passengers and freight to go further south from basically our



Metro Council
Page 2

strategic location. The proposal forecloses any meaningful use of rail for freight in the TIG RSIA.

If Metro, changes the rules, there will also be established a disincentive to annex the Tonquin Industrial Group's 50 contiguous acres and the economic benefit to the area. Please remember, the TIG situation is unique in that the separately owned industrial properties have been assembled as a vision without any government help. In fact, Metro in particular has been a serious hindrance to maintaining or establishing industrial uses in our RSIA. Under Metro's proposal, the TIG area will be divided by a 7 day a week 24 hour a day linear park and the proposed ordinance, 14-1329B is just another LUBA appealable fiasco which promises to continue the litigation rather than any effort to protect industry or problem solve.

In many cases of legislation, there has become the practice of a "carve out" to enable legislation to pass or become effective in implementation. TIG, could be carved out of ordinance.

Metro, having seemingly unlimited legal resource constraints and staff available to compile exhibits as old as 8 years ago is not just the elephant but rather the pouting child in the room.

The willing seller position is insulting. As is plain from the explicit text of the LATTMP, funding sources for the trail and facilities are well beyond the greenspaces bond measure. Yet, Metro has refused to put anything in the proposed ordinance amendments that limits the establishment of trails and related facilities to only be on land acquired from willing sellers.

As a condition of annexation, tax lot line adjustments are in the future to accommodate a scheme for trail right of way. Washington County requires land owners who want to expand to establish industrial uses to dedicate land for trails and the other allowed public facilities as a condition of land use permission; the WACO code also requires setbacks from "day use areas" which the allowed picnic areas are surely going to be.

The whole planning system is out of control. Instead of planning to protect and encourage industry, if TIG, ever would want to annex and put our 50 contiguous acres into a shrinking available pool of large industrial lots, the planning would be with an adversary local government rather than a business builder, as Metro continues to refuse to show any commitment to industrial uses and its constituent local governments are expected by Metro to, and will, just follow suit from the regional policy to be set in the proposed amendments.

TIG is comprised of employers, taxpayers and voters.
We, are citizens who have property rights.

The IBACH neighborhood association is on record requesting linkage to Trails. Why not step back and support that kind of citizen linkage and put the trail and facilities in the Ibach Neighborhood that wants it? Don't let staff emotional commitment to ruining the TIG RSIA close the door on safe and appropriate citizen linkage. There are power lines available in the IBACH, to accommodate trails. There are several "distressed properties" east of the RR tracks



Metro Council
Page 3

and with Basalt Planning this is the time to seize a vision rather than carry on the apparent staff lead vendetta or justify a flawed plan.

Revisit the issue and put the trails away from the RSIA and to the East of the RR right of way. Or in 124th which is being built next year. But Metro elected officials should not allow staff who are mad that they lost a LUBA case run amendments to ruin the TIG RSIA.

If there is true support of the proposed ordinance, then carve us out.

I am,

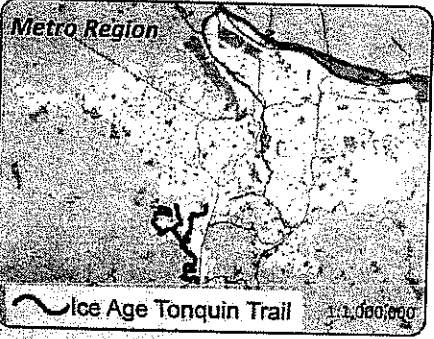
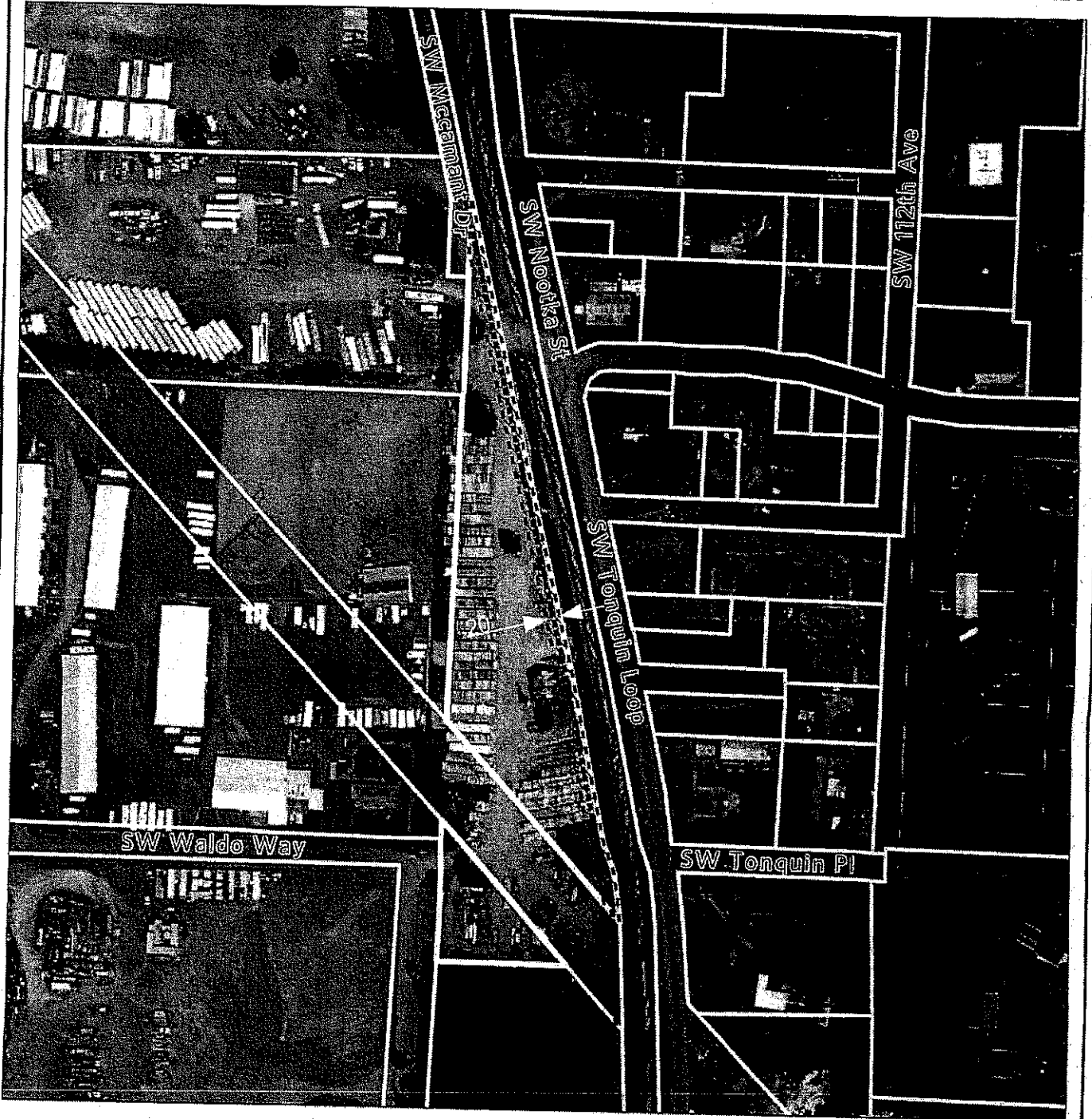


Mark Brown
Pres. Brown Transfer, Inc.
Pres. McCammant Properties, Inc.
Member, Tonquin Industrial Group.
Landowner in the middle of the TIG area since 1996
503-234-2660
PO Box 1166
Tualatin, Or.
97062



Please see attached trail exhibits.
Mark Brown

Ice Age Tonquin Trail

EMJ PROPERTIES LLC



Legend

-  Proposed Acquisition
-  Proposed Trail

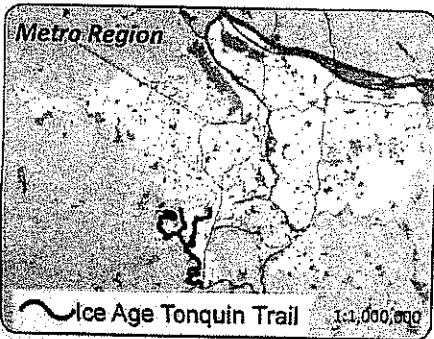
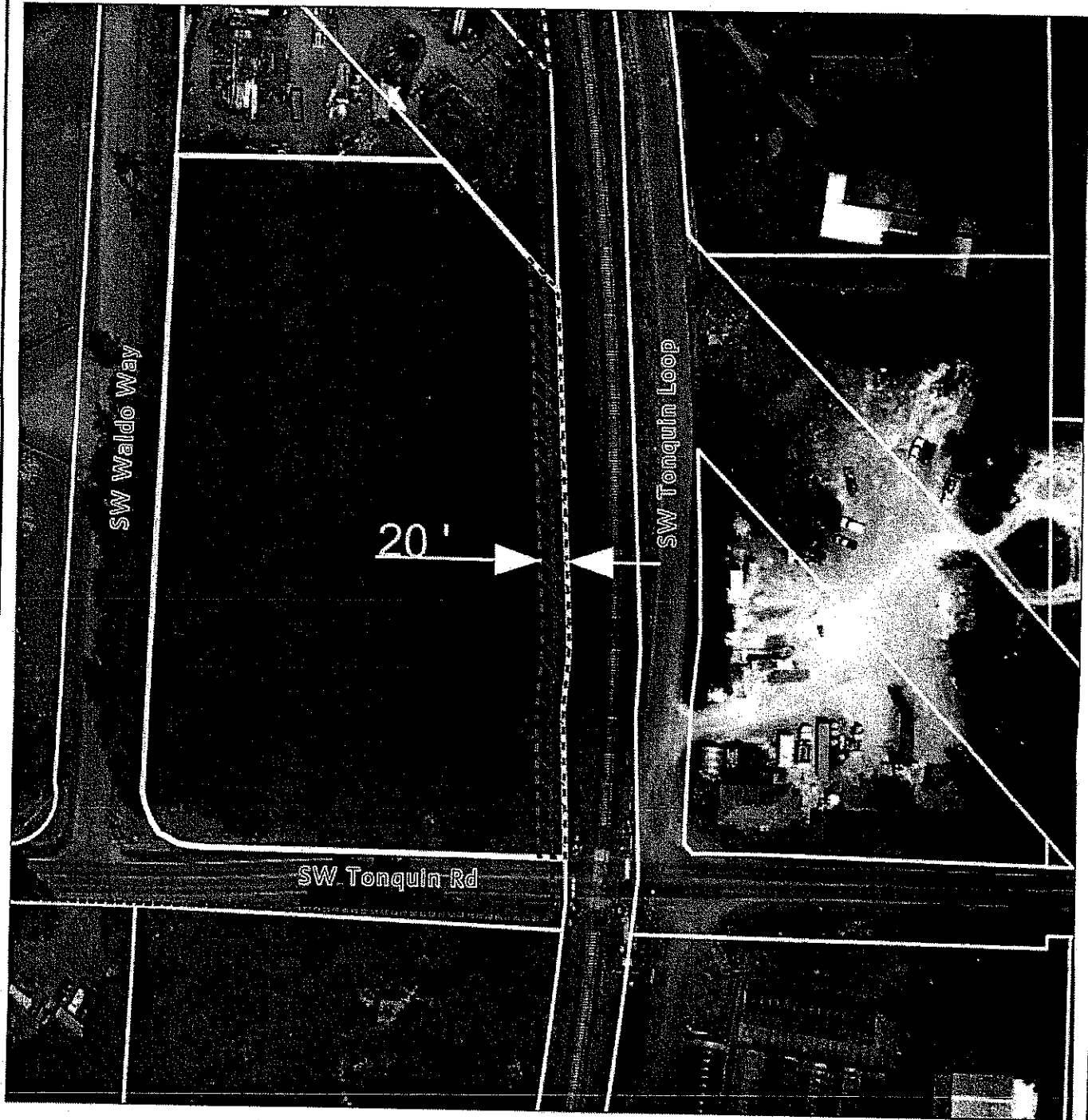


1 Inch = 200 feet
0 100 200



Target Area:	Tonquin Geologic Area
Trail Name:	Ice Age Tonquin Trail
Tax Lot ID:	25134DB03100
Owner:	EMJ PROPERTIES LLC
Interest Type:	Easement
Easement Area:	20,166 square feet
Easement Width:	20 feet
Easement Length:	1044 feet

Ice Age Tonquin Trail

EMJ PROPERTIES LLC



Legend

-  Proposed Acquisition
-  Proposed Trail

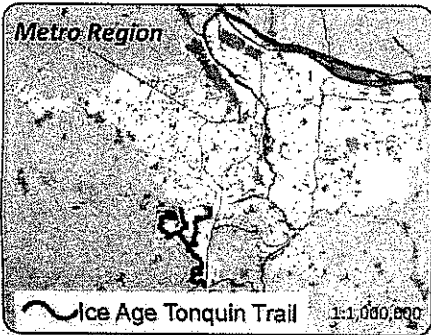
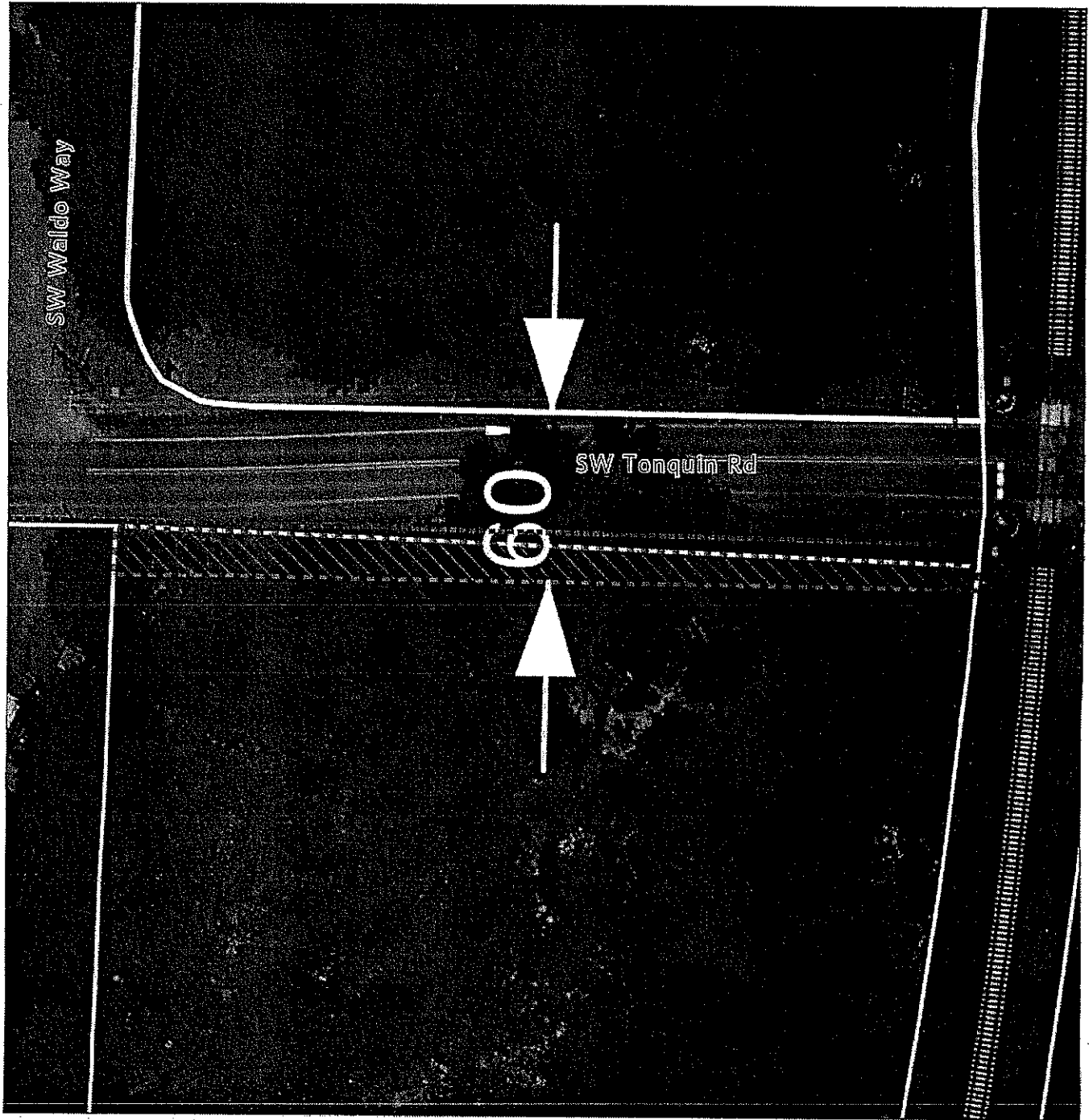


1 Inch = 100 feet
 0 40 80



Target Area:	Tonquin Geologic Area
Trail Name:	Ice Age Tonquin Trail
Tax Lot ID:	2S1B4DC00300
Owner:	EMJ PROPERTIES LLC
Interest Type:	Easement
Easement Area:	8,351 square feet
Easement Width:	20 feet
Easement Length:	422 feet

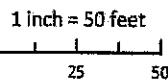
Ice Age Tonquin Trail

EMJ PROPERTIES LLC

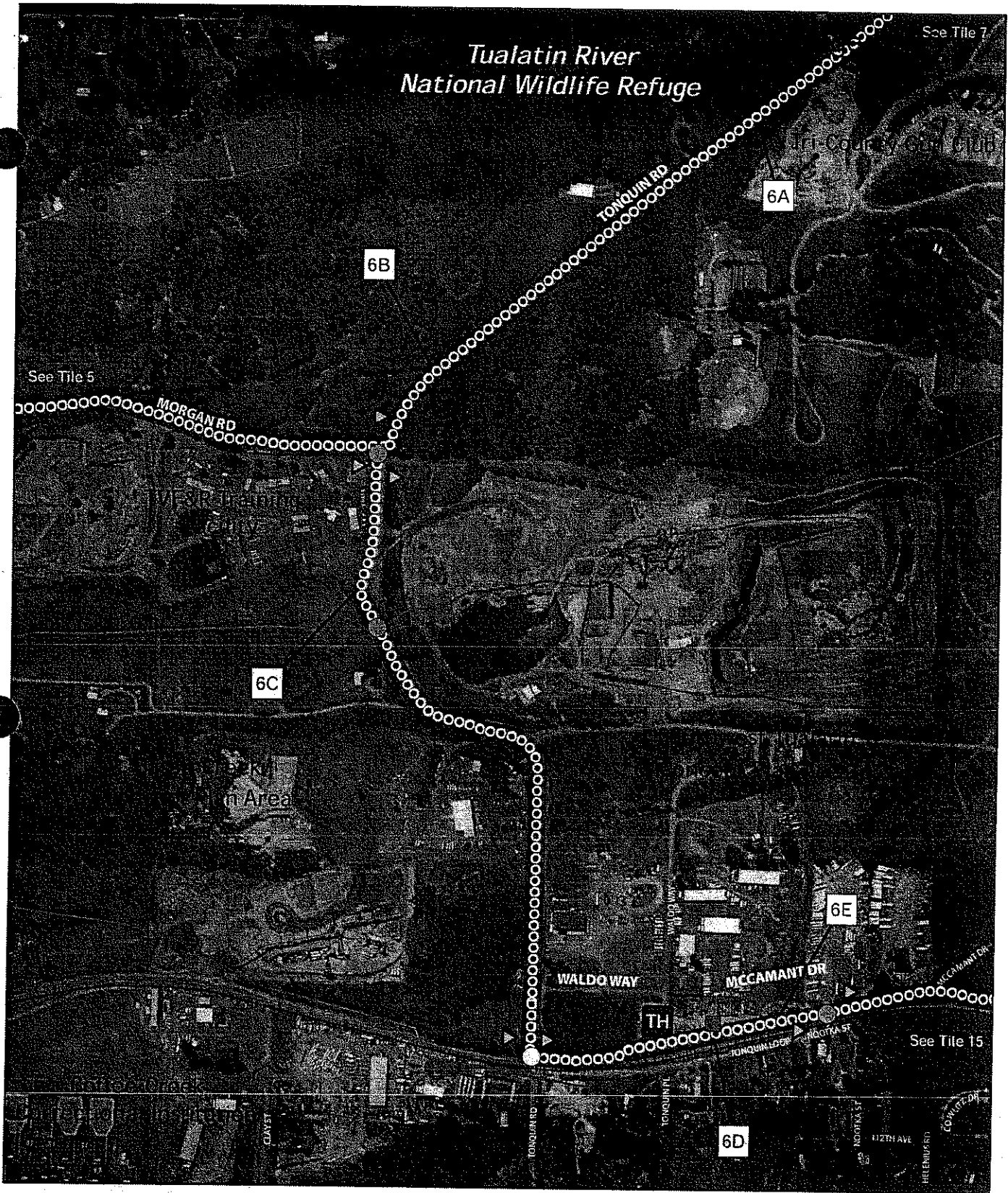


Legend

-  Proposed Acquisition
-  Proposed Trail



Target Area:	Tonquin Geologic Area
Trail Name:	Ice Age Tonquin Trail
Tax Lot ID:	2S134DC00301
Owner:	EMJ PROPERTIES LLC
Interest Type:	Easement
Easement Area:	3,908 square feet
Easement Width:	varies
Easement Length:	314 feet



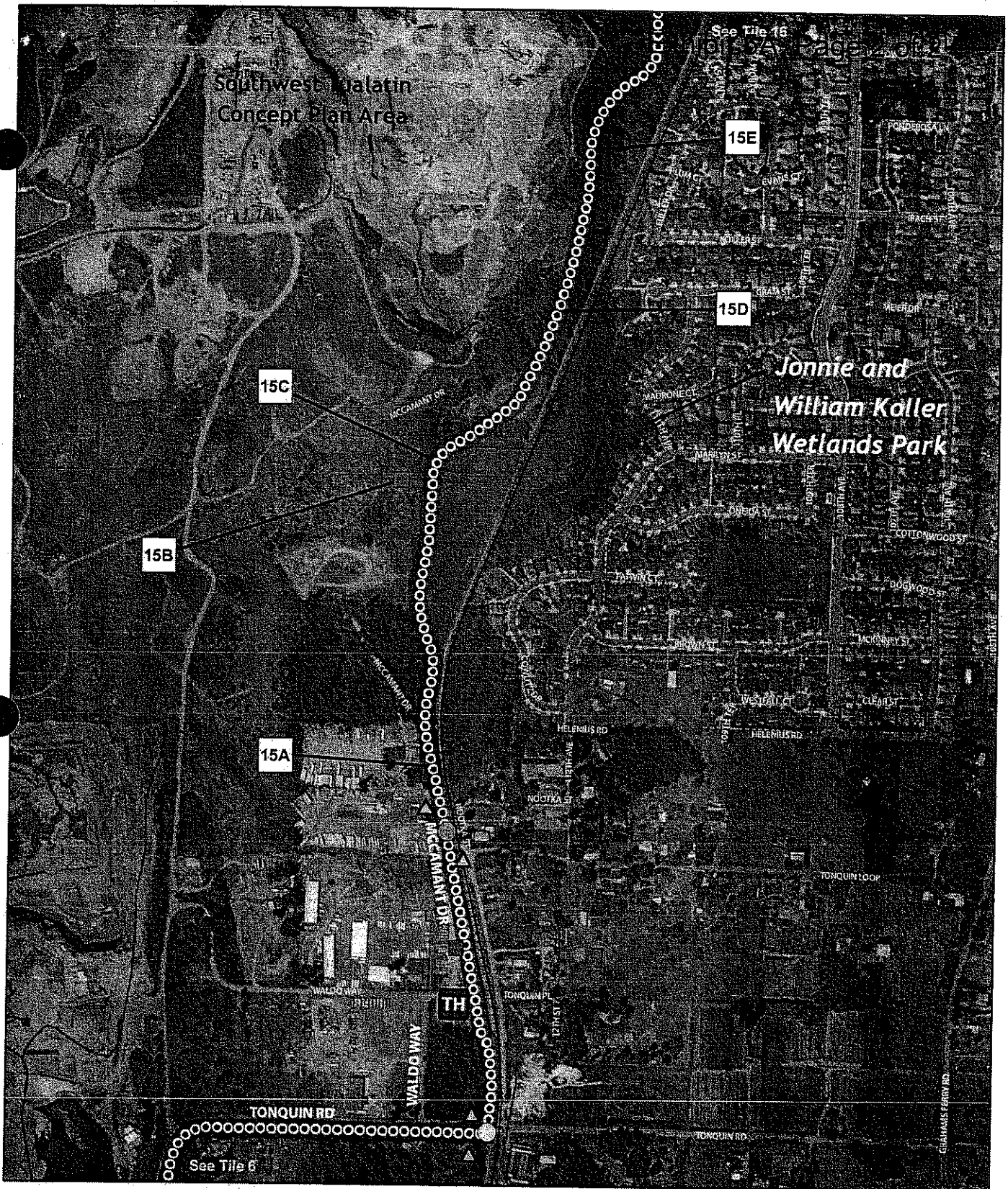
Map 12: Tile 6 - Tonquin Road/Morgan Road and Vicinity

**Ice Age Tonquin Trail Master Plan
Preferred Alignment**

Source: Metro Data Resource Center



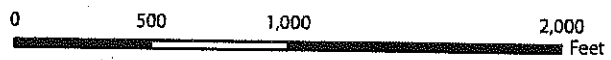
- | | | | |
|--|---|---|--|
| <p>Ice Age Tonquin Trail</p> <ul style="list-style-type: none"> — Existing Trail ●●● Proposed Bike Lanes/Sidewalks ●●● Proposed Boardwalk ●●● Proposed Shared Roadway ●●● Proposed Shared Use Path | <ul style="list-style-type: none"> ■ Alignment Undetermined ■ Potential Easement or Acquisition Needed — Existing Neighborhood Connection — Potential Future Connection Wetland Park or Natural Area River/Stream/Drainage Ditch | <ul style="list-style-type: none"> ● Proposed Grade-Separated Crossing ○ Proposed At-Grade Crossing (Signalized) ○ Proposed At-Grade Crossing (Unsignalized) ▲ Potential Wayfinding Sign Location | <ul style="list-style-type: none"> ■ Art, Educational or Interpretive Opportunity TH Proposed Trailhead P Existing Parking or Trailhead |
|--|---|---|--|



Map 21: Tile 15 - SW Tualatin Concept Plan Area (Southern Portion)

Ice Age Tonquin Trail Master Plan Preferred Alignment

Source: Metro-Data Resource Center



- | | | | |
|--|---|---|--|
| <ul style="list-style-type: none"> ●●● Existing Trail ●●● Proposed Bike Lanes/Sidewalks ●●● Proposed Boardwalk ●●● Proposed Shared Roadway ●●● Proposed Shared Use Path | <ul style="list-style-type: none"> ■ Alignment Undetermined ■ Potential Easement or Acquisition Needed ■ Existing Neighborhood Connection ■ Potential Future Connection ■ Wetland ■ Park or Natural Area ■ River/Stream/Drainage Ditch | <ul style="list-style-type: none"> ● Proposed Grade-Separated Crossing ○ Proposed At-Grade Crossing (Signalized) ○ Proposed At-Grade Crossing (Unsignalized) ▲ Potential Wayfinding Sign Location | <ul style="list-style-type: none"> ■ Art, Educational or Interpretive Opportunity TH Proposed Trailhead P Existing Parking or Trailhead |
|--|---|---|--|

Dorothy Cofield

From: Roger Alfred <Roger.Alfred@oregonmetro.gov>
Sent: Tuesday, June 03, 2014 2:51 PM
To: Dorothy Cofield
Cc: 'Wendie Kellington'
Subject: FW: Crash data for Springwater

Speaking of the record, here is a follow-up email we received from the City of Portland that I have forwarded to the council.

From: Geller, Roger [mailto:Roger.Geller@portlandoregon.gov]
Sent: Tuesday, June 03, 2014 11:35 AM
To: Roger Alfred; Robert Spurlock
Subject: RE: Crash data for Springwater

It was at 4th & Caruthers.

Roger Geller
503 823 7671 (w) / 503 823 7609 (f)

From: Roger Alfred [mailto:Roger.Alfred@oregonmetro.gov]
Sent: Tuesday, June 03, 2014 10:05 AM
To: Geller, Roger; Robert Spurlock
Subject: [Approved Sender] RE: Crash data for Springwater

Thanks Roger – does your data show the precise location of the single bicycle-related crash? I'm just curious if it involved the intersection of the trail and the access point for the Ross Island Sand and Gravel cement batch plant near SE Ivon and 4th Ave.

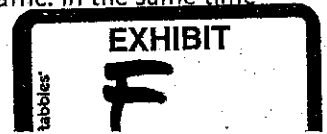
Roger Alfred
Office of Metro Attorney
(503) 797-1532

From: Geller, Roger [mailto:Roger.Geller@portlandoregon.gov]
Sent: Tuesday, June 03, 2014 9:33 AM
To: Robert Spurlock
Cc: Roger Alfred
Subject: Crash data for Springwater

Hi Robert,

In response to your question about safety conditions in the industrial areas through which the Springwater Corridor Trail passes, I can tell you the following:

The Springwater Corridor Trail passes through an industrial area along SE Caruthers Street from the river and SE 4th Ave, and along SE 4th Ave from SE Caruthers Street and SE Ivon Street. For the period from January 1, 2003 through December 31, 2012 there has been 1 crash involving an automobile and either a bicyclist or pedestrian along this three-block area. It was a bike-automobile crash in 2008 and was caused by not yielding at a stop sign to crossing traffic. In the same time period, there have been 6 crashes involving only automobiles in this area.



The city designed these streets to accommodate trail users and industrial freight traffic while minimizing potential conflicts between the two.

Please let me know if you have any other questions.

Roger Geller

Bicycle Coordinator / City of Portland, Oregon

503 823 7671 (w) / 503 823 7609 (f)

Active Transportation

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 At current rates, Washington County bike network will take 62 years to finish »

Woman files complaint after harsh encounter with Union Pacific police on Cement Road (updated)

Posted by [Michael Andersen \(News Editor\)](#) on January 29th, 2014 at 3:04 pm

A Portland woman who concedes she was illegally biking on the private Cement Road to Swan Island with her 6-year-old daughter says she was “bullied” by a railroad police officer and has filed a formal complaint.

“As I explain in my complaint, I do not mean to suggest that I was in the right riding the Cement Road,” Diana Rempé of North Portland wrote in an email Wednesday to Portland Transportation Commissioner Steve Novick, Swan Island Transportation Management Association Director Sarah Angell and BikePortland. “I understand fully that it crosses Union Pacific property. However, I do believe strongly that there is no excuse for the intimidating bullying my 6 year old daughter and I experienced from Officer Bender of Union Pacific. I am a middle aged, white woman with a lot of privilege and that guy really scared me. I can only imagine how he might treat someone less system savvy than me.”

The Cement Road is a flat, direct connection between Swan Island and north Portland. It's privately owned by UPRR and off-limits to public use; but it has been the subject of recent negotiations with the City of Portland because of its potential as a great biking route and possible key link in the North Portland Greenway. It's also an ongoing source of tension between the railroad, which wants to protect itself from liability for any injuries, and local bike riders, especially the dozens who use it regularly to commute to jobs on Swan Island.

With Daimler Trucks North America, already the island's biggest employer and one of the city's top destinations for bike commuters, preparing to increase its workforce, the city hopes the Cement Road can someday become a safe, legal public access through the rail yard.



Diana Rempé at the 2012 Disaster Relief Trials cargo bike challenge. (Photos by J.Maus/BikePortland)

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Here's the full text of Rempé's complaint:

It was dusk in January 23rd and I was riding my bike home with my 6 year old daughter. I ride a front-loading cargo bike, with her in the front. We had just left her dance class which takes place on North Randolph, just south of the Union Pacific railyard. I decided to ride home via the Cement Road as it was extremely windy and I wanted to avoid N. Interstate and Greeley, if possible. After riding through the railyard I had left the property and was next to the Fed Ex building just before Channel Road when a person in an SUV turned on their lights and pulled me over.

I stopped and Officer Bender told me I was not supposed to be on the railroad property. I can't remember exactly what he said, but I was surprised at his aggressive tone from the beginning. I immediately apologized and told him I understood, but I had seen others riding there and thought it was at least tacitly allowed. This seemed to make him very angry, because he immediately began berating me, saying something like “just because other people are breaking the law doesn't mean you should.” He then demanded ID. I again apologized, saying that I didn't think I

had my wallet with me as I had run out the door a bit late to take her to dance class.

This appeared to really anger the officer. He began saying again and again, something like "you have no ID? so, when you and your child get hit by a car no one will be able to identify you." His repetition of this phrase and his tone made me quite uncomfortable and I apologized again, explaining that it was an oversight. He continued to say it and seemingly became more irate.

I then began to give him my personal information, but after providing my name and birthdate he demanded my address. His demeanor made me very uncomfortable and I told him I did not feel comfortable giving him all of my private information. This seemed to REALLY make him angry and he began threatening me with handcuffs and arrest. By now my 6 year old daughter was terrified and I just kept trying to placate the officer. I gave him the information he wanted but he kept repeating that he would handcuff and arrest me.

I then asked for his card. He refused. I asked for his full name and badge number. He refused. I wrote down his name off his badge. I asked for his supervisor's name. He said "Tom" but refused to give me Tom's entire name. From his affect I could tell he was furious and I felt quite scared. I also was afraid that now that he had my personal information, he might use it to retaliate for any report I might make. After thinking about it that night, however, I decided to go ahead and file a report.

I am not in any way claiming that I did not know that the Cement Road was on Union Pacific property. As I immediately said to the officer, I knew I was on the property, but chose to ride the Cement Road anyway. I was (and am) completely responsible for disregarding the posted signs explaining that it is Union Pacific property.

However, this action does not explain or excuse the kind of treatment my daughter and I received from Officer Bender. We both felt threatened, bullied and afraid. I am not asking that the officer be sanctioned, so much as trained to work with the public in a respectful and non-threatening manner. I also hope that Union Pacific will ensure in any way possible that the officer does not retaliate against me and my family, as he is in possession of my name, address and birthdate. This may seem unlikely, but given the way he approached us and the way in which his temper escalated during our encounter, I remain concerned.

We've contacted Union Pacific to ask for their comment and will update this story if and when we hear back.

UPDATE 4:00 pm: UP spokeswoman Calli Hite responds with the following: "Union Pacific has received the complaint and is conducting an investigation. Our special agents are dedicated to public safety — and a primary component of this is deterring illegal trespassing on railroad property. For their safety, we remind bikers and pedestrians to not trespass on railroad property, and to only cross railroad tracks at public crossings."



The Ash Grove Cement Road.
(Photo by J. Maus/BikePortland)



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Posted on January 29th, 2014 at 3:04 pm. Filed under [Front Page](#) and tagged with [cement road](#), [swan island](#). You can skip to the end and leave a response. Pinging is currently not allowed.

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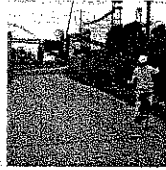
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Comments



KYouell January 29, 2014 at 3:15 pm

Wow. Beautifully written letter. I hope she (and all of us) get as thoughtful a response.

Recommended 10

[Reply](#) [Link](#) [Quote](#)



Unit January 29, 2014 at 3:29 pm

Sounds like she was accosted AFTER leaving private property, and I wonder what the railroad officer's legal right is to enforce their trespassing laws in public rights-of-way. It sounds to me like impersonating a peace officer, which is a very serious offense. I'm no legal expert however.

Recommended 11

[Reply](#) [Link](#) [Quote](#)



Dan January 29, 2014 at 3:36 pm

I was wondering about that — can a Union Pacific security guard actually “arrest” someone?

Recommended 5

[Reply](#) [Link](#) [Quote](#)



GlowBoy January 29, 2014 at 4:10 pm

Yes, I believe a railroad cop CAN arrest you.

My understanding is there's a special (and somewhat disturbing) federal law granting railroad police the authority to arrest citizens and refer them for prosecution. Effectively making the only fully-empowered PRIVATE police force in the country.

In ordinary trespassing cases people are usually fined a few hundred bucks and charged with an ordinance violation, but I've heard of people trespassing on railroad property being fined upwards of \$5000 and charged with criminal trespass, which can dog you the rest of your life. I think some of this was covered in a BikePortland story last summer about the SE 8th/11th/12th crossing closures for MAX construction.

Uncle Pete can mess you up.

Recommended  5

Reply Link Quote



■ *GlowBoy* January 29, 2014 at 4:12 pm

OK yes, this is covered by the link posted below by Paul.

Recommended  0

Reply Link Quote



■ *Paul Manson* January 29, 2014 at 6:14 pm

Railroad is a second federal government.... But without elections.


Recommended  4

Reply Link Quote



■ *scott* January 29, 2014 at 4:12 pm

It is more of a detain but they can issue citations and turn you over to the local authorities. Hence the verbal/physical beatings they are known for. They earned the nickname "bulls" for sure.

Recommended  5

Reply Link Quote



○ *NH* January 29, 2014 at 4:08 pm

Union Pacific Police is an actual law enforcement agency, albeit rather unconventional. To quote the Wikipedia article,

Railroad police are certified state law enforcement officers with investigative and arresting powers both on and off railroad property if authorized by the state they are operating within.

This means he is authorized as a law enforcement officer, but is also therefore obligated to provide identification when requested.

Recommended  11

Reply Link Quote



■ *Unit* January 29, 2014 at 5:28 pm

Thanks for the clarification!

Recommended  2

Reply Link Quote



■ *PdxPhoenix* March 6, 2014 at 9:19 pm

Provide ID???

OREGON LAW states that you are NOT required to provide any "officer" your MOTOR Vehicle Driver's License if you are not operating a motor vehicle. ... You are, however, required to truthfully tell them your name. Any more than that, I'm not sure.

Recommended  1

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○ *Mike* January 30, 2014 at 1:33 pm

RR cops aren't rent a cops, they are full fledged cops with all arresting authority that city cops have. Imagine it this way, university cops have

every right to go off university property and make an arrest, same thing with RR cops. Railroader in another part of the country...

Recommended  0

Reply Link Quote

Patrick January 29, 2014 at 3:30 pm

Railroad cops are notorious for being aggressive and (by rumor) violent. I also had a stressful encounter with one on the railroad before the "Springwater on the Willamette" was built. He was so agitated that his hands were twitching with rage as he talked with me.

Recommended  1

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was carless January 30, 2014 at 10:17 am

I heard they are really vikings in disguise. Probably take rage-enhancing performance drugs and all that, too...

Recommended  1

Reply Link Quote

Zaphod January 29, 2014 at 3:43 pm

This saddens and angers me. Well composed letter I might add.

Recommended  15

Reply Link Quote

Paul January 29, 2014 at 3:53 pm

Officer Bender gives out \$6250.00 citation to a guy carrying his bike across the tracks: <http://www.trainorders.com/discussion/read.php?1,1231044>

Recommended  6

Reply Link Quote

Sho January 29, 2014 at 9:55 pm

Is that a problem that the officer was doing his job and upholding the law?

Recommended  7

Reply Link Quote

Paul January 30, 2014 at 11:16 am

Nope

Recommended  2

Reply Link Quote


spare_wheel January 30, 2014 at 12:29 pm

the supreme law of the land empowers me to:

- 1) have a problem with this officer.
- 2) have a problem with the antiquated law he is wrongly upholding.

Recommended  7

[Reply](#) [Link](#) [Quote](#)

 *esther c* February 3, 2014 at 1:09 pm

What is a problem that he was unwilling to give her his identifying information.

Recommended  3

[Reply](#) [Link](#) [Quote](#)



KYuell January 30, 2014 at 9:28 am

I've searched myself and can only find that this was the maximum fine for the cited offense. I can't find anything that says what the judge actually decided. Anyone else have better google-fu?

Recommended  1

[Reply](#) [Link](#) [Quote](#)



Mike January 30, 2014 at 1:40 pm

I'm not justifying anything here but as a 20 yr RR employee I can say that RR companies are soooooo tired of trespassers. When we cut them in half it shuts evvvvverything down and that is extremely expensive, figure 10 grand an hr for every train on hold. So railroads have become fairly harsh with tickets and the such. In addition, even though someone is on RR property illegally and we happen to cut a leg off or whatever they end up filing a lawsuit. As a result the RR has the expense of defending itself and the such. I guess at the end of the day if you don't want a ticket then don't trespass. Lastly, in my 20 years as an engineer I've killed 3 people, 1 of them a trespasser...kinda tired of it...not a lot of sympathy for a \$6250 ticket.

Recommended  13

[Reply](#) [Link](#) [Quote](#)



nuovorecord January 30, 2014 at 3:27 pm

OK, fair enough. But being a law enforcement officer means that you're dealing with people's misunderstanding, or willful ignorance of the law on a daily basis. Dealing with it in a professional, courteous manner is your JOB! You don't get the latitude to simply be "tired" of it and act like an asshat.

Recommended  9

[Reply](#) [Link](#) [Quote](#)



Mike January 30, 2014 at 3:45 pm

Well I'm not a RR cop, just an engineer and actually I do have the latitude to be tired of trespassers... kinda tired of killing them. I pedal to work every time I go in and I have to tell ya...if you don't know railroading it's pretty easy to get killed.

Recommended  5

[Reply](#) [Link](#) [Quote](#)



scott January 29, 2014 at 4:10 pm

Abuse of power? No way. Next your going to tell me that policing and security type jobs attract small minded people who dream of exerting power over others.

What's next? Tall tales of police beating a person who suffers from schizophrenia to death on camera and getting acquitted.

I do like that she pointed out that she was white, although I think it should be noted that her clothes were not disheveled. I know white people who have had their jaws broken by yard bulls. This seems like something to write a letter about and then get politely swept under the rug.

What's the end game here? An apology letter? Reforming the protocol for yard bulls interacting with citizens?

The fact that she is physically ok puts this in the same category as getting cyclists licensed. That category is "go ahead and try".

Recommended  7

[Reply](#) [Link](#) [Quote](#)




Todd Hudson January 29, 2014 at 4:10 pm

"But railroads enjoy special legal privileges dating back to the 19th century. For one, railroad companies are authorized to hire their own police officers. And trespassing on any yard, bridge, line or tunnel belonging to the railroads is automatically considered first-degree criminal trespass, Engle says.

Neither law enforcement nor transportation agencies at the state level have jurisdiction over UP cops, and the company is notoriously tight-lipped about internal matters."

Jesus.

Recommended  8

[Reply](#) [Link](#) [Quote](#)



KC January 29, 2014 at 4:11 pm

Railroad police are *actual* police. I think this is a hold-over from the old robber baron when the railroads got whatever they wanted from the government. https://en.wikipedia.org/wiki/Railroad_police#United_States

Recommended  4

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Todd Hudson January 29, 2014 at 4:29 pm

It's an overreach by officer Bender (whose personality apparently matches Bender from Futurama), but I see the other side of the argument why railroads need their own police. In some rural areas, there's no law enforcement for miles. And have you seen the number of vagrants that walk the tracks between Albina Trainyards and the Burnside Bridge? They certainly couldn't count on Portland Police to address that...

Recommended  4

[Reply](#) [Link](#) [Quote](#)



Sho January 29, 2014 at 9:58 pm

Not to mention the need for cops on the trains that travel through multiple counties and states.

Recommended  2

[Reply](#) [Link](#) [Quote](#)



Livellie January 29, 2014 at 4:16 pm

I've had difficult exchanges with police in the past and I have had good ones. A friend recently forwarded this link to me... It's a nice info graphic on how to deal with and communicate with the police:

Recommended  0

[Reply](#) [Link](#) [Quote](#)



whyat January 29, 2014 at 4:21 pm

So Diana goes where she knows it's illegal and gets caught. What was she expecting? To be greeted with flowers? It SUCKS to be confronted by an authority figure who acts unpleasant, but if you are trespassing on private property you would have to figure there would be SOME kind of consequence for getting caught. I'll bet that Diana will think a lot harder before trespassing again on the railroad property, and maybe this is exactly what officer Bender was trying to instill.

I'm not trying to slam Diana, or justify threatening behavior by an authority figure, but if someone gets caught doing something that they know is illegal a stern talking to sure beats a fine or getting arrested.

Recommended  55

[Reply](#) [Link](#) [Quote](#)



9watts January 29, 2014 at 5:15 pm

"a stern talking to sure beats a fine or getting arrested"

I read Diana's letter as acknowledging a clear distinction between her trespass and the intimidating, threatening tone of the officer. I know nothing about how the railroad police conducts its business but it seems to me (and I think Diana was suggesting this as well) that the matter could easily (and probably should have been) handled without the ugly shouting by the railroad dude.

Nothing she did deserves his anger.

Recommended  22

[Reply](#) [Link](#) [Quote](#)



Alan 1.0 January 29, 2014 at 7:39 pm

Todd Hudson

And have you seen the number of vagrants that walk the tracks between Albina Trainyards and the Burnside Bridge? They certainly couldn't count on Portland Police to address that...

I'd rate that sort of police protection as right up there with staking out Ladd's Circle.

Recommended  5

[Reply](#) [Link](#) [Quote](#)



Alan 1.0 January 29, 2014 at 7:40 pm

And how it got filed below 9watts I have no idea.

Recommended  3

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sabes January 29, 2014 at 9:12 pm

Don't forget that you are only hearing one side of the story. If I were trying to elicit sympathy, I, too, would make sure to note how scared I felt how mean the officer was. I'm not saying he didn't do what she said, but I'd wager that his story would differ considerably from hers. Just because she rides a bike doesn't mean she's in the right (or wrong).

Recommended  18

[Reply](#) [Link](#) [Quote](#)



Joe Rowe January 29, 2014 at 5:48 pm

No thanks for the ongoing judgment. There are a lot of unjust laws in this country. Our history is full of them. We need to have an unjust law museum, and put you in a museum for people who take cheap shots on the internet.

I invite you to come meet with me, Diana and our kids. We can video tape you trying to instill your wisdom. Mr./Ms. Whyat I ask you to make an apology for your lecture. if not, please call me and setup a meeting with me and Ms. R. [\(414\) 465-8805](tel:(414)465-8805)

Recommended  13

[Reply](#) [Link](#) [Quote](#)



BIKELEPTIC January 29, 2014 at 4:22 pm

Security Guard Bender and Officer Passadore must be on the same anti-cyclist racquetball team or something. Whacking balls together just thinking about all the unnecessary fines they're tolling due to what has amounted to angry cancerous lives.

Recommended  5

[Reply](#) [Link](#) [Quote](#)



Spiffy January 29, 2014 at 4:50 pm

I then asked for his card. He refused. I asked for his full name and badge number. He refused.

that's when I get on the phone and call a real cop and voice my concern that I may be dealing with somebody impersonating an officer and need immediate assistance...

Recommended  37

[Reply](#) [Link](#) [Quote](#)

Last of the Mohicans January 29, 2014 at 9:30 pm

Bingo!! That is your legal right..

Recommended  3

[Reply](#) [Link](#) [Quote](#)

Alan 1.0 January 30, 2014 at 10:55 am

Reaching into your pocket in front of an enraged cop... what could go wrong?

Recommended  3

[Reply](#) [Link](#) [Quote](#)

GlowBoy January 30, 2014 at 1:14 pm

Although you do need to give your personal information to an officer IF they are charging you with an actual crime, the cop's failure to fully identify himself as a cop would have made me reluctant too.

And that's pretty much the crux of this case: without his refusal to disclose his cop-identity, this would just be a garden variety story of a cop being unnecessarily dickish. Something that non-privileged and/or non-white people often have to deal with.

There is also the issue that private Cement Road is by far the least-dangerous route to a good chunk of North Portland, and we need to keep working on fixing that. We have a long way to go before we are the bike-friendly paradise that much of the world imagines us to be.

Recommended  6

[Reply](#) [Link](#) [Quote](#)



q Tzal January 29, 2014 at 5:24 pm

Railroad companies are overgrown regional monopolies that serve a critical national transportation need. SO critical in fact that it may be far past time to make parts of this mess a government function.

If security is really so life or death why don't we have personnel that are accountable to the TSA or DHS? What makes us think private security of railroad companies is any more likely to be trustworthy than what we've seen TSA security agents fubar over the last 13 years?

If the railyards in Portland or elsewhere need to be secured like a military base then they need to fence the property and put up barbed wire.

Recommended 14

[Reply](#) [Link](#) [Quote](#)



shirtsoff January 29, 2014 at 5:37 pm

I appreciate the humanizing nature of the complaint. In legal matters it is too easy to paint a person as being in the wrong and somehow forfeit to any consideration or decency expected by lawful citizens. The officer, as a person, is unwarranted to threaten another person who is cooperative, acknowledging of the law, not a threat, and seeking a solution. He could have completed his job and its obligations without threatening another person. It simply is not what we expect from the conduct of a (benefit-of-the-doubt) properly socialized adult. His flat refusal to provide identification suggests an acknowledgement of excessive conduct.

Recommended 16

[Reply](#) [Link](#) [Quote](#)



shirtsoff January 29, 2014 at 5:38 pm

To clarify a point.. Citizens and non-citizens alike as people, humans, individuals, etc. *DO* deserve a base level of compassion, decency, and consideration irregardless of their legal standing.

Recommended 12

[Reply](#) [Link](#) [Quote](#)



Joe Rowe January 29, 2014 at 5:41 pm

Diana. I am so sorry for the trauma to you and your kid. There's no excuse for the lecture and abuse he delivered. Under stress it is very hard to be a self advocate. I try to practice this one question. "Am I free to go?"

If the answer is no, then there the burden becomes very high for the abusive cop.

Recommended 12

[Reply](#) [Link](#) [Quote](#)



dwainedibbly January 29, 2014 at 5:46 pm

I bet this results in the end of any biking on Cement Road.

Recommended 4

[Reply](#) [Link](#) [Quote](#)



CaptainKarma January 29, 2014 at 7:34 pm

Or Not.

Recommended 12

[Reply](#) [Link](#) [Quote](#)



Jay January 29, 2014 at 6:06 pm

Freight railroads can impose significant personal fines. Diana will be lucky if all she gets is a stern talking to. I would expect a stiff fine as well.

Recommended 2

[Reply](#) [Link](#) [Quote](#)



Glenn January 29, 2014 at 6:23 pm

My grandfather was a railroad dick for U.P. He was deputized in every county along the right of way from Omaha to LA. That's how it used to be done, the Railroad Police (or detective in my grandfather's case) were deputized in whichever county or counties they usually worked in.

No comment on Diana's case, I wasn't there. As usual, the discretion of the "officer" is crucial.

Recommended 2

[Reply](#) [Link](#) [Quote](#)



Scott January 29, 2014 at 6:24 pm

shirtsoff said: "His flat refusal to provide identification suggests an acknowledgement of excessive conduct."

I think this is worth repeating. It shoots holes in Mr. Bender's argument "just because other people are breaking the law doesn't mean you should." I suspect officer bender only wants to be in alignment with the law when it is convenient for him.

This kind of treatment is unacceptable. I find Ms. Rempe's response quite reasonable.

Mayor Hales and Commissioner Novick, please act quickly with everything in your power to change the Cement Road to a viable safe and legal transportation route.

It is not hard to make the case that Ms. Rempe was much safer riding her cargo bike with child along the Cement Road (along the edge of the rail yard with very little traffic) than she would have been riding up the hill to Greeley or Interstate Avenue with it's speeding truck and auto traffic with no physical separation.

Recommended 31

[Reply](#) [Link](#) [Quote](#)



Daniel R. Miller January 29, 2014 at 10:33 pm

This is exactly right. Neither Greeley nor the uphill lane on Interstate are safe routes for anyone on a bike, let alone someone with a 6 year old in a Bakfiets. The deficiencies of the bike facilities on those streets needs addressing regardless of the future status of Cement Road, but otherwise lawful citizens who are taking a given route because it is demonstrably safer should absolutely NOT be criminally charged and fined, let of all by the law-unto-itself entity of a railroad corporation whose form and culture is quite literally a relic of the 19th century.

Recommended 13

[Reply](#) [Link](#) [Quote](#)




Psyfalcon January 29, 2014 at 6:32 pm

No ID while trespassing? Then complain about being bullied?

Lucky not to visit the local jail.

Recommended 19


[Reply](#) [Link](#) [Quote](#)

 *CaptainKarma* January 29, 2014 at 7:43 pm

THAT would've been GREAT press. No law requires one to carry "ID" while bicycling.

Recommended  10


[Reply](#) [Link](#) [Quote](#)

 *rainbike* January 30, 2014 at 10:31 am

But it does make contacting loved ones in the event of an accident (or body ID) a little easier. I always carry ID when I leave the house alone. Can't imagine a good reason not to. Good sense doesn't need to be legislated.

Recommended  4

[Reply](#) [Link](#) [Quote](#)

 *Psyfalcon* January 30, 2014 at 11:50 pm

You can be detained until they identify you. That can be a slow process.

Recommended  2

[Reply](#) [Link](#) [Quote](#)




Alan 1.0 January 29, 2014 at 7:33 pm

"you have no ID? so, when you and your child get hit by a car no one will be able to identify you."

Threatening vehicular assault, eh, Officer B? Way to stay classy, UP.

Recommended  6


[Reply](#) [Link](#) [Quote](#)

 *SilkySlim* January 30, 2014 at 7:30 am

That does sound threatening presented as such. A gentler wording though would be a great point.

Recommended  5

[Reply](#) [Link](#) [Quote](#)

 *Alan 1.0* January 30, 2014 at 11:10 am

Yes. Also in reply to rainbike's post just above, that ID doesn't need to be a driver's license unless you're driving. My phone's screensaver has my ID and contact, and there's an ICE in my contact list. I keep a calling card on me. My helmet has my name and home phone inside it. My wife wears an alert bracelet on her left wrist (that's where EMTs look first). I doubt any of those would have placated officer Bender.

Recommended  2

[Reply](#) [Link](#) [Quote](#)




Privileged Pedaler January 29, 2014 at 9:02 pm

Wait you trespassed on private property and upset your "white privilege" didn't get you out of trouble? And is your skin color even mentioned in this story to begin with? Go cry me a river.

Recommended  12

[Reply](#) [Link](#) [Quote](#)

 Caleb February 1, 2014 at 4:54 pm

Where did she say anything indicating she thought her "white privilege" would or should have gotten her out of trouble? I think you've misunderstood her intentions behind mentioning she's white. I hope you will read the article and her letter again.

Recommended  5

[Reply](#) [Link](#) [Quote](#)




Bettie January 29, 2014 at 9:33 pm

f* that guy to the max. I rode through there all the time to/from work. I've crashed twice on those RR X. I've gotten many flats riding through that pothole/gravel pit. 6 yo or no 6 yo: Ride at your own risk.

Recommended  2

[Reply](#) [Link](#) [Quote](#)

 Sho January 29, 2014 at 10:15 pm

You don't sound like you learn very well from past experiences. Maybe that is part of the reason it is not intended for public use?

Recommended  11


[Reply](#) [Link](#) [Quote](#)




Jonathan Maus (Publisher/Editor) January 30, 2014 at 10:22 am

Sho,

Just FYI. I have deleted several of your comments. You are free to share your opinions, but you are not free to insult other people and I will simply delete any comment that I feel is mean or insulting of other commenters. Thanks.

Recommended  12

[Reply](#) [Link](#) [Quote](#)

 grumpcyclist January 30, 2014 at 2:05 pm

I'm curious why you didn't delete the parent comment. "F*** that guy..." sound pretty insulting to me.

Recommended  7

[Reply](#) [Link](#) [Quote](#)



Jonathan Maus (Publisher/Editor) January 30, 2014 at 2:48 pm

Thanks for bringing that to my attention. I'm considering whether or not to allow that comment. Like I've said in the past, I do not moderate comments based on any set of hard/fast rules. It's all about context and tone and other stuff. I do often miss mean comments so I appreciate when readers flag them for me.

Recommended  1

[Reply](#) [Link](#) [Quote](#)




9watts January 29, 2014 at 10:23 pm

Whoa. What is with the black and white view of the law, & the punitive streak in your comments? Did you stop and ask yourself why there are

negotiations to make this particular road public? Or, for that matter, how the railroad ended up 'owning' this piece of land to begin with? Laws are imperfect, change, get thrown out because (in principle) we get a little better at codifying fairness and justice over time. And this doesn't even touch on the guy's anger management issues which I thought this was about.

Recommended  24

Reply Link Quote

 Mike Sundberg January 30, 2014 at 5:30 pm

Jane: Really. He is employed by the RR to protect RR property, employees, etc.. Not unlike police, sherriff, etc.

He was doing just that. By her own admission she knowingly and purposely trespassed. In other words broke the law. He has the legal right to arrest her, but didn't. He broke no law. At worst, he could use a class in anger mgmt., and then only if he is given the opportunity to voice his side of the incident. Or of course folks can choose not to trespass and avoid this type of confrontation altogether.

Recommended  4

Reply Link Quote

 spare_wheel February 2, 2014 at 3:33 pm


" so, when you and your child get hit by a car no one will be able to identify you."

if that account is correct i think a case could be made with filing harassment charges:

<http://www.oregonlaws.org/ors/166.065>

Recommended  4


Reply Link Quote

 Jim February 2, 2014 at 7:30 pm

Actually he has a good point. Perhaps cyclists should be required to carry some sort of official identification.

Recommended  0


Reply Link Quote

 9watts February 2, 2014 at 10:03 pm

Right. What's next? Pedestrians required to dress a certain way so people can keep speeding?

Recommended  4


Reply Link Quote

 spare_wheel February 5, 2014 at 12:40 pm

but can you imagine the decrease in "accident"-associated fatalities if peds wore electro-luminescent composite reactive armor.

Recommended  0

Reply Link Quote


 El Biciclero February 3, 2014 at 11:59 am

Perhaps pedestrians should then, too—there have been a lot more of them run over lately than cyclists. What one has to ask oneself is, "Who is doing all this 'running-over'?" When you can answer that question, then it becomes clear who "should" be required to carry ID.

But if we want to be nit-picky, drivers are not technically required to carry ID, per se, but they *are* required to carry proof that they know how to operate a multi-ton piece of equipment with death-inflicting power; much the same way that one must have a license to pack a concealed handgun. The only way to prove that *you* are actually the licensed individual is usually via some

photo ID. It happens to be built into a driver's license.

Calls for Licensing/Registering bikes are nothing more than sour grapes from motorists who feel "burdened" by the obligations incurred by their "need" to throw tons of metal around in public. I know, "carrying ID" isn't necessarily the same thing as having a license, but requiring it of cyclists based on the rationale of identifying the victim of an impact with a motor vehicle makes less sense than requiring it of pedestrians, who are "impacted" much more frequently. So if we apply the rationale rationally and just require *everyone* to carry ID at all times (you know, for *safety!*), we're one step away from a "Paperss pleeece!" police force, and why? All so people can continue to drive incompetently without consequences.

Recommended  8

[Reply](#) [Link](#) [Quote](#)



Anna January 29, 2014 at 11:00 pm

I don't feel much sympathy in this case either. She was knowingly trespassing, got caught, and got yelled at from a security guard. Good grief. Sorry that it happened, but not worth a complaint letter or article in my opinion.

Recommended  34

[Reply](#) [Link](#) [Quote](#)



KYouell January 30, 2014 at 8:41 am

It's article-worthy for the reason stated in the article: the city hopes that this will become a public access thoroughfare. It sounds like that's going to take some adjusting of the UP mindset in a major way.

Recommended  4

[Reply](#) [Link](#) [Quote](#)



Law Abiding Cyclist January 30, 2014 at 6:43 pm

Uh-oh you are disagreeing with Maus's views, you might get your posts removed.

Recommended  5

[Reply](#) [Link](#) [Quote](#)



Sean January 30, 2014 at 4:12 am

"I am a white. Middle aged woman with considerable privilege.... All empathy lost right there. As if that makes any difference in how you should be treated.

Recommended  17

[Reply](#) [Link](#) [Quote](#)



JRB January 30, 2014 at 8:28 am

As others have stated, I wasn't there and haven't heard Bender's side of the story, so I can't comment on who, if anybody, acted inappropriately. You are, however, missing Ms. Rempe's point. She is not suggesting she deserves to be treated differently. Ms. Rempe is acknowledging the existence of white and class privilege and that people are in fact treated differently on these bases. Her point is that if she was treated so poorly by this officer, how is he treating people less privileged? That's a legitimate concern if Bender is indeed the bully that Rempe believes his is.

Recommended  21

[Reply](#) [Link](#) [Quote](#)



meh January 30, 2014 at 1:12 pm

So because she's white and got treated a certain way, she and you assume that non-whites would be treated worse?


He could treat everyone exactly the same way.

Pretty big assumption you are making with regards to the UP Police officer.

Who is really the bigot in this??

Recommended  3

[Reply](#) [Link](#) [Quote](#)


 *JRB* January 30, 2014 at 2:22 pm

I made no assumptions, including about what kind of person Bender is or if Rempe's version of their interaction is accurate. I do know that bullies tend to pick on those who are least able to defend themselves or be defended by others. Those who are less privileged, as we are using the term here, than Rempe are by definition at more risk from bullies acting under the color of authority.

It's possible that if Mr. Bender is in fact a bully, that he is an equal opportunity bully, but it is not unreasonable to question whether somebody who would bully a white middle class woman in the company of her young child might behave worse to someone more vulnerable. That's what bullies do.

Recommended  9


[Reply](#) [Link](#) [Quote](#)

 *Harald* January 30, 2014 at 1:15 pm

Well, if she were less privileged she'd maybe be a little less SHOCKED that cops sometimes yell(!!!) at you when being caught trespassing...

Recommended  9

[Reply](#) [Link](#) [Quote](#)

 *Caleb* February 1, 2014 at 4:58 pm

Judging by her letter and what she's said to Bike Portland, I don't think she was shocked at the officer's behavior.

Recommended  1

[Reply](#) [Link](#) [Quote](#)




Forrest January 30, 2014 at 9:02 am

Seems like he was being nice by issuing a warning. Moving forward he should just write tickets for everyone for trespassing.

Recommended  3


[Reply](#) [Link](#) [Quote](#)

 *Jane* January 30, 2014 at 9:19 am

Moving forward he should be fired and not allowed to perform any law enforcement type role in the future as he clearly has issues with mental illness that prevent him from performing his assigned role correctly.

Recommended  3

[Reply](#) [Link](#) [Quote](#)


 *Jane* January 30, 2014 at 11:25 am

Just to follow up on my comment.. I am in no way making light of mental illness. It is a serious issue that our society is still trying to come to terms with as we progress and evolve as a people. That said, I believe law enforcement, as a requirement of their appointed duty, should be held to a higher standard than the rest of the population – mentally, physically, emotionally, morally. If a person falls short, as this officer


has shown he does, they should not be considered fit for that duty.

Recommended  5


[Reply](#) [Link](#) [Quote](#)

 *CaptainKarma* January 30, 2014 at 12:20 pm

Nor should he work with children.

Recommended  3


[Reply](#) [Link](#) [Quote](#)

 *Pete* February 1, 2014 at 10:38 am

Yet she's the one teaching her child (by example) that it's OK to trespass.

Recommended  0


[Reply](#) [Link](#) [Quote](#)

 *Caleb* February 1, 2014 at 5:04 pm

According to other comments in this thread, the idea behind the anti-trespassing law is to prevent people from bringing themselves to harm. I like to think we humans can judge for our safety on more pertinent matters than just whether or not one is trespassing. Like others have stated already, other routes might place her and her daughter in more potential danger. Perhaps she's teaching her daughter much more than just the idea that it's "OK to trespass".

Recommended  2

[Reply](#) [Link](#) [Quote](#)


 *Pete* February 1, 2014 at 9:15 pm

By your logic (and hers) she's teaching her daughter it's OK to trespass because the other route options aren't as convenient; she writes that wind was the primary factor for her decision -- she may have implied safety and you've definitely inferred it but that's not as quoted.

Regardless of the *idea* behind laws, breaking them in front of children teaches them it's OK, and it's the **logical process** they are learning. I doubt highly that the child read the no trespassing sign -- or digests the *idea* behind anti-trespassing laws -- but rather didn't even realize her mother was breaking the law until they were confronted by the officer. It's because of her mom's reaction to this officer's behavior (and the associated admission of guilt) that this child is learning it's OK to rationalize the trespass because the officer was a bad man for the way he treated her mom.

Recommended  0


[Reply](#) [Link](#) [Quote](#)

 *Caleb* February 3, 2014 at 8:29 am

I wrote a response to this last night, but for some reason I keep getting "error." when I try posting it even though other posts have gone through, and I can't figure out why. Anybody have any ideas?

Recommended  0


[Reply](#) [Link](#) [Quote](#)

 *Bill Walters* January 30, 2014 at 10:36 am

Sure, write tickets --- but in a professional manner, not like a bomb about to go off.

Recommended  10

[Reply](#) [Link](#) [Quote](#)


 *davemess* January 30, 2014 at 12:34 pm

Exactly. It's really not hard to calmly write someone a ticket, who has already admitted they knew they were in the wrong. Traffic cops do it all the time.

And which one is more effect: Yelling at someone or them having to pay a penalty?

Recommended  6


[Reply](#) [Link](#) [Quote](#)

 *Caleb* February 1, 2014 at 5:01 pm

There's far more to what makes a person "nice" than just whether or not they write tickets or give warnings.

Recommended  1


[Reply](#) [Link](#) [Quote](#)

 *Chelsea* February 5, 2014 at 10:42 am

Personally, I would much rather pay a fine than be threatened and insulted in an isolated location by someone who was obviously filled with rage.

Recommended  1

[Reply](#) [Link](#) [Quote](#)

 *johnny* January 30, 2014 at 10:07 am

whyat

So Diana goes where she knows it's illegal and gets caught. What was she expecting? To be greeted with flowers? It SUCKS to be confronted by an authority figure who acts unpleasant, but if you are trespassing on private property you would have to figure there would be SOME kind of consequence for getting caught. I'll bet that Diana will think a lot harder before trespassing again on the railroad property, and maybe this is exactly what officer Bender was trying to instill.


I'm not trying to slam Diana, or justify threatening behavior by an authority figure, but if someone gets caught doing something that they know is illegal a stern talking to sure beats a fine or getting arrested.

Recommended 38

This is the best point made in the entire thread. To add to this, hopefully the OP will see this as ultimately they themselves placed their daughter into an uncomfortable situation by knowingly choosing to trespass in the first place.

Recommended  19


[Reply](#) [Link](#) [Quote](#)

 *Alan 1.0* January 30, 2014 at 10:16 am

Johnny, how do you think Rempe should taken her daughter home? Do you think Bender was a good police role model to a six year old?

Recommended  5


[Reply](#) [Link](#) [Quote](#)

 *Brian* January 30, 2014 at 11:07 am

Taxi? Bus? Drive or get a ride from a neighbor? There are other options besides having to trespass because it was too windy to ride on a legal roadway.

Recommended  4

[Reply](#) [Link](#) [Quote](#)

 *Alan 1.0* January 30, 2014 at 11:16 am

OK, good to know where you stand on bicycling. Now, how about Bender's example to the child?

Recommended  4

[Reply](#) [Link](#) [Quote](#)



Brian January 30, 2014 at 11:37 am

Based on my reply, you should know more about my stance on trespassing than cycling. I do not condone this man's alleged behavior, especially around children. I also do not immediately pass judgment based on one side of a story. I do not know this person who filed the complaint and her mental state/personal history, nor was I there.

Recommended  4

[Reply](#) [Link](#) [Quote](#)



Caleb February 1, 2014 at 5:06 pm

Based on her letter, I have no problem with assuming her mental state is just fine. That doesn't mean I can't change my mind at further evidence, though.

Recommended  1

[Reply](#) [Link](#) [Quote](#)



was carless January 30, 2014 at 10:12 am

She's lucky she didn't end up in jail and her kid in foster care...

Recommended  4

[Reply](#) [Link](#) [Quote](#)



Caleb February 1, 2014 at 5:08 pm

How do you figure that? Is there any precedent for someone ending up in jail and their kid(s) in foster care for an incident like this?

Recommended  2

[Reply](#) [Link](#) [Quote](#)



Joe January 30, 2014 at 10:46 am

you stayed off of interstate and that was smart on a very windy day, but why do these ppl get so mad? we are transport too just trying to get point to point.

Recommended  6

[Reply](#) [Link](#) [Quote](#)



dweekendaddy January 30, 2014 at 10:47 am

It's too bad that the safest way home for a mother and a kid on a bike is illegal.

Recommended  19

[Reply](#) [Link](#) [Quote](#)



Dan January 30, 2014 at 10:56 am

was carless


She's lucky she didn't end up in jail and her kid in foster care...

Recommended 1

this is disgusting; you should be ashamed of yourself.

Recommended 13

[Reply](#) [Link](#) [Quote](#)

 Alan I.O January 30, 2014 at 11:31 am

I could read 'was carless' post that way (saying that should have happened) but I can also read it to mean that such incarceration and child seizure for petty things is all too common.

(Aside, while any forced separation of a child from her or his parent is traumatic, the foster parents I know are amazingly loving, wholesome and kind people, and the kids that have passed through their homes often come from—and go on to—far worse living situations than the foster home. So yeah, dump on a system which is all too cavalier about such seizures, but recognize that there are some heroes inside the system.)

Recommended 4

[Reply](#) [Link](#) [Quote](#)



MaxD January 30, 2014 at 11:12 am

The railroads operate through communities throughout the US with considerable subsidy. yes, they provide a necessary service, but they are able to act without accountability to or in cooperation with those communities. I wonder if a large protest could force change at a federal level?

The City may not be able to require UP to change the way they interface with the community, but there are plenty of things the City could do to address this. It has been noted MANY times that Interstate Ave has unsafe, inadequate bike routes made more dangerous by rampant speeding that is never enforced. The City could begin to make improvements today if cared about peoples safety. Actions to take:

1. enforce speed limit, driving while distracted and drunk driving
2. stripe the auto lane at 10.5'- this would add a buffer to the puny, filthy gutter of a bike lane of several feet in many areas, and inches in others. The two biggest improvements of this would be 1)to keep cars in their lanes and hopefully slow them down, and 2) highlight areas of the corridor for motorists and cyclists where there is not buffer and in fact the roadway must be shared (currently there are no advance warnings or identification of these instances)
3. connect the gaps in the sidewalk to keep peds/joggers out of the under-sized bike lanes
4. create a large, 2-way MUP from the Esplanade to Tillamook Ave. This could under the Steel Bridge (above the UP service road), along the Thunderbird Property in front of the basketball arena, and use the southbound lane of Interstate Ave from the signal at Larrabee Ave to the signal at Tillamook Ave. Motorists would use the Larrabee viaduct which would need structural upgrades for the largest vehicles. This would be the first leg of the North Portland Greenway which will eventually go Tillamook on the West Side, then down River Ave to the Cement Road (where Diana was) to Swan Island and eventually along the river to Kelly Point!

We may not be able to hold UP accountable, but we should be able to hold our City accountable for this unsafe infrastructure. Interstate is a terrible place to ride with a kid, and the Cement road is very safe. The City has made recent improvements along river on Swan Island, the Going to the River project, and the Waud Bluff Trail while not creating a safe connection south of Swan Island/North Portland. This kind of gap pushes people to use the Cement Road. I see this as sort of an attractive nuisance, like if you a leave unattended against your house. IT may be on private property, but it creates an unsafe condition that is appealing. If a kid climbs the ladder and gets hurt, the person who left the ladder up is liable even though the kid was trespassing

Recommended 9

[Reply](#) [Link](#) [Quote](#)



johnny January 30, 2014 at 11:45 am

Alan I.O

Johnny, how do you think Rempe should taken her daughter home? Do you think Bender was a good police role model to a six year old?

Recommended 2


Q. How do you think Rempe should have taken her daughter home?

A. That would be impossible for anyone except the OP to ascertain. There "may" have been other choices, but like I said, impossible for anyone else to determine.

Q. Do you think Bender was a good police role model to a six year old?

A. That too would be impossible for anyone to determine except for the OP who directly experienced the incident. What you are goading me to attempt is to implicitly accept that everything the OP wrote is the absolute truth and I am not willing to go there.

Q. Do you think the OP's decision to knowingly trespass, get caught, and subsequently place her daughter in an uncomfortable situation is a good role model for a six year old?

Recommended  2

Reply Link Quote



Alan 1.0 January 30, 2014 at 12:01 pm

"Uncomfortable" understates that situation, and the party responsible for the duress was not Rempe. Given the bakfiet as her transportation and the routes and conditions available, I think she made a reasonable and understandable choice, one even a six year old could understand.

Thanks for responding.

Recommended  5

Reply Link Quote



CaptainKarma January 30, 2014 at 12:16 pm

Many many drivers knowingly speed, text, fail to signal, and more. Mucho mas unsafe than 10 mph through the cement rd, yet they rarely get berated, harassed and belittled like this. Just a ticket and a few words and no one talks of taking their children away.

Recommended  10

Reply Link Quote



redhippie January 30, 2014 at 11:48 am

This is an interesting issues that will affect other portions of the proposed north Portland greenway. For example, the property owned my metro and slated as green space by the railroad bridge is only accessible by crossing RR property. Try to ride or walk through this area and you run the risk of breaking the same laws.

So far, I have had more positive interactions with the UP cops where they are more warning where to be and not to be. They are also nice to have around since there are so many low life's that tend to hang around the area. They provide a level of protection that is absent on the spring water corridor east of sellwood.

Recommended  2

Reply Link Quote



Brian January 30, 2014 at 11:50 am

I would ask you about the mother's example to her child. Is it ok to break the law when a situation of our own choosing becomes inconvenient?

Recommended  6

Reply Link Quote




Brian January 30, 2014 at 11:52 am

My bad. I meant this as a reply to Alan 1.0 above.

Recommended  0


Reply Link Quote


Alan I.0 January 30, 2014 at 12:05 pm

Maybe; it depends. I've never met anyone who doesn't break some law sometimes. That says a lot (to me) about our society and our laws. I love to have a law that says that for every new law, two old laws must be removed. But I think we're way out in the weeds as far as Rempe and Bender.

Recommended  5

[Reply](#) [Link](#) [Quote](#)


Brian January 30, 2014 at 12:10 pm

I can get behind that idea!

Recommended  3

[Reply](#) [Link](#) [Quote](#)




SKPeterson January 30, 2014 at 12:23 pm

And, I'm sure that there would have been a very polite law suit filed by the family if she had been whacked by a UP train coming down the tracks. People get killed all the time walking (trespassing) on railroad tracks and the results are usually not pretty. I could imagine the officer had that in mind when Ms. Rempe was on the tracks *with her child*. Railroad officers and the engineers get lots of fun clean up duty after people act irresponsibly on railroad property or decide to commit suicide by train.

Recommended  3


[Reply](#) [Link](#) [Quote](#)


Panda January 30, 2014 at 4:42 pm

See Lenny's description of the Cement road, and note that she was on a road that is not very close to the tracks, and has very few crossings.

Recommended  7


[Reply](#) [Link](#) [Quote](#)


Caleb February 1, 2014 at 5:15 pm

What makes you sure her family would file a suit against UP if she were killed one of their trains? She had no problem admitting she broke a law, so I wouldn't be quick to assume her family can't do the same.

Recommended  1

[Reply](#) [Link](#) [Quote](#)


ed January 30, 2014 at 1:46 pm

Worth remembering that railroads have a long history of very harsh policing. There's a reason their officers have been called "bulls" for more than a century. Beating the crap out of (or worse) those who used to be called 'hobos' was standard procedure and society looked the other way. This punitive enforcement is part of the culture. It really is a 19th century legacy where railroads had unprecedented power and reach. Imagine if private entities today controlled the interstate highway system and vehicles on them, airlines and airports, bus stations and routes, UPS and Fed Ex and postal delivery/distribution! This was railroads in the past. Obviously a big decline (and in many ways to our detriment) but they've maintained some absolutism in places they still control.

Regardless, the main reason this story is noteworthy and no doubt why Jonathan featured it prominently is the need for a negotiated use plan for this route. If the Banfield bike route ever comes together this will be an issue as well. Note sections of Springwater going to Oak Flats that run alongside tracks. These things can be resolved, and this occurrence underlines need for resolution - especially in light of the paucity of alternatives for cyclists in that area. Let's focus on that rather than getting caught up in moral judgments of particular behavior that's probably inevitable under current conditions.

Recommended  3

Reply Link Quote



Lenny Anderson January 30, 2014 at 2:56 pm

Sounds like most of the commenters here have never been on the Ash Grove Cement Road. It is a beautiful ride, especially compared to Greeley or Interstate. Its calm, safe, peaceful, but unfortunately illegal.

I've been stopped by Bender. He's a jerk, but probably by design, as I have not been back. Four trips to jail in my short life is enough.

Still, lots of Swan Island bike commuters use it with the slogan "better in jail, then the ER!" Getting caught is a crap shoot, as Bender and the other RR bulls can't be out there all the time.

PPB told me they only respond to trespassing INTO the yard; so it is important to note that the AGCR does go along the River between the Ash Grove docks and the UPRR yard, though it is on RR property. RR crews usually wave in a friendly way. In the many years I used it, I never saw a rail car on the tracks that cross the Road to the docks. These movements are done at night with "Trac-mobiles."

npGreenway is committed to getting public access to this facility. Join us at npGreenway.org to help make it happen. Write to Mayor Hales, to Congressman Blumenauer, and remind them that UPRR gets \$ from the public via Connect Oregon and other sources and needs to step up! And good luck Diana! Please join us at npGreenway!

Recommended  25

Reply Link Quote



Scott January 30, 2014 at 3:09 pm

We've been waiting for you on this thread, Lenny. Thanks to you and others for pointing it in the right direction again!

Recommended  6

Reply Link Quote



Todd Hudson January 30, 2014 at 3:08 pm

Everyone in this article was wrong. Everyone is on the losing side. We have the entitled person on a bike, and we need to ditch that stereotype yesterday (and the dash of white guilt was nice too). Then there's the outrageous cop who will never be held accountable. We have a system where yard bulls can do as they please and a railroad that's untouchable. It's too bad nobody will come out of this looking good.

You know what's really disappointing? This will probably impact UP allowing turning Cement Road into a bikeway. Chronic trespassing and treating them as an adversary isn't going to win them over.

Recommended  3

Reply Link Quote



Josh G January 31, 2014 at 1:07 pm

As someone who hopes to see a complete and safe North Portland Greenway in my lifetime, I won't be on Cement Road until it's legal, tempting as it is.

On a lighter note on the discussion of railroad policing power, I can only think of the ultimate Bull "Shack" as played by Ernest Borgnine and a length of chain in "Emperor of the North": <http://www.youtube.com/watch?v=5jn-ZS7g8xs> filmed in Cottage Grove.

Recommended  2

Reply Link Quote



Lisa January 30, 2014 at 3:15 pm

His "demeanor" made her "uncomfortable."

Boo hoo. That's what cops do.

I'm sorry that she had this interaction. It must have been hurtful to her and that sucks.

But this is essentially a story about a self-described privileged person getting hurt feelings by a cop and writing a complaint letter about it. Worse abuses happen multiple times every day in this city to less privileged people who do not fetishize themselves as special snowflakes who deserve a wink and a twitch of the nose from the fuzz when they've broken a rule.

I wonder if any unfair police treatment, railroad policy, trespassing rules, or racial/class inequity would have spurred such public action if Officer RRBull didn't hurt her feelings. My guess is no.

RR policy has been sucking for people since there have been railroads. Bulls are notorious for beating people up and brutally harassing people on RR property. Maybe Diana has found a new cause she can work on in the long term. That would be great. :D

Recommended  9

Reply Link Quote



Caleb February 1, 2014 at 5:23 pm

Boo hoo, that's what cops do? [sarcasm]Yes, let's not be concerned with one's alleged antagonistic behavior, because it's not against the least privileged nor is it the most antagonistic.[/sarcasm]

As others have mentioned, maybe this story is getting the coverage that it is due to the city trying to create a Greenway in that region.

Recommended  6

Reply Link Quote



Lenny Anderson January 30, 2014 at 4:40 pm

I'd like to see what Bender and co. do if 100 bike commuters showed up!
Its called civil disobedience, its an ancient and honored response to bad, if not immoral policy and law.

Recommended  12

Reply Link Quote



mossbyp@yahoo.com January 31, 2014 at 8:29 am

Really? Lenny I absolutely respect the hell out of you and what you've done for cycling in this town but pulling these kinds of stunts is pure 100% bullsh*t. Signs are posted, she trespassed, and then cried foul when she got chewed out for it. Sounds like she needs to grow up and own up to what she did. Can't say I fell too much sympathy for her.

Recommended  3

Reply Link Quote



9watts January 31, 2014 at 9:37 am

The fault lines are pretty stark in the comments on this story. I think where we may diverge is on the questions of
- whether the RR should allow their employees treat the public like this, and
- the dynamic question of whether what sounds like a fragment of a piece of infrastructure should in fact remain off limits to the public.

Although I personally find it a little hard to believe, it seems a fair fraction of the commenters would answer yes to both of these.

Recommended  7

Reply Link Quote



Granpa January 31, 2014 at 8:32 am

Yup that would be interesting to see the black bandana anarchists show up to force a situation where violent confrontation is the likely outcome. Perhaps the could "cork" the tracks. What's the worst that could happen there?

Recommended  3

Reply Link Quote



BIKELEPTIC January 30, 2014 at 5:29 pm

This outlines a bigger issue. That the public roads nearby UP are perceived unsafe for cyclists (especially for those with small children.) Heck, I used to live in N. Portland and would take that uphill of Interstate every night from the Rose Quarter and frankly, it kind of sucks. After that, the human interaction of what happened, kind of went . . . downhill, if we can trust what Diana is saying; benefit of a doubt; Bender was kind of a tool. And acted with excessive force lacking customer service. (because even as a security officer, you are serving and can turn a negative situation into a, hey guess what, you did something illegal, but take this ticket and get it taken care of.) However, Diana's words are the most stereotypical "Portland-feminist." What the heck? Do you walk through the grocery store eating grapes without buying the bunch and telling your kid; "It's ok, I'm a white women of privilege, it's not stealing." Who says phrases like that?

I mean Diana's at fault for cutting through private property, and Bender is definitely a jerk. But it's telling of a bigger transportation need for safer through fares.

Recommended 4

[Reply](#) [Link](#) [Quote](#)



Pete January 31, 2014 at 4:17 pm

I'm glad I'm not the only one who noticed that. The fact that she's a middle-aged white woman with a lot of means is irrelevant – unless she's implying that she was targeted because she's white, middle-aged, or seemed to be someone of privilege. I liken it to the irrelevance of a newspaper or TV station reporting that a bicyclist ticketed for BUI or running a stop light/sign wasn't wearing a helmet.

Recommended 0

[Reply](#) [Link](#) [Quote](#)



Caleb February 1, 2014 at 5:31 pm

The fact that she's a middle-aged white woman with a lot of means was made relevant simply by her desire to express her thinking. Her words don't suggest a link between her status and her being targeted, but instead suggest the possibility that Bender may treat less-privileged people in more antagonistic ways, and it's my belief she was talking about his unconscious behavior which could cause him to do that.

Recommended 5

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Pete February 1, 2014 at 9:19 pm

Intellectual masturbation trumps responsibility any day!

Recommended 0

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Caleb February 2, 2014 at 9:47 pm

You're the only one saying that, even if sarcastically.

Recommended 2

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Caleb February 1, 2014 at 5:27 pm

Where did she suggest that her being white made her choice okay? I think your ideas of her intentions behind mentioning her "white privilege" might be incorrect.

Recommended 4

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Lenny Anderson January 31, 2014 at 1:42 pm

Woody Guthrie wrote some great songs, including "This Land is your Land," my favorite of verse of which goes something like this:

As I went walking, I saw a sign there,
And on that sign it said "No Trespassing";
But on the other side it didn't say nothing,
That side was made for you and me!"

Its usually left out for polite audiences, but evokes Woody's spirit.

Recommended 6

Reply Link Quote

Pete January 31, 2014 at 4:13 pm

Woody was never sued for millions of dollars. There's a reason "No Trespassing" signs exist, and that they are enforced by LEOs – often in places with increased liabilities. I'm ashamed of this woman for teaching her 6-year-old child that it's OK to "bend the rules" by rationalizing that it 'should' be a public way because it's safer/convenient/etc, and that this officer's behavior (who I believe could have handled this better – at least from what's reported here) is an excuse, especially with her half-hearted admission of guilt.

Regardless of whether this *should* be a public way, it isn't until it is. I also suspect your plan for civil disobedience would be far less effective than the diplomatic (albeit slow) political negotiations taking place for opening up access for us.

Recommended 0

Reply Link Quote

Greg January 31, 2014 at 8:51 pm

Really? Everyone (and I mean everyone) bends the rules.

Recommended 2

Reply Link Quote

Pete February 1, 2014 at 10:25 am

Yes, it's called "rationalization", and it's exactly my point here.

Recommended 0

Reply Link Quote

Pete February 1, 2014 at 10:30 am

[http://en.wikipedia.org/wiki/Rationalization_\(making_excuses\)](http://en.wikipedia.org/wiki/Rationalization_(making_excuses))

Recommended 0

Reply Link Quote

L February 1, 2014 at 3:31 pm

Yes, just try getting through your day, any day without even one rationalization for your behavior.

Recommended 3

Reply Link Quote

Pete February 1, 2014 at 9:32 pm

I get through every day without breaking laws in front of my children. It's not that hard, really. Certainly I can rationalize with the best of 'em, but by not breaking laws in front of my children I don't have to, and hopefully they are learning that laws are simply meant to be obeyed. (I personally believe rationalization was one of the most important factors in human evolution, but that's a different topic).

[Recommended](#)  0

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GlowBoy February 3, 2014 at 4:37 pm

"I get through every day without breaking laws in front of my children." Well, most people don't. Because most people speed. And most people go through stop signs without actually coming to a full 0.00mph stop if they don't have to.

[Recommended](#)  2

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L February 3, 2014 at 5:34 pm

This. I live near the Montessori school on NW Thurman. Every single morning cars roll right through a stop sign, at speed, with their little precious snowflakes strapped into the back of their SUV. When I've called out the parent driving the car I ask them, "is this how you drive in your own neighborhood? Is this how you want other drivers to drive when your kids are walking through their neighborhood?" Most of the parents behind the wheel seem shocked I would confront them. I always say to them, "how dare you!" Not to mention I live on a bikeway so there are plenty of cyclists also traveling where these drivers (in front of their own kids) are ripping through stop signs.

[Recommended](#)  3

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Pete February 3, 2014 at 9:05 pm

Y'all are preaching to the choir, but this comes across as it being OK to break the law because so many other people do(?). There's an old saying: two wrongs don't make a right...

But three lefts do! :-)

[Recommended](#)  0

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9watts February 3, 2014 at 9:15 pm

Pete,

perhaps you're missing the subtlety that weaves through some of these comments: some laws are written on stone tablets: thou shalt not kill, etc. Other laws were written on 19th century paper by robber barons, or by people suffering from carhead. Some laws when followed make you unequivocally safer, make the world a better place; others not so much.

Tom Vanderbilt's writing drives home this point, at least for me.

(I found another in the same article) -

"As for pedestrian safety, which is the typical stated purpose of jaywalking crackdowns, more pedestrians generally are killed in urban areas by cars violating their right of way than are rogue pedestrians violating vehicles' right of way. Then there are those people struck on sidewalks, even inside restaurants. What do we call that? Jay-living?"

[Recommended](#)  4

[Link Quote](#)



El Biciclero February 1, 2014 at 1:43 pm

Officer to stopped driver: "Do you know why I pulled you over today?"

Driver: "No."

Officer: "Do you know what the speed limit is on this street?"

Driver: "Actually, no."

Officer: "Well, it's 30, and I clocked you going 45, that's usually our threshold for pulling folks over."

Driver: "Oops. Sorry. I was just headed out of town following everybody else; I guess I didn't pay attention."

Officer: "Well, I'll let you go with a warning today, but I need you to watch your speed from now on."

Officer to stopped bicyclist: "Did you know this park is closed, you're trespassing and subject to be arrested right now?!"

Cyclist: "Uh, no. There wasn't a sign--"

Officer: "Where are you headed?"

Cyclist: "I'm on my way home from work."

Officer: "I want you out of this park and I don't want to ever see you here again!"

The above are not hyperbolic, made-up stories. Of the handful of times I've been stopped by police while trying to get from one place to another, these are two actual encounters.

Yes, it's anecdotal, based on my experience and the related experiences of others, but there seems to be a much greater probability that an officer (of any kind) will be immediately aggressive and threatening to a cyclist, while not so much to a driver, even if stopped for the exact same offense.

My personal theory is that anyone riding a bike is seen as a child in need of forceful parenting, not an adult who deserves respectful treatment by Law Enforcement

Recommended 10

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9watts February 3, 2014 at 10:12 am

To all you who (apparently) take such a black and white view of laws, I'm curious what you make of Tom Vanderbilt's piece in the Feb 1. NYT, which included this delightful passage:

"I routinely jaywalk across one-way streets with my young daughter in our Brooklyn neighborhood. I do this not as an act of vigilante pedestrianism, but simply because the times we came closest to being hit by cars were when we had the 'Walk' signal and a driver attempted to make a turn."

<http://tinyurl.com/nlzytzu>

Recommended 4

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Pete February 4, 2014 at 10:11 am

9watts

Pete,

perhaps you're missing the subtlety that weaves through some of these comments: some laws are written on stone tablets...

On the contrary. My point is that *all* laws, by virtue of the fact that they *are* laws, are *meant* to be obeyed -- even if there is a personal or 'tribal' disagreement with them (for example the woman rallying 'carheads' to get the new green bike lanes on Hedding Street in San Jose removed because she was 'unjustly' ticketed for driving more than 200' in them to make a right turn in heavy traffic -- by a bicycle cop, mind you).

Every reply to this point has been along the lines of "it's OK because everybody does it", "I bet you do it too", or "there's a reason this/that law shouldn't apply to us." ALL of that misses my point (and demonstrates the rationalization I'm referring to), which is that *NO* laws are meant to be broken -- period -- and doing so in front of a child teaches them the thought process that some laws are OK to break (maybe even just in some circumstances). In schools we teach our children that *NO* laws should *EVER* be broken in any circumstance, and that there is a process called democracy* intended to challenge laws that should be revised/removed.

I'm actually more in agreement with you (and lots of others, apparently) about the existence of these laws (and how they are/not selectively enforced) than you might think, but my point remains that you should exercise caution rationalizing behavior in front of a child, because they'll someday use the same thought process (learned from you) in a manner you might not approve.

* It's irrelevant to my point whether said process works or not... ;)

Recommended  0

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9watts February 4, 2014 at 1:42 pm

Thanks for clarifying your point. I guess we disagree then. I do and will continue to happily flout any law I consider unjust, ill-conceived, obsolete, or otherwise problematic, and I can't see why I should obscure this philosophical disagreement, or my insubordination, from my child. Laws are human conventions and a surprising number of them are (or turn out to be) deeply flawed or unnecessary. The ways to change them go by many names, but the one I subscribe to is civil disobedience.

I'm not talking about laws I find inconvenient (like the majority of people driving treat the speed limit); I'm talking about laws that reflect a bias, power differentials in society, or are misapplied (people on bikes having to treat stop signs as if they were in a car and couldn't hear, see, smell cross traffic for which we can and do yield).

You wrote:

Every reply to this point has been along the lines of "it's OK because everybody does it", "I bet you do it too", or "there's a reason this/that law shouldn't apply to us."

I interpreted those comments differently.

- (a) The 'i bet you break laws too, all the time' comment was directed at the nannies who shriek about all laws being equally valid and wagging their fingers at us, demanding we follow every single one of them.
- (b) 'it's o.k. because everybody does it' is a far cry from civil disobedience.
- (c) as for your third example, it isn't necessarily that this or that law shouldn't apply to us, though that may be valid in some instances, I'd add the less parochial 'there's a reason that law is obsolete, serves no purpose, deserves to be struck from the books.'

Recommended  3

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Alan 1.0 February 4, 2014 at 2:36 pm

Well said.

Recommended  2

[Reply](#) [Link](#) [Quote](#)



Caleb February 4, 2014 at 5:51 pm

Agreed.

Recommended  0

[Reply](#) [Link](#) [Quote](#)



Pete February 4, 2014 at 8:00 pm

OK we agree to disagree (and I do appreciate your points), but this article isn't about civil disobedience, it's about someone who broke a law for convenience because they believed it was "tacitly allowed" (i.e. they wouldn't get in trouble for it). Many drivers use this same logic to exceed speed limits by 5+ MPH because police generally target people 10 MPH over. Speed limits have not increased as a result.

Civil disobedience can be an effective tool to challenge inordinately unjust laws, but I guarantee that you and I safely running stops on a daily basis will not only not facilitate the Idaho Stop Law coming to Oregon anytime soon, it may just make it that much more difficult. If people don't understand why you're breaking a law (even if you're not!), it's not civil disobedience, it's criminal behavior.

Thanks for the discussion BTW... Rubber Side Down my friend!

Recommended  1

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▪ **Caleb** February 5, 2014 at 1:08 pm

I would say that "for convenience" is a characterization of her behavior that can only be made when we take liberties.

Recommended 0

[Reply](#) [Link](#) [Quote](#)



▪ **Pete** February 6, 2014 at 6:03 pm

The cement road is a straight shot with no uphill to climb or intersections to wait at, as opposed to Greeley or Interstate. Sounds convenient to me, given that no justifications for her choice (other than "it was windy") are written. To be fair, though, go ahead and strike "for convenience" from my reply to see if it changes my point.

Recommended 1

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▪ **Caleb** February 10, 2014 at 4:42 pm

Yes, we could say the cement road is more convenient than Greeley or Interstate, but that does not mean convenience was her primary reason for taking cement road if it was a reason she at all considered. That's all I was getting at.

Additionally, I don't think the common propensity to speed only 5 mph over the limit is analogous to her choice for the cement road given the increased risk that comes with each extra bit of speed.

But perhaps I should add that I'm in agreement with your disdain toward breaking laws for the sake of convenience.

Recommended 0

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


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• Page Two

Larch Mountain Road now open for the season

For those of you who like the beautiful challenge of climbing to the top of Larch Mountain Road east of Troutdale, you will be happy to know that Multnomah County has just announced it is now open. It closes each year during winter and usually stays closed until mid-June... But we've just gotten word that [Read More »](#)

Putting rides to words: 'Gravel Poet Society'

Gravel riding veteran Dan Morgan lives and breaths backroads bicycling (here a photo of him I snapped while we shared some miles in eastern Oregon last summer). I hope to profile him in more detail here on the Front Page sooner or later. For now, I want to share some poems written by Dan's relatives: [Read More »](#)

Gresham PD announces stepped up 'Safe Routes to School' enforcement

It's always good to see local law enforcement agencies devote more time and attention to dangerous driving — especially around schools. Check out the press release below from Gresham PD to see what they're up to... Operation Safe Routes Helps Kids Get to School Safely Speeders and inattentive drivers beware! Gresham Police Department's traffic division [Read More »](#)

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• Legal

- [BicycleAttorney.com](#)
- [BicycleLaw.com](#)
- [Bicycling Street Smarts](#)
- [Mark J. Ginsberg, Attorney at Law](#)
- [Oregon Revised Statutes \(ORS\) Chapter 811](#)
- [Oregon Revised Statutes \(ORS\) Chapter 814](#)
- [OregonLaws.org](#)
- [Pedal Power legal guide](#)
- [Ross Law – Jeremiah Ross](#)
- [Schoenfeld & Schoenfeld, P.C.](#)
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• Maps/Resources

- [B SMART mapping tool](#)
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- [Bike Doctor app](#)
- [Bike Touring Resources from PDOT](#)
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- [Bikelty – Portland, Oregon](#)
- [Exchange Cycle Touring Bike School Curriculum](#)
- [Forest Park Mountain Bike Map](#)
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• Organizations/Clubs

- [Active Right of Way](#)
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- [Washington County BTC](#)
- [Westside Trail Federation](#)
- [Westside Transportation Alliance \(WTA\)](#)
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• **Parking**

- [Bike Lockers – PBOT](#)
- [Bike Lockers – TriMet](#)
- [Bureau of Transportation parking info](#)
- [mybikelane.com](#)
- [Parking Corral Map from PDXstump](#)
- [Portable parking for any occasion](#)
- [Rack and Locker suppliers](#)

• **Racing Teams**

- [BicycleAttorney.com Cycling Team](#)
- [HPChiro-RPM Mortgage Cycling Team](#)
- [Ironclad Cycling Team](#)
- [Land Rover-ORBEA](#)
- [Presto Velo Cycling Team](#)
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- [Team Oregon](#)
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• **Random Cool Stuff**

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- [BIKEmpowered](#)
- [Crank My Chain – Bicycle TV](#)
- [Electric Bike Building](#)
- [Midnight Mystery Ride](#)
- [Pedalpalooza](#)
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- [Resource Revival](#)
- [The Bicyclist](#)
- [The BMX Museum](#)
- [The Lumberyard Indoor Bike Park](#)
- [The Petal Pusher](#)
- [The Portland Bike Ensemble](#)
- [Unitus Community Credit Union – Bicycle Loan](#)
- [Werewolf Hustle](#)
- [Yeabikes Links](#)

• **Real Estate**

- [Daniel Fleischer, Portland Bike Realtor](#)

• **Ride/Event Calendars**

- [Northwest Trail Alliance \(MTB\)](#)
- [OBRA Race Schedule](#)

- [ORbike](#)
- [PBOT Active Transportation Division](#)
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- [Shift to Bikes Calendar](#)

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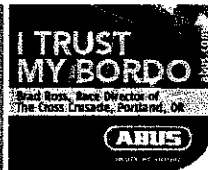
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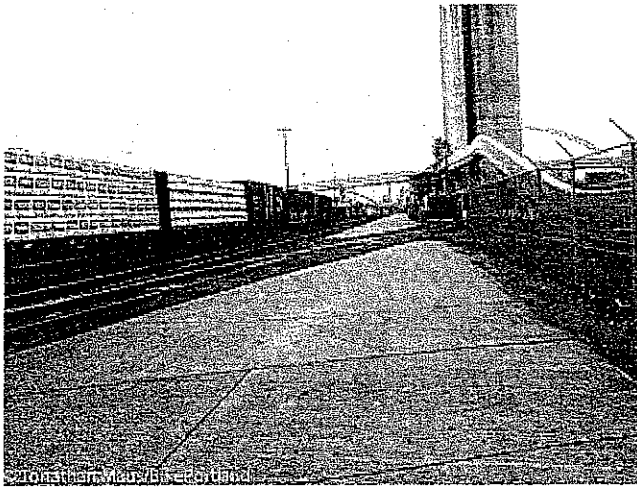
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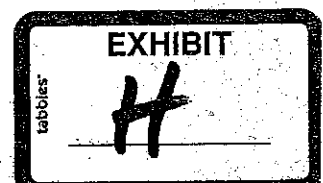
The Cement Road with Fremont Bridge
in the background..
(Photo © J. Maus/BikePortland)

There's a renewed effort afoot that could result in something most observers thought would never happen: legal public access to the "Cement Road" that runs through Union Pacific's Albina Yards along the Willamette River between Swan Island and the Fremont Bridge.

Union Pacific Railroad owns the road and they don't allow public use. There are "Private Property" and "No Trespassing" signs posted at its northern entrance (at the end of N Portland Center Way); but many of Swan Island's 10,000 employees who ride bikes to work still use the road because it's the only flat and safe way to get to work. As recently as December 2012, UP spokesman Brock Nelson said they were, "Not interested in either selling or allowing public access to this property."

However, it now appears UP's position on this idea might be softening up a bit.

Last week U.S. Congressman Earl Blumenauer facilitated a meeting that included reps from Union Pacific, the Swan Island Transportation Management Association, and the City of Portland. The impetus was a possibility that the Cement Road might be included in a TIGER grant funding request. While we now know that the TIGER application does not include the Cement Road, it's worthwhile to note that Mayor Hales' office and other sources say the conversations are ongoing and that Union Pacific seems — for the first time ever — open to the bicycle access possibility.



Mayor Hales' Policy Director Josh Alpert confirmed for us this morning that, "the mayor has been actively involved in the discussions with Union Pacific regarding the North Portland Greenway." Alpert says Hales has long been a supporter of the Greenway project (which would create a 10-mile paved corridor from Kelley Point Park to the Eastbank Esplanade) which he referred to as a "vital linkage."

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— *Josh Alpert, Mayor Hales' Policy Director*

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This is a major shift in a very important conversation. The Cement Road is crucial to the future of bicycle access on Swan Island. Even though these talks are still preliminary, there are several important takeaways from this news:

- Mayor Hales is spending political capital to help improve bicycling conditions.
- Does Union Pacific see our new leadership in City Hall as an opportunity to re-engage on this issue? That's very likely. If it's true, it shows the potential impact Mayor Hales can have on other bicycle-related projects/policies going forward.
- Portland Parks & Recreation is no longer involved in the planning/negotiations around this part of the NP Greenway project. As we last reported in April, PP&R was willing to route the NP Greenway up on surface streets rather than bring Union Pacific to the table. Now it appears the Mayor has put the Bureau of Transportation in charge of this part of the project – which is a very smart move.
- The conversation around Cement Road access now goes way beyond the NP Greenway, which Union Pacific could rightfully perceive as simply a "recreational trail" project. Now the story of bicycle access to Swan Island is one of employee mobility and access to jobs. Did that change in framing help bring Union Pacific to the table? As our recent story about Daimler Trucks North America illustrates, Swan Island is booming with new development (Daimler has hinted at an expansion this year while Portland Community College is set to launch a workforce training center and Vigor Shipyards will open a major dry-dock repair facility next year) and bike use is booming along with it.

The big story here isn't about the NP Greenway, it's about Swan Island. Sarah Angell from the Swan Island Transportation Management Association recently shared that Swan Island is set to receive about \$200 million in private sector investments in the coming years. These new jobs will present Swan Island with even greater transportation access challenges. Making it easier for people to reach Swan Island by bike will be crucial.

Josh Alpert in the Mayor's office put it this way in an email to us this morning:

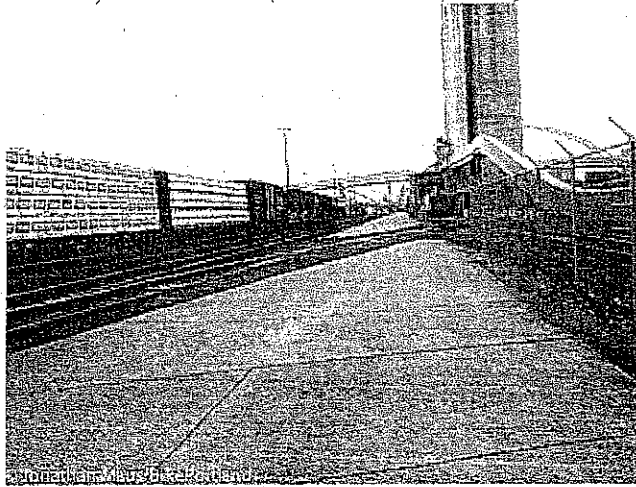
“The Mayor has long been a supporter of the NP Greenway both as a trail and a transportation corridor – connecting North Portland residents to downtown and vice-versa is a vital linkage, and tying in Swan Island is critical and becoming more so as PCC [Portland Community College] and others invest and expand in the area.”

Hales and Union Pacific have a golden opportunity to forge an agreement that aids in the economic resurgence of Swan Island *and* improves transportation access and safety. If this works out it would be a great story for both parties to tell. Stay tuned.

Note: Union Pacific spokesman Brock Nelson could not be reached for comment.

Mayor Hales in Union Pacific/Cement Road access talks: “Going very well”

Posted by Jonathan Maus (Publisher/Editor) on May 24th, 2013 at 1:56 pm



The Cement Road with Fremont Bridge
in the background..
(Photo © J. Maus/BikePortland)

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<http://www.swanislandba.org/work-here/member-directory/>

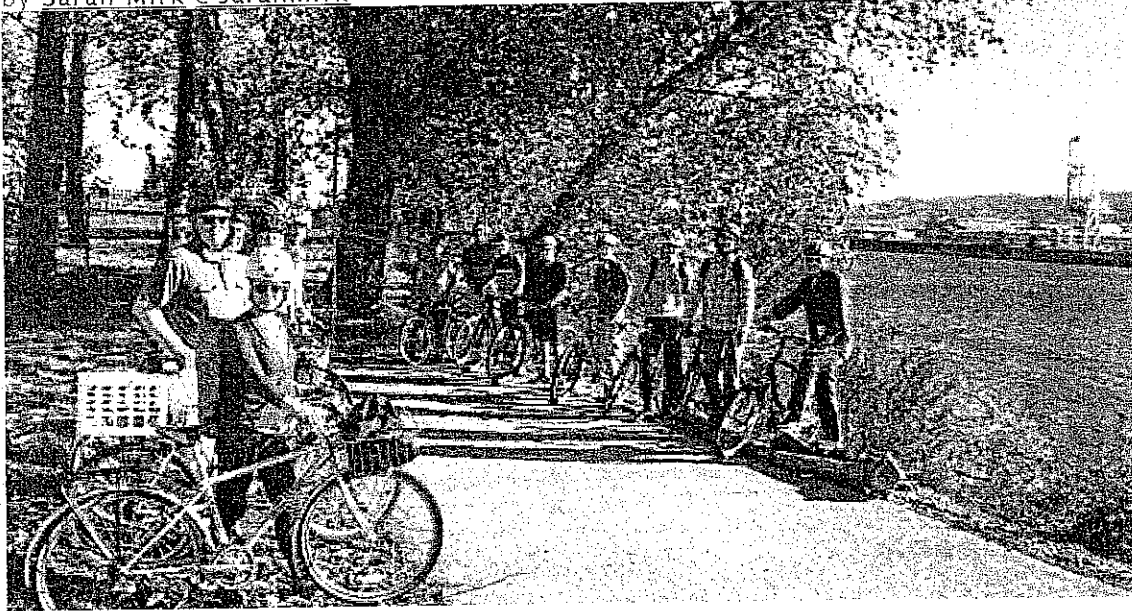
From Bicycle Transit Alliance:

In Segment 5 there is an existing, railroad-owned road between the Broadway Bridge and Swan Island, known as the Ash Grove Cement Road. Many Swan Island bike commuters use it, illegally, to commute to and from work for obvious reasons: it's direct, it's flat, and there aren't any cars on it. It has long been assumed that the ideal North Portland Greenway route would use this route and, through further negotiation with Union Pacific, would continue southward to the Steel Bridge, completing the Eastbank Esplanade.

Swan Drive

Truck Company Employees Want to Bike Safely to Swan Island—Will the City Leave Them in the Lurch?

by Sarah Mirk @sarahmirk



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- [END OF THE ROAD: Daimler Truck employees at the dead-end of Swan Island's bike path.](#)



PORTLAND SEEMS to forget about Swan Island. So here's a primer on the place: The industrial spit of land isolated from the city by the steep Willamette Bluffs is an economic powerhouse. The strip is home to some of the city's only large employers that don't require a commute to the 'burbs, with 211 businesses employing nearly 10,000 people (about 2.6 percent of the city's total workforce).

Many of those employees, especially at freight company Daimler Trucks, would like to bike to work. And about 200 hardcore commuters already do, despite the ride to Swan Island being a harrowing excursion on large, fast, busy roads like North Going.

Making Swan Island more bike friendly for workers is a golden opportunity for the city to meet its goal of tripling bike trips by 2030. But despite big plans for the place, the city might be short-changing that dream before it really even starts.

Portland's parks bureau has long planned a second Springwater Corridor-like biking and walking trail—the fabled North Portland Greenway—that would stretch from downtown all the way up to Kelley Point Park. It would link Swan Island and Willamette River land throughout North Portland to the rest of the city.

But in the most recent plans for the North Portland Greenway, the city sidelined the flattest, most direct, off-street route from Swan Island to downtown for a path that runs up steep and busy North Greeley and North Interstate.

While the parks bureau wants what it calls a "buildable" plan, the route swap has both Swan Island workers and the Friends of the North Portland Greenway Trail citizen advocacy group worried the city won't fight for a path that workers and families will actually want to use.

"It's not a Willamette neighborhood greenway, it's a trail along a truck route," says Friends of the North Portland Greenway Trail chair Francie Royce. "An easy route for them politically is a miserable route for bikers and walkers."

The route the workers and advocates want the city to prioritize is tantalizing: It's already paved. It's flat. And it runs directly from Swan Island to the Broadway Bridge. It cuts in half the bike-commute time to get downtown. But, unfortunately, it's illegal to use. Union Pacific owns the road, which is called the Ash Grove Cement Road. While the Cement Road connects

to the street right next to Daimler—near where the island's bike path dead ends—its entrance has large signs warning, "No Trespassing."

"Who commutes on the Cement Road?" Lenny Anderson, director of the Swan Island Business Association, asked at a surprisingly packed lunch meeting of Daimler bike commuters last week. About a quarter of the 60 people in the standing-room-only meeting raised their hands. "Who would like to use it?" he asked, and all hands went up.

"I moved to Portland in part because I like biking," says Daimler engineer John Furtado. "I found this job *in* the city. Little did I know it's one of the worst places to bike. It's unacceptable that one of the biggest employment centers in the city has such sub-par bike access."

The cyclists want the city and local employers to pressure Union Pacific to sell the road.

"What we have here is a stalemate," says Anderson. "This isn't going to be softball."

There's a joke among planners about dealing with the railroads: On the spectrum of tough negotiations, first there's neighbors, then there's other local governments, the state government, and then the feds. Then God. And then the railroads.

"They're not interested in giving things away," sums up longtime Portland transportation activist and rail enthusiast Jim Howell. "But I don't think it's impossible. My guess is, [the city's] chances aren't very good. Unless the city has something Union Pacific might want."

Several of the city's most heavily used transit corridors were once railroad land that the city skillfully negotiated to buy or use. The MAX light-rail lines along Interstate 84 run through chunks of former railroad land, notes Howell, as does the Springwater Corridor and the trail across the Steel Bridge.

For its part, Union Pacific says it's entirely uninterested in selling off the road. Railroad maintenance trucks drive the route daily to get around the Albina yards. It's crossed in several places by active rail lines. And Union Pacific might want it for future expansion, emails railroad rep Brock Nelson.

Parks officials say the path up North Greeley would be built in addition to the railroad path, which will remain on the map as a trail and be acquired. Someday.

That amounts to a false hope, says Royce. Once money is spent to build the trail along steep and busy Greeley, there will be less political will and fewer financial resources to negotiate for the railroad path.

Says Royce, "Our opportunity is now."

Board

SIBA acknowledges the invaluable contribution given by its board members:

Carolyn Akimesu

Carolyn Akimesu started with UPS as a seasonal package handler in 1999. She has held various positions with the organization through her career and currently finds herself as a Human Resources Supervisor with responsibilities here on Swan Island and at the Portland Airport location. In her free time she enjoys training for and participating in obstacle racing and taking advantage of all of the outdoor adventure opportunities that living in the beautiful Pacific Northwest allows. Carolyn has been involved with the Swan Island Business Association for the last 5 years.

Greg Dunbar

In banking for over 25 years, Greg Dunbar held many positions with different banks from credit manager to region sales manager until finally settling on retail and branch banking. With US Bank for the last 10 years, Greg worked in Boise, Idaho and Lake Geneva, Wisconsin until finally coming home to Portland where he manages the Interstate & Going branch.

Bob Durgan

Steve Hoyt-McBeth

Steve Hoyt-McBeth is the Portland Bureau of Transportation's bike sharing project manager. He also manages the SmartTrips Business program, for which he works with businesses to encourage commuters to walk, bike, carpool and ride transit. Steve has spent the last 15 years assisting local governments and community groups to develop sustainable programs and policies relating to transportation, land use, energy and public involvement.

Kevin Johnson

Kevin Johnson is the Advanced Manufacturing Industry Liaison for the Portland Development Commission, where he has worked since 2005. His primary responsibility is to support the retention, expansion and recruitment of advanced manufacturing firms and advance the organization of the manufacturing cluster in the Portland metropolitan area. Prior to joining PDC, Kevin worked as a program manager for the International Trade Division of the Washington State Department of Community, Trade and Economic Development, where he oversaw the Japan and Korea programs and managed Washington's offices in Tokyo, Japan and Seoul, Korea.

Octavian Jurj

Octavian is a Portland-based entrepreneur and restaurateur. Prior to 2012, when he and his wife Brittany teamed up to launch TILT, Octavian focused his business acumen and expertise on running Serum Creative, a brand &

technology consulting and development firm he founded in 2002. At Serum, Octavian helped his clients launch and develop successful brands, increase productivity and maximize profitability by leveraging proven technology platforms such as social media, eCommerce and custom Open Source solutions since 2002. At TILT, Octavian focuses on growing the young restaurant brand through strategic marketing initiatives, overseeing the design and development of new locations and recruiting and training key management staff.

Jan Martin

As a Transportation Options Representative for TriMet, Jan Martin works with employers and staff on the Employer and College Pass programs and other commute options, such as carpooling, biking and vanpooling. She provides commuting information and options for decreasing vehicle miles traveled to and from the workplace.

Dave Panchot

Dave Panchot went to work for Freightliner Corporation (now Daimler Trucks North America) in 1984 at the Portland Truck Manufacturing Plant. He transferred to Corporate Headquarters that same year and began a career in Administrative Services. Dave is currently assigned to the Property and Building Management group.

Norm Rose

Norm Rose is Production Manager at Bridgetown Printing. He coordinates the production of goods, maintenance, and schedules in the offset lithography, digital, bindery and mailing departments.

Lorali Reynolds

Lorali Reynolds is Business Development Property Manager for the Port of Portland. Her portfolio includes Rivergate Industrial Park, Swan Island Industrial Park, Portland International Center and Cascade Station at the Portland International Airport, West Hayden Island, and various other properties. She has worked extensively with the Marine and Industrial Development portfolio for 13 years working on property management, project management, and planning activities. Her personal interests including bicycling, hiking the beautiful Pacific Northwest, and beachcombing at the Oregon Coast with her Bernese Mountain Dog, Simon.

Alan Sprott

T. Alan Sprott is Vice President for Vigor Industrial LLC. He has nearly 25 years of experience in management and environmental engineering, and holds a bachelor's degree in geological sciences and a master's degree in management. Alan manages corporate environmental affairs associated with the activities of Vigor Industrial. He has held positions in facility management, environmental management, and business development within the Vigor Industrial companies. Prior to joining Vigor Industrial in 1997, Alan managed the Portland office of a national engineering firm.

Daniel Wenger

Daniel Wenger serves as a Division Dean for Arts & Professions at Portland Community College Cascade.

Basalt Creek Transportation Refinement Plan Recommendations

Introduction

The Basalt Creek transportation planning effort analyzed future transportation conditions and evaluated alternative strategies for phased investments that support regional and local needs.¹ This document reflects the Policy Advisory Group's unanimous approval of the transportation investments, next steps for policy and plan updates, and potential funding strategies described in this document.

Purpose

The purpose of this refinement plan was to determine the major transportation system connecting Tualatin-Sherwood Road to I-5 in North Wilsonville through the Basalt Creek Planning Area, which is currently an unincorporated urban area of Washington County between the cities of Tualatin to the north, and Wilsonville to the south (see Figure 1). This plan refines recommendations from the I-5/99W Connector Study and the Regional Transportation Plan, setting the stage for land use concept planning and comprehensive plan development for the Basalt Creek area.

Planning Context

The need to plan for the future transportation system in the Basalt Creek area is driven not only by future growth in the Basalt Creek Planning area itself, but by future growth in surrounding areas targeted for industrial development. Basalt Creek currently lacks the multi-modal transportation facilities needed to support economic and urban-level development. Several planning

The Basalt Creek Transportation Refinement Plan was a joint effort involving:

- Washington County
- City of Tualatin
- City of Wilsonville
- Metro
- The Oregon Department of Transportation
- Area Citizens

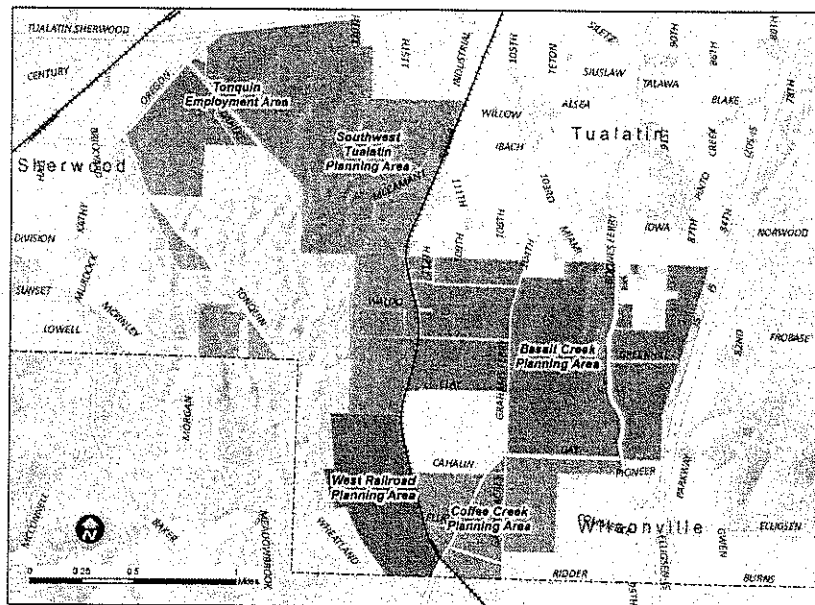


Figure 1: Basalt Creek Planning Area Location

¹ See *Basalt Creek Transportation Refinement Plan Technical Report* for more information.



efforts, summarized below, provide background and context for the Basalt Creek Transportation Refinement Plan.

- The **I-5/99W Connector Study** recommended an alternative that spreads east-west traffic across three smaller arterials rather than a single expressway. Although specific alignments for these arterials were not defined, the eastern end of the Southern Arterial was generally located within the Basalt Creek Planning Area, south of Tonquin Road. The present planning effort aims to further define the location of the connection between the SW 124th Avenue Extension and the I-5/Elligsen interchange in a manner that does not preclude the future Southern Arterial west of SW 124th.
- The **2035 Regional Transportation Plan (RTP)** calls for detailed project planning and near-term construction of an extension of SW 124th Avenue from Tualatin-Sherwood Road to the I-5/Elligsen Road interchange, supporting industrial access from the Tonquin, Southwest Tualatin, and Basalt Creek Planning Areas. The RTP also calls for the near-term construction of the Tonquin Trail (see below).
- The **Tonquin Employment Area, Southwest Tualatin Concept Planning Area, and Coffee Creek Planning Area** together comprise about 1,000 acres surrounding the Basalt Creek area that are planned primarily for industrial use. These areas are expected to generate growing freight and work-related travel demands on the multi-modal transportation network that runs through the Basalt Creek area.
- The **SW 124th Avenue Extension** Project, currently underway, is planning and designing the corridor described in the RTP from Tualatin-Sherwood Road to Tonquin Road. The present planning effort aims to extend the corridor to I-5 as envisioned in the RTP and ensure consistency with current SW 124th Avenue project.
- Washington County's **Boones Ferry Road** improvement project, also currently underway, provides pedestrian and bicycle improvements and an intermittent center turn lane between Norwood Road and Day Road. It is an assumed improvement for the Basalt Creek area.
- Near-term construction of the **Tonquin Trail** is called for in the RTP. The master plan identifies an alignment for new bicycle and pedestrian connections between Sherwood, Tualatin, and Wilsonville, with connections to the larger regional trail system. The Tonquin Trail will travel through the Southwest Tualatin Concept Plan Area and the Tonquin Employment Concept Plan Area, and is an assumed improvement within the Basalt Creek Transportation Refinement Plan.
- **Transportation System Plan** updates for Washington County, Tualatin, and Wilsonville are currently underway. Washington County will incorporate recommendations from this refinement plan into the County TSP update. The cities of Tualatin and Wilsonville will not incorporate these recommendations into their current TSP updates, but will carry the recommendations into land use concept planning and future TSP updates.

Facility Considerations and Characteristics

At the outset of this effort, agencies articulated a set of considerations to guide selection of the preferred transportation system as well as preferred characteristics of the primary east-west facility through the area.

- **Guiding considerations** included: ability to fund and phase improvements, level of impacts (environmental, right-of-way, etc.), support for development, consistency with regional policy, and traffic operations performance.
- **Facility characteristics** included: for the primary arterial connection, a 45 mph prevailing speed and access spacing of one-half mile to one mile to improve capacity.

Recommendation

The Policy Advisory Group (PAG), which consists of elected officials and key staff from the project's five partner agencies, recommends the following elements as part of an overall Action Plan (illustrated in Figure 2) for the area.

Roadways

The final recommendation is for a combination of new and improved roadways through the Basalt Creek area. The key new roadway through the area is a five-lane east-west extension of SW 124th Avenue, aligned south of Tonquin Road and extending east to Boones Ferry Road. The recommendation also includes improvements to existing roadways in the area, such as Tonquin Road, Grahams Ferry Road, Boones Ferry Road, and Day Road.

Protection of right-of-way for the new east-west roadway from the 124th Avenue extension to Boones Ferry Road is a key element of this recommendation. Right-of-way protection and purchase will be addressed separately, concurrent with the Basalt Creek land use concept planning.

During the planning process, the City of Wilsonville expressed concern about the structural condition of Day Road (i.e., failing roadway base and resulting pavement deterioration) and its ability to carry freight traffic for further development of industrial lands. While the Basalt Creek Transportation Refinement Plan focused on roadway needs related to capacity, the PAG agreed that the function of the arterial network in the Basalt Creek area includes providing roadways with adequate structural design for regional freight needs. Therefore, the PAG agreed that the project recommendations include a commitment to address the construction, operations, and maintenance of the arterial network through the concept planning process.

Overcrossings

The ability to construct two new I-5 overcrossings, including an off-street multi-use path, should be preserved in order to provide for future circulation and connectivity across the Basalt Creek area and into areas east of I-5. These overcrossings are recommended as long-term improvements and are likely not needed until 2035 or later. Forecasts show that the second overcrossing is not needed unless surrounding urban reserve areas east of I-5 and south of I-205 are developed. This refinement plan is neutral on the timing of urban reserves development, and therefore does not specify the timing and order of overcrossing improvements.

Active Transportation

All improved roadways in the Action Plan include bike lanes and sidewalks consistent with Washington County urban standards. This recommendation also includes integration of the regional Tonquin Trail into the transportation network. Metro, in close coordination the cities of Tualatin, Wilsonville, Sherwood, and Washington and Clackamas counties, led the master planning effort that identified a preferred alignment that travels through the Basalt Creek Planning Area. Roadway cross-sections and right-of-way purchases for the future east-west facility will consider needs for the Tonquin Trail in the design for the railroad overcrossing and improvements to Tonquin Road between Morgan Road and Tonquin Loop Road. Design for the east-west facility should also consider providing an off-street multi-use path that connects to the Tonquin Trail and extends east of I-5. Details of how this multi-use path will be integrated with the east-west facility design will be refined during later land use concept planning.

Action Plan

The recommended Action Plan consists of 18 transportation investments, shown in Figure 2. Timing of projects was prioritized through an analysis of likely transportation needs in 2020, 2030, and 2035 based on growth assumptions from the adopted Regional Transportation Plan. Because of uncertainty regarding the years during which development in the Basalt Creek Planning Area and surrounding areas will occur, phasing for investments is classified as short-term, medium-term, and long-term. Descriptions of these investments, as well as timing and the funding needed, are shown in Table 1. Cost estimates include right-of-way.

Table 1: Basalt Creek Action Plan

ID	Project	Short-Term	Medium-Term	Long-Term	Cost (\$2012)
1	124 th Avenue Extension (Tualatin-Sherwood Road to Tonquin Road): Construct three lane road extension with bike lanes and sidewalks	x			\$20,000,000
2	Tonquin Road (124 th Avenue to Grahams Ferry Road): Widen to three lanes with bike lanes and sidewalks, grade separate at railroad, improve geometry at Grahams Ferry Road ¹	x			\$10,500,000
3	Grahams Ferry Road (Tonquin Road to Day Road): Widen to three lanes with bike lanes and sidewalks	x			\$5,400,000
4	Boones Ferry Road (Norwood Road to Day Road): Widen to three lanes with bicycle and pedestrian improvements	x			\$10,800,000
5	124 th Avenue/Tonquin Road Intersection: Signal (may include Tonquin Trail crossing)	x			²
6	Grahams Ferry Road/Tonquin Road Intersection: Signal	x			\$500,000
7	Boones Ferry Road/Day Road Intersection: Add second southbound through approach lane	x			³
8	Boones Ferry Road/95 th Avenue Intersection: Construct dual left-turn and right-turn lanes; improve signal synchronization, access management and sight distance	x			\$2,500,000
9a	Tonquin Trail (Clackamas County Line to Tonquin Loop Road): Construct multi-use trail with some segments close to but separated from road	x			\$8,900,000 ⁴
9b	Tonquin Trail (Tonquin Loop Road to Tualatin-Sherwood Road): Construct multi-use trail with some segments close to but separated from road		x		\$7,100,000 ⁴
10	124 th Avenue Extension (Tualatin-Sherwood Road to Tonquin Road): Widen from three to five lanes with bike lanes and sidewalks		x		\$14,000,000
11	East-West Arterial (124 th Avenue to Boones Ferry Road): Construct 5 lane roadway with railroad and creek crossings, integrate segment of Tonquin Trail ⁵		x		\$57,900,000
12	Boones Ferry Road (East-West Arterial to Day Road): Widen to five lanes with bike lanes and sidewalks		x		\$1,100,000
13	Kinsman Road Extension (Ridder Road to Day Street): Construct three lane road extension with bike lanes and sidewalks		x		\$10,400,000
14	Day Road (Kinsman Road to Boones Ferry Road): Widen to five lanes with bike lanes and sidewalks		x		\$5,800,000
15	I-5 Southbound off-ramp at Boones Ferry Road/Elligsen Road: construct second right turn lane		x		\$500,000
16	Boones Ferry Road/95 th Avenue Intersection: Access management		x		⁶
17	Day Road Overcrossing: Extend new four lane crossing over I-5 from Boones Ferry Road to Elligsen Road			x	\$33,700,000- \$44,100,000 ⁷
18	East-West Arterial Overcrossing: Extend new four lane crossing over I-5 from Boones Ferry Road to Stafford Road. Integrate multi-use path in corridor that connects to Tonquin Trail			x	\$38,000,000
TOTAL		\$59M	\$97M	\$72-82M	\$228-238M

¹ Grade separation for Tonquin Road is optional. An at-grade crossing would reduce cost by around \$2,000,000

² Cost included in Project 1

³ Coordinate with Project 4. Cost of approach lane included in estimate for Project 12

⁴ Tonquin Trail cost estimated by Metro as part of trail planning effort

⁵ Project 11 can potentially be built in two phases funded separately, west and east of Grahams Ferry Road. However, traffic benefits needed in the medium term (around 2030) will not be realized unless entire project is completed

⁶ Project details to be determined by further coordination between City of Wilsonville and ODOT. Cost expected to be minimal

⁷ Specific alignment approaching Elligsen Road will determine project cost. Alignment to Parkway Center Drive is estimated at \$33,700,000, and alignment to Canyon Creek Road is estimated at \$44,100,000

Each investment adds important improvements to the major transportation system in the Basalt Creek area to support future development, adding new multimodal facilities and upgrading existing facilities to urban standards. Although not shown on the map, it is expected that future concept planning will identify locations for additional, lower-classification roads and other transportation facilities to serve future development as well.

Are these new projects?

While cost estimates for the entire recommendation may total as high as \$238,000,000, all of the 18 projects have some relation to investments already planned in the adopted RTP. Table 2 shows projects from the RTP that have overlap or similarity to projects contained in the Action Plan. **Note that many of these projects are different in scope from those contained in the Action Plan, and will have different cost estimates. Future RTP updates may include updated cost estimates from this study.**

Table 2: Related projects from the Regional Transportation Plan

RTP ID	RTP Project	Related Action Plan Projects	Time Period	Cost (\$2007)
10736	124 th Avenue: Construct new street from Tualatin-Sherwood Road to Tonquin Road: 5 lanes	1,5,10,11	2008-2017	\$82,500,000
10590	Tonquin Road: Realign and widen to three lanes with bike lanes and sidewalks (Oregon Street to Grahams Ferry Road)	2,6	2018-2025	\$28,406,000
10588	Grahams Ferry Road: Widen to three lanes, add bike/pedestrian connections to regional trail system and fix undersized railroad crossing (Helenius Street to Clackamas County line)	3	2008-2017	\$28,000,000
10732	Boones Ferry Road: Widen to five lanes (Norwood Road to Day Road)	4,7,12	2018-2025	\$40,050,000
10852	95 th /Boones Ferry/Commerce Circle Intersection Improvements	8,16	2008-2017	\$2,500,000
10854	Tonquin Trail: Construct multi-use trail with some on-street segments (Tualatin-Sherwood Road to Clackamas County line)	9a,9b	2008-2017	\$3,000,000
10853	Kinsman Road extension with bike lanes and sidewalks (Ridder Road to Day Road)	13	2008-2017	\$6,500,000
11243	Day Road reconstruction to accommodate trucks (Grahams Ferry Road to Boones Ferry Road)	14	2008-2017	\$3,200,000
11342	I-5/99W Connector Southern Arterial/I-5 Interface ¹	15,17,18	2026-2035	\$50,000,000

¹ Construction of projects specifically related to the I-5/99W Connector Southern Arterial, such as the I-5 interface, are contingent on certain project conditions being met. See Regional Transportation Plan for details.

Policy and Plan Updates

Recommendations in this plan allow new concept planning efforts to move forward and provide guidance for updates of existing transportation plans.

Basalt Creek and West Railroad Area Concept Planning

The transportation system recommended in this plan becomes the framework for more detailed land use concept planning of the Basalt Creek Planning Area and West Railroad Planning Area by the cities of Tualatin and Wilsonville. Key recommendations to be carried forward during concept planning include:

- Protection of the major transportation facility corridors from development encroachment.
- Coordination of the local transportation system with the transportation investments included in this plan (unless amended by the parties of this study). Each roadway in the Basalt Creek area has access spacing standards that protect the safety and operations of the system, and these standards help determine appropriate local street connections. The new east-west facility is limited to accesses at 124th Avenue, Grahams Ferry Road, and Boones Ferry Road.
- Detailed concept planning in the Basalt Creek area should consider multi-use path connections to the Tonquin Trail that emphasize directness and minimize conflicts, enhancing bicycle and pedestrian access to new residential and employment areas. In the West Railroad area, concept planning will also include sections of the Tonquin Trail.

Regional Transportation Plan

In many cases, this transportation refinement plan provides new detail and cost estimates for projects that are already in the adopted RTP. These refined project descriptions, cost estimates, and timing considerations should be considered when projects are forwarded to Metro for the next RTP update. Examples of RTP projects that overlap with projects in this refinement plan include:

- 10590 (Tonquin Road). Action Plan project #2 includes a grade-separated railroad crossing, which is not included in the RTP project description.
- 10852 (95th/Boones Ferry/Commerce). Action Plan projects 8 and 16 will require further coordination with ODOT to determine geometry and timing of intersection improvements.
- 11243 (Day Road). Action Plan project #14, which widens part of Day Road, should also upgrade the roadway structure and pavement conditions to accommodate increasing heavy truck volumes. Although project #14 applies only to the section of Day Road between Kinsman Road and Boones Ferry Road, funding of roadway reconstruction between Kinsman Road and Grahams Ferry Road should also be discussed as part of land use concept planning.
- 10854 (Tonquin Trail). Action Plan projects #2, #5, #11 all need to consider Tonquin Trail in their design, including most recent alignment information and cost estimates from the trail master plan.

Washington County TSP Update

Most of the projects included in the Action Plan are new facilities in unincorporated Washington County or improved facilities already under County jurisdiction. An amendment to update the Washington County TSP will be done in 2013 to incorporate the descriptions, cost estimates, and timing of these projects.

Tualatin and Wilsonville TSP Updates

The Cities of Tualatin and Wilsonville are also currently updating their transportation system plans. However, because concept planning for Basalt Creek will include agreement on the future city limit boundary between the two cities, as well as more detailed transportation network considerations, the projects included in this plan will not be incorporated as part of the current TSP updates. Future TSP updates may reflect elements from this refinement plan by amending project lists, maps, and funding strategies.

Funding

Funding for some short-term Action Plan projects has already been programmed by Washington County through their Major Streets Transportation Improvement Program (MSTIP). This includes \$16.9 million (\$10.9 million in MSTIP funding and \$6 million from other sources) for an interim two-lane extension of SW 124th Avenue from Tualatin-Sherwood Road to Tonquin Road. It also includes an additional \$10 million for right-of-way purchase or other improvements from the list identified by this Plan. Washington County has also provided \$11 million in funding for the current Boones Ferry Road improvement project.

While this recommendation does not identify a specific overall funding strategy for the Action Plan, there are many existing revenue sources that may be used to fund the recommended investments. **Many are subject to a state or regionally competitive process where success can hinge on having a broadly supported plan in place.**

The revenue sources listed below form the basis of the financially constrained Regional Transportation Plan and related project list, which already contains many of the recommended Basalt Creek investments. The RTP assumes federal, state, and local sources, all of which will be key to funding the Action Plan.

Federal

Based on MAP-21² legislation, sources may include:

- **National Highway Performance Program (NHPP).** These funds are intended for rehabilitation and expansion of principal arterials, especially those with important freight functions.
- **Regional Surface Transportation Program (STP) funds.** These funds may be used for virtually any transportation purpose short of building local residential streets.
- **Congestion Mitigation/Air Quality (CMAQ) funds.** These funds typically support biking, walking, and transit projects, and other projects that help to achieve air quality standards.
- **Transportation Alternatives (TA) funds.** TA takes the place of previous programs such as Transportation Enhancements and Recreational Trails, and may be used to fund a variety of non-motorized projects.

² For more information see <http://www.fhwa.dot.gov/map21/>

These funds are allocated to projects through a state or regionally managed competitive process for inclusion in the Metropolitan Transportation Improvement Program (MTIP) and the State Transportation Improvement Program (STIP).

State

State sources include the statewide gas tax, vehicle registration fees, and weight-mile taxes on trucks. These funds typically go to road and bridge maintenance projects, but funding for projects of regional significance, such as those provided by Oregon House Bill 2001 Jobs and Transportation Act (JTA), may be made available for modernization. Again, having a plan in place allows projects to access funds when new funding opportunities become available.

Local

A variety of local funding sources are available, although some, such as urban renewal and local improvement districts, are subject to approval. Sources may include:

- Washington County Major Streets Transportation Improvement Program (MSTIP)
- Local portion of State Highway Trust Fund
- Local gas tax
- Transportation System Development Charges (SDCs) or Transportation Development Taxes (TDTs) levied on new development
- Urban renewal funding
- Developer contributions
- Local improvement districts (LIDs)

Metro Board Council
Oregon Metro Council
600 NE Grand Ave.
Portland, Oregon

via hand delivery to public meeting May 29, 2014

Re: Today's Agenda Item Ordinance No. 1329B, Trails in RSIA Lands

Dear Metro Council Members

Please into public testimony this memo and the attached two pages of photographs from your posted web information about typical design of your trails contemplated in this agenda item.

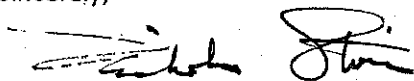
The photo of the design of a trail along railroad tracks is relevant to 11611 SW Waldo Way, Sherwood Oregon that is the former rail station which could be brought back to rail service by replacing the rail switch removed. The attached photo shows an how an industrial facility would become obstructed to connecting to an existing rail line.

For the subject property the trail at Tonquin Industrial Area restricts future development to existing rail infrastructure and is an impediment to commerce and restriction on industrial development for this site. Thus the land is devalued as the trail minimized its access to existing transportation systems (rail).

Also kindly note the typical public road crossings photograph as it relates to the street in the Tonquin Trail area. Please note that your forecast of 250,000 pedestrian trips in such a trail typical of the existing development of the area and typical of the transportation pattern of this particular area and forecasted forward.

Your reconsideration of this agenda item is recommended in terms of the negative impacts on Public safety, commerce, transpiration and industrial uses in this and other RSIA areas

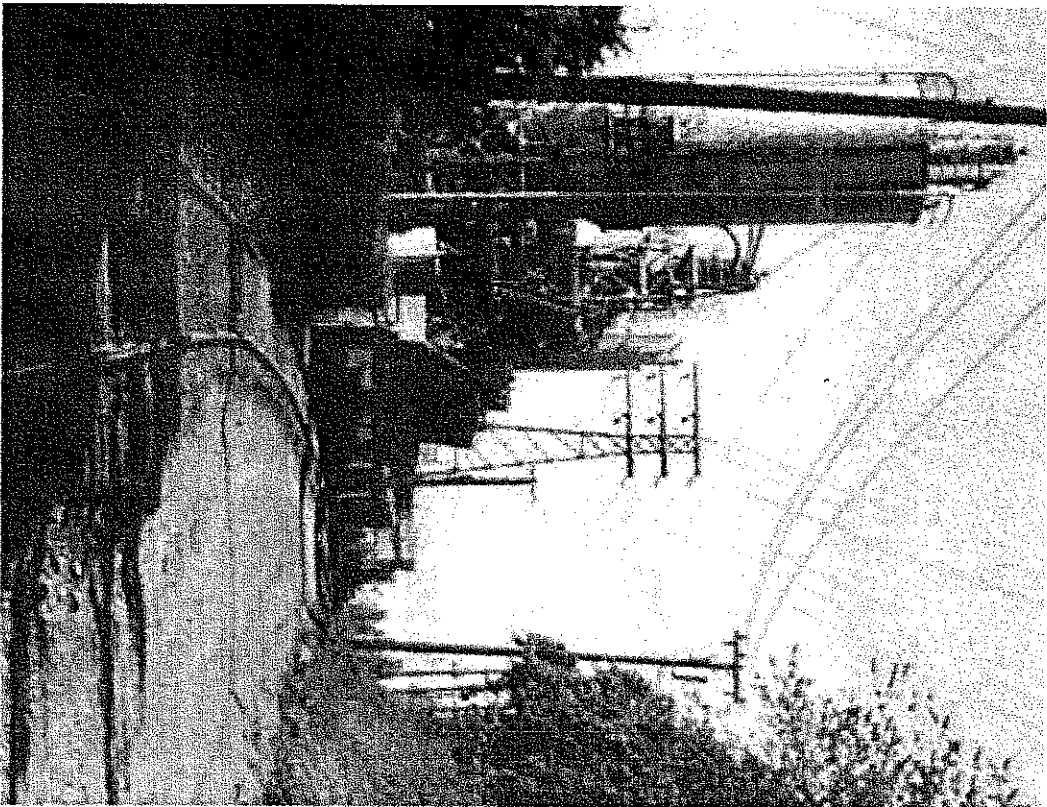
Sincerely,



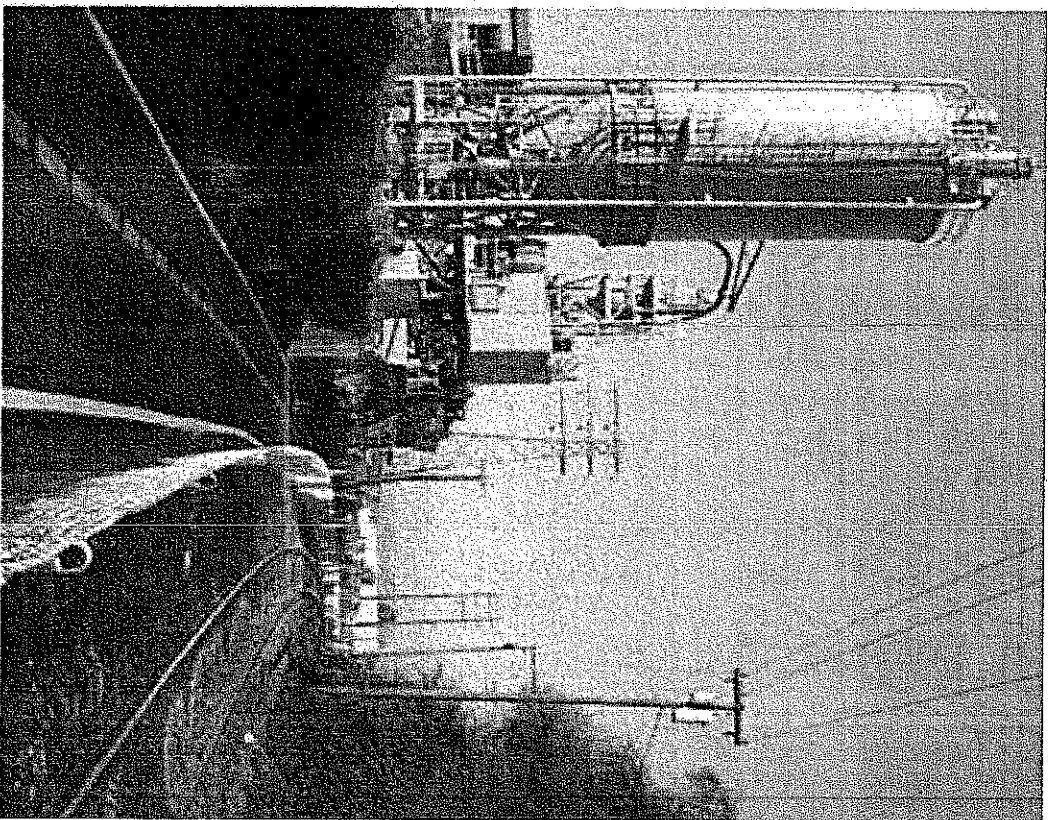
Nick Storie, Owner, 11611 SW Waldo Way, Sherwood Oregon
7301 SE Holgate
Portland, Oregon



Trail near Industrial Areas



Before



After

Springwater-OMSI Rail-With-Trail : Portland, Oregon : Opened November 2002

Trail Crossings

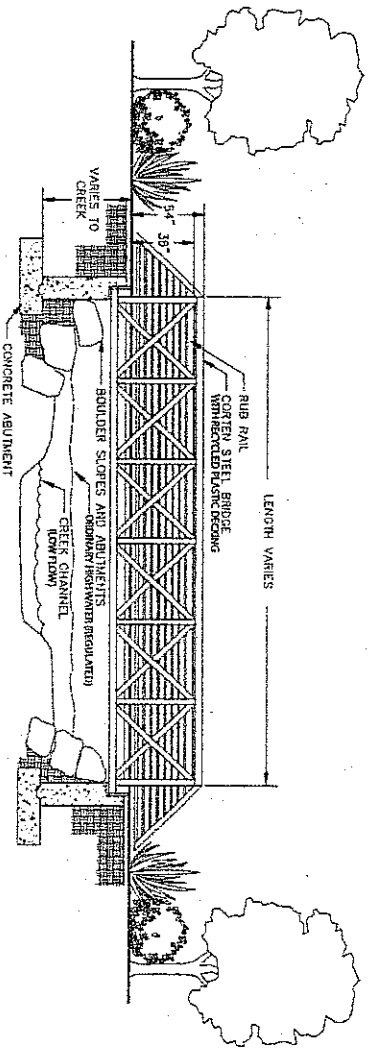
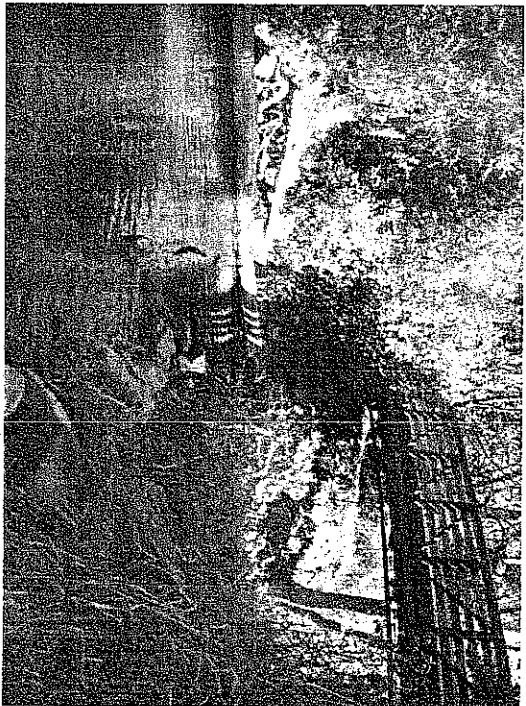
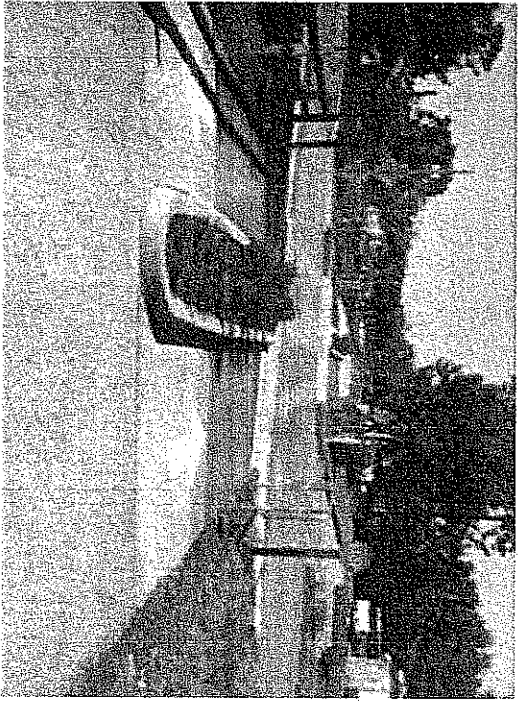
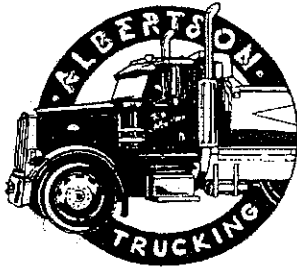


Figure 8 – Environmentally-friendly trail bridge design



Albertson Trucking, Inc.

METRO COUNCIL
600 NE GRAND AVE.
PORTLAND, OR 97232

6/05/14

RE: ORDINANCE #14-13298

Dear Council Members:

On behalf of our business & ourselves personally, we strongly object to the provisions you are wanting to put into law allowing Trails, etc. into RSIA's. We have been working with Metro, City of Tualatin, & WA County for over ten years to be included in the Regionally Significant Industrial Area with the other Tonquin Industrial Group's landowners to satisfy a 50+ acre piece of land that Metro greatly desired for an Industrial area of that size. And for over ten years we have been sadly disillusioned & deceived about how we would be able to continue to operate our successful businesses in cooperation with the various agencies. Sadly we have had to fight for every bit of cooperation we were promised, only to find out that none of it was really ever intended to become reality. People should not have to sue their Government workers to maintain our own properties for which we worked so very hard to buy and work. It seems so unfair to have to keep spending so much money that we should be able to be retiring on just to not have our businesses & properties devalued, so people that have absolutely no ownership of it can meander through it for recreation. It is dangerous, a serious liability for us, and is downright stupid to mix heavy industrial traffic with bikes, tricycles & strollers. Our objections would not be so intense if you were going to site the IATT NEXT to our land and not ON it. The other Trails your Attorney so eloquently keeps bragging about being in such harmonious life with their local industries is completely unlike our situation. They are not being encroached upon like we would be. It doesn't comfort us that no one will put into writing where it is truly exactly planned to be, it just feels like more deception. We were shown a map by one of the Metro employees that it would have to be placed 100 ft. inside our Eastern property line of our parcel furthest to the North to meet Clean Water Services setback requirements, even though we are not under their jurisdiction. That is clearly not simply near our property, which is why we would never be a "willing seller". However we all know that can also be changed on a whim if there is no language in your drafting that takes the situation of eminent domain away from ALL the Government entities involved. We are not opposed to the Trails existing, but put them on public land, not where it is going to put jobs, and lives in jeopardy. "A Little Common Sense Here Please!!"

Therefore, please enter into your records our strong objection to the proposed amendment to alter the allowance of Trails & Parks in RSIA's without specifically omitting our particular properties in the TIG from the amendment. We sincerely appreciate your consideration in this matter. We know none of you have actually seen what the lay of the land is, so please do not feel we are being disrespectful, we are nothing like the others, and hope you can understand our grave concerns.

Yours Truly,



Donna Albertson, Corp. Secretary, Albertson Trucking, Inc.



[*]



Metro | Memo

Date: Thursday, June 05, 2014
To: Metro Council
From: Robert Spurlock, Regional Trails Planner
Subject: Ordinance No. 14-1329B / Trail design best practices in industrial areas

At the public hearing on May 29, 2014, I described some of the types of design elements that are often implemented to ensure that trails are compatible with adjacent industrial uses, including signage, striping, lighting, and landscaping. Attached is a list included in Metro's Trolley Trail Master Plan that provides a more detailed description of the types of design features and improvements that may be included along trails to address potential safety concerns. These features were specifically recommended for the Trolley Trail between Milwaukie and Gladstone, which also crosses through industrial areas. These types of safety recommendations are often implemented to minimize potential conflicts with adjacent uses and ensure compatibility with other property owners, including industrial operations.

A similar list of safety recommendations was not included in the Ice Age Tonquin Trail Master Plan because the primary focus of the project was to determine the trail's alignment. The Trolley Trail planning effort was different from the Ice Age Tonquin Trail in that the entire six-mile alignment of the Trolley Trail followed a streetcar line that had been acquired by the North Clackamas Parks and Recreation District and Metro. Therefore the alignment of the trail had already been determined and was not a proposed alignment as with the Ice Age Tonquin Trail. With the trail alignment already determined, the Trolley Trail Master Plan was able to provide more detail regarding design and traffic control recommendations.

While the Trolley Trail does cross through industrial areas, it does not pass through any RSIA's. Other examples of trails that have been planned and developed by Metro in the last 20 years through RSIA's include the Peninsula Crossing Trail, which passes through an RSIA in North Portland and was completed in 2002, and the Springwater Trail, which includes a section that passes through an RSIA in southeastern Gresham that was completed in 2000. Also, the Port of Portland built a 1.7 mile trail in 2008 near North Lombard Street in the Rivergate Industrial Area, which is designated an RSIA under Title 4. And an existing portion of the North Portland Willamette Greenway includes an approximately two-mile-long trail that crosses directly through the Swan Island Industrial Area RSIA. Much of the trail through Swan Island has been in place since the 1980s, but portions have been built through the RSIA more recently, including a portion along North Ballast Street that was built in 2012.

Another example is the Marine Drive Trail, which includes approximately 8.5 miles crossing through an RSIA along the Columbia River in North and Northeast Portland. That trail has been in place since the 1980s, and industrial land owners have generally welcomed the trail. One industrial landowner, Staples, Inc., actually donated land in 2011 to facilitate the completion of a new segment of the trail. More than a dozen other industrial landowners have sold land to Metro since 2008 for completion of the trail. Many of these landowners have expressed their appreciation of the trail and their desire for its completion. They see it as an asset because it draws bicyclists off busy roads like Marine Drive, and because it offers employees a place to walk during breaks.

The design of each of these trails incorporates elements similar to those included on the attached list of safety features. Using safety features such as these, and the types of traffic safety features described in Chapter 4 of the Ice Age Tonquin Trail Master Plan, the Ice Age Tonquin Trail and other trails to be developed in the future through industrial areas can be designed to minimize potential conflicts with industrial operations and ensure the trail will be compatible with industrial uses.

An excellent example of the use of signage and design to ensure compatibility was provided at the hearing by the photographs and description of the Springwater Corridor intersection with the Ross Island Sand and Gravel (RISG) cement batch plant in Portland's central eastside industrial area. As described at the hearing, that portion of the Springwater Corridor was opened in 2005 and currently has 5,000 daily users, which equates to approximately 28,000 per week and 1.5 million per year. The RISG plant operates from dawn to dusk and involves significant heavy cement mixer and flatbed truck traffic. As shown in the photos, the RISG access point approaches the trail from a challenging angle and must directly cross the trail to enter and exit the facility. However, data provided by the City of Portland show that there has been only one accident in that area involving a bicycle since 2003, and that crash was not at the RISG location.

VI. Trail Safety Recommendations

Public Safety Audit

As part of this planning effort, the consultant team performed a Safety Audit of the Trolley Trail right-of-way in conjunction with a Clackamas County law enforcement officer. The intent of this audit was to review field conditions from law enforcement's perspective and apply recommended crime prevention methods through environmental design. The corridor was walked the majority of its length, conditions noted and photographed.

Table 26 summarizes key safety issues, location(s) of concern and recommended improvements.

Table 26. Safety Recommendations

Safety Issue	Recommended Improvements	Location on Trail
Unwanted vehicle access on the trail The use of the right-of-way by 4-wheel drive activity was noted at three locations along the trail. Area one is from Silver Springs to Torbank. Area two is in the double SE Arista section from SE Creighton to SE Concord Road. Area three is just north of SE Park Avenue.	1. Utilize landscaping to define the corridor edge and trail, including earth berms and large boulders.	All, with emphasis on Segment 5, Creighton to Concord, and segment 2 just north of Park.
	2. Use bollards at intersections.	All
	3. Pass a motorized vehicle prohibited ordinance and sign the trail.	All
	4. Where autos share access along the Trolley Trail for private property access, separate the auto use from the trail use and provide a vegetative buffer between the trail and the driveway.	Segment 3, Park to Torbank.
	5. Close off opportunity for driving through between Silver Springs & Torbank with a physical barrier and "no outlet" signage.	Segment 3, Park to Torbank.
	6. Create a Trail Watch program and encourage citizens to photograph report illegal vehicle use of the corridor.	All
	7. Lay the trail out with curves that allow bike/ped passage, but are uncomfortably tight for automobile passage.	Segment 5, Creighton to Concord.
Privacy of adjacent property owners This was one of the biggest concerns expressed by neighbors in the Creighton area. Concern is that the trail will bring people into areas that have for decades been quasi-private. Trail users will be able to peer into people's backyards and homes.	1. Encourage the use of neighborhood friendly fencing and also planting of landscape buffers.	All
	2. Clearly mark trail access points.	All
	3. Post trail rules that encourage respect for private property.	All
	4. Strategically placed lighting.	All

TRAIL SAFETY RECOMMENDATIONS

Safety Issue	Recommended Improvements	Location on Trail
<p>Litter and dumping</p> <p>Incidental dumping was noted throughout the right-of-way, the majority of which was yard debris that appears to be dumped over property line fences.</p>	1. Post trail rules encouraging pack it in pack it out etiquette.	All, post rules at access points.
	2. Place garbage receptacles at trailheads.	All
	3. Provide good visual access to the trail.	All
	4. Strategically-placed lighting, utilizing light shields to minimize unwanted light in adjacent homes.	All
	5. Manage vegetation within the right-of-way to allow good visual surveillance of the trail from adjacent properties and from roadway/trail intersections.	All
	6. Encourage local residents to report incidents as soon as they occur.	All
	7. Remove dumpsites as soon as possible.	All
	8. Encourage use of yard debris recycling service.	All
<p>Trespassing</p> <p>Trespassing through people's backyards was a concern expressed by some members of the public.</p>	1. Clearly distinguish public trail right-of-way from private property through the use of vegetative buffers and the use of good neighbor type fencing.	All; Special emphasis on Creighton area in segment 5.
	2. Post trail rules that encourage respect for private property.	All
	3. Place good neighbor fencing between trail and residence immediately north of Park.	Segment 2, single resident just north of Park.
<p>Crime</p> <p>Creighton area neighbors expressed concern about potential loitering, burglary, muggings, kidnapping, etc. Neighbors stated there were issues several years ago that went away once the right-of-way became impassable due to dense vegetation. Undesirable transient activity should be handled following these recommendations as well.</p>	1. Manage vegetation so that corridor can be visually surveyed from adjacent streets and residences.	All, special noted emphasis on segments 1, 2, and 6.
	2. Select shrubs that grow below 3' in height and trees that branch out greater than 6' in height.	All
	3. Place lights strategically and as necessary.	Light all of segments 1 and 2 (where necessary). Add lights at intersections and where necessary between intersections for segments 3-8.
	4. Place benches and other trail amenities at locations with good visual surveillance and high activity.	All, two sites were identified one at 28th as an access point, second at just south of Concord. Both are suitable bench locations.
	5. Provide mileage markers at quarter-mile increments and clear directional signage for orientation.	All
	6. Create a "Trail Watch Program" involving local residents.	All
	7. Proactive law enforcement. Utilize the corridor for mounted patrol training.	All
<p>Private use of corridor</p> <p>Private use of the corridor includes parking, vehicle access to private property, landscaping, and placement of small buildings on the right-of-way.</p>	1. Attempt to negotiate win/win solution with property owners.	All Parking noted at Concord, Hull, and Glen Echo. Encroachment activity in segment 2, 3, 7, and 8.
	2. Eliminate where detrimental impact to trail cannot be reasonably ameliorated.	All

TRAIL SAFETY RECOMMENDATIONS

Safety Issue	Recommended Improvements	Location on Trail
Intersection safety Roadway and trail crossings present a potential safety concern between trail users and cars. Naef and Roethe were both noted as higher level safety concerns due to local high school traffic.	1. Require all trail users to stop at public roadway intersections through posting of stop signs.	All
	2. Provide cross walk striping and trail crossing warning signs for vehicle drivers. Put Trolley Trail logo on warning signs.	All
	3. Install flashing yellow lights at Naef, Roethe, and Concord.	Segment 6 and 7
	4. Utilize existing signal at SE Jennings and SE McLoughlin Boulevard crossing. Widen sidewalk at west and east side of SE McLoughlin Boulevard.	Segment 7
	5. Manage vegetation at intersections to allow visual access at crossings.	All
	6. Redesign 22nd to force vehicles to slow down as they exit SE McLoughlin Boulevard.	Segment 1
	7. Redesign 26th & Sparrow to narrow pavement area and slow vehicles down as they exit SE McLoughlin Boulevard	Segment 2
Local on-street parking A concern in the Evergreen, Silver Springs and Torbank area.	1. Post local residential streets as parking for local residents only to discourage trail user parking. Place "no outlet" and "no parking" signs prior to trail access points.	All
Trailhead safety	1. Clearly identify trailhead access areas.	All trailheads.
SE McLoughlin Boulevard impacts The proximity of the trail to SE McLoughlin Boulevard in segments 1 and 2 was identified as a concern. Though adequate setback is present, greater separation should be encouraged.	1. Deepen and widen the drainage ditch at the roadway shoulder while still allowing surveillance through and across ditch. 2. Place a small earth berm between trail and road.	Segment 1 and 2
Vandalism	1. Select benches, bollards, signage and other site amenities that are durable, low maintenance and vandal resistant.	All
	2. Respond through removal or replacement in rapid manner.	All
	3. Keep a photo record of all vandalism and turn over to local law enforcement.	All
	4. Encourage local residents to report vandalism.	All
	5. Create a trail watch program; maintain good surveillance of the corridor.	All
	6. Involve neighbors in trail projects to build a sense of ownership.	All
	7. Place amenities (benches, etc.) in well used and highly visible areas.	All

Community Involvement with Safety on the Trail

Creating a safe trail environment goes beyond design and law enforcement and should involve the entire community. The most effective and most visible deterrent to illegal activity on the Trolley Trail will be the presence of legitimate trail users. Getting as many “eyes on the corridor” as possible is a key deterrent to undesirable activity on the Trolley Trail. There are several components to accomplishing this as outlined below:

Provide good access to the trail

Access ranges from providing conveniently located trailheads along the trail, to encouraging the construction of sidewalks to accommodate access from private developments adjacent to the trail. Access points should be inviting and signed so as to welcome the public onto the trail.

Good visibility from adjacent neighbors

Neighbors adjacent to the trail can potentially provide 24-hour surveillance of the trail and can become NCPRD’s biggest ally. Though some screening and setback of the trail is needed for privacy of adjacent neighbors, complete blocking out of the trail from neighborhood view should be discouraged. This eliminates the potential of neighbors’ “eyes on the trail,” and could result in a “tunnel effect” on the trail.

High level of maintenance

A well maintained trail sends a message that the community cares about the public space. This message alone will discourage undesirable activity along the trail.

Programmed events

Community events along the Trolley Trail will help increase public awareness and thereby attract more people to use the trail. The Friends of the Trolley Trail can help organize numerous public events along the trail which will increase support for the trail. Events might include a day-long trail clean up or a series of short interpretive walks led by long time residents or a park naturalist. The Friends of the Trolley Trail can also generate public support for future funding applications.

Community projects

The support generated by the Friends of the Trolley Trail could be further capitalized by involving neighbors and friends of the trail in a community project. Ideas for community projects include volunteer planting events, art projects, interpretive research projects, or even bridge building events. These community projects are the strongest means of creating a sense of ownership along the trail that is perhaps the strongest single deterrent to undesirable activity along the trail.

Adopt-a-Trail Program

Nearby businesses, community institutions, and residential neighbors often see the benefit of their involvement in the trail development and maintenance. Businesses and developers may view the trail as an integral piece of their site planning and be willing to take on some level of responsibility for the trail. The Elks Club may provide an excellent opportunity to make contact with local business leaders. Creation of an adopt-a-trail program should be explored to capitalize on this opportunity and build civic pride.

Trail Watch Program

The Clackamas County's Sheriff's office is pursuing the development of a "Trail Watch" program along the Trolley Trail. This program would provide an opportunity for local residents to become actively involved in crime prevention along the trail. Similar to Neighborhood Watch programs, residents are brought together to get to know their neighbors, and are educated on how to recognize and report suspicious activity.

Roger Alfred

From: Geller, Roger [Roger.Geller@portlandoregon.gov]
Sent: Tuesday, June 03, 2014 11:35 AM
To: Roger Alfred; Robert Spurlock
Subject: RE: Crash data for Springwater

It was at 4th & Caruthers.

Roger Geller
503 823 7671 (w) / 503 823 7609 (f)

From: Roger Alfred [mailto:Roger.Alfred@oregonmetro.gov]
Sent: Tuesday, June 03, 2014 10:05 AM
To: Geller, Roger; Robert Spurlock
Subject: [Approved Sender] RE: Crash data for Springwater

Thanks Roger -- does your data show the precise location of the single bicycle-related crash? I'm just curious if it involved the intersection of the trail and the access point for the Ross Island Sand and Gravel cement batch plant near SE Ivon and 4th Ave.

Roger Alfred
Office of Metro Attorney
(503) 797-1532

From: Geller, Roger [mailto:Roger.Geller@portlandoregon.gov]
Sent: Tuesday, June 03, 2014 9:33 AM
To: Robert Spurlock
Cc: Roger Alfred
Subject: Crash data for Springwater

Hi Robert,

In response to your question about safety conditions in the industrial areas through which the Springwater Corridor Trail passes, I can tell you the following:

The Springwater Corridor Trail passes through an industrial area along SE Caruthers Street from the river and SE 4th Ave, and along SE 4th Ave from SE Caruthers Street and SE Ivon Street. For the period from January 1, 2003 through December 31, 2012 there has been 1 crash involving an automobile and either a bicyclist or pedestrian along this three-block area. It was a bike-automobile crash in 2008 and was caused by not yielding at a stop sign to crossing traffic. In the same time period, there have been 6 crashes involving only automobiles in this area.

The city designed these streets to accommodate trail users and industrial freight traffic while minimizing potential conflicts between the two.

Please let me know if you have any other questions.

Roger Geller
Bicycle Coordinator / City of Portland, Oregon
503 823 7671 (w) / 503 823 7609 (f)
Active Transportation

Roger Alfred

From: Veka, Clay [Clay.Veka@portlandoregon.gov]
Sent: Thursday, June 05, 2014 12:07 PM
To: Roger Alfred
Cc: Geller, Roger
Subject: Crash data for N Portland Greenway Trail
Attachments: Swan Island Crash Data 2000-2012.xlsx; Swan Island Crash Map.jpg

Hi Roger,

Responding to our conversation on the phone, I've pulled crash data for some segments along the N Portland Greenway Trail and nearby roads on Swan Island. I've attached the Excel report of crashes as well as a map that shows the intersections I included (red and blue marks indicate crash locations). I did a search from 2000-2012. You will see that of the 297 reported crashes, 2 included bikes (2004 and 2010) and none included pedestrians.

Please let me know if you have any questions.

Regards,

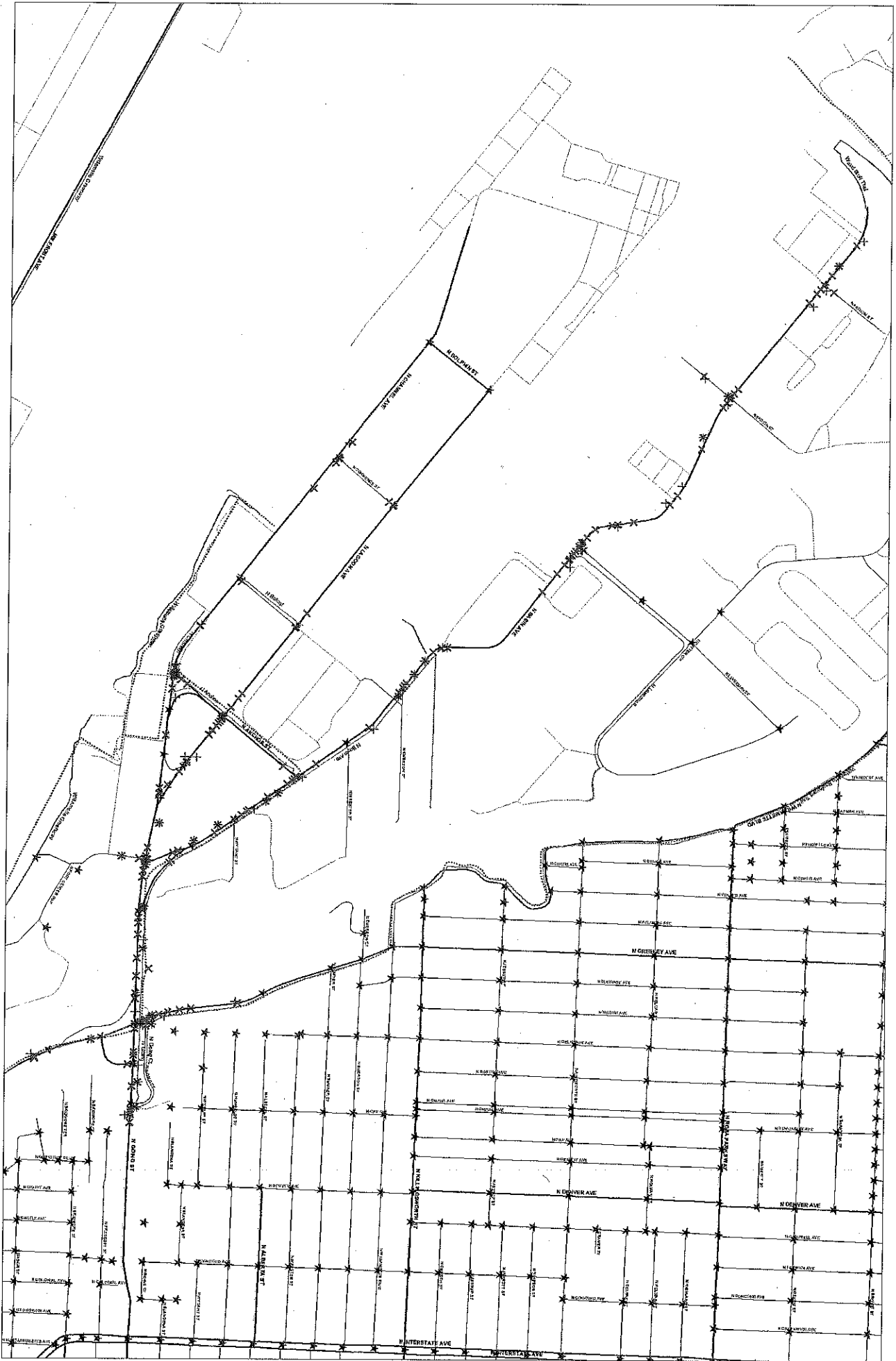
Clay

Clay Veka

High Crash Corridor Program and ADA Curb Ramp Program | Portland Bureau of Transportation

1120 SW 5th Ave, Suite 800 | Portland, OR 97204

503.823.4998 | clay.veka@portlandoregon.gov | [Website - High Crash Corridor](#) | [Website - ADA Curb Ramps](#)



City of Portland, Bureau of Transportation
 Accident History Export

Export Date: 6/5/2014
 Exported By: cveka
 Crash Count: 297

CrashID	Date	CrashType	Severity	NumFatal	NumPeds	NumPedFa	NumPedInj	NumBikes	NumBikeFa	NumBikeInj	Street1	Street2
1369461	5/19/2010 0:00	BIKE	INJ	0	0	0	0	1	0	0	1 N ANCHOR N LAGOON AVE	

VehicleID
2592255

ParticipantID
2961502

CrashID	Date	CrashType	Severity	NumFatal	NumPeds	NumPedFa	NumPedInj	NumBikes	NumBikeFa	NumBikeInj	Street1	Street2
1124097	10/8/2004 0:00	BIKE	INJ	0	0	0	0	1	0	0	1 N BASIN AV N ENSIGN ST	

VehicleID
2131347

ParticipantID
2440807

CrashID	Date	CrashType	Severity	NumFatal	NumPeds	NumPedFa	NumPedInj	NumBikes	NumBikeFa	NumBikeInj	Street1	Street2
1183052	1/9/2006 0:00	S-1STOP	INJ	0	0	0	0	0	0	0	0 N BASIN AV N GOING ST	

VehicleID
2243008

ParticipantID
2566647

VehicleID
2243009

ParticipantID
2566648

Roger Alfred

From: Glancy, Lise [Lise.Glancy@portofportland.com]
Sent: Thursday, June 05, 2014 5:59 PM
To: Bob Stacey; Carlotta Collette; Craig Dirksen; Kathryn Harrington; Martha Bennett; Sam Chase; Shirley Craddick; Tom Hughes
Cc: Roger Alfred; Andy Shaw; Elissa Gertler; John Williams; Randy Tucker; Jim Desmond; Ross Kelly - Western Advocates (kelly@westernadvocates.com); Kirk L. Olsen (KOlsen@trammellcrow.com); mhaynes@portlandalliance.com; Sandra McDonough - PBA (smcdonough@portlandalliance.com); Corky Collier (corky@columbiacorridor.org); Ptreece@westside-alliance.org
Subject: Metro Title 4 Trail Amendments - PROPOSED ORDINANCE LANGUAGE
Attachments: Ordinance 14-1329C Amending Title 4 (with proposed Port edits).docx
Importance: High

Metro President Tom Hughes and Metro Councilors

Before the record closes on the Metro Regionally Significant Industrial Area (RSIA) Title 4 Trail Amendments ordinance, the Port of Portland would like to offer a proposed Ordinance C which better addresses **both** the desire to allow trails within RSIA's, and to protect these areas for their primary industrial purpose.

As you know, the Port is a significant industrial landowner in the Metro region. We also play a key advocacy role on industrial lands at the state and regional level – working with Metro, Business Oregon, NAIOP, Portland Business Alliance and others. We care deeply about this issue as we believe industrial lands for traded-sector development are key to our region's long-term prosperity, providing higher wage jobs for our residents (those with and without college degrees), opportunities for local businesses, and a robust tax base for public services and facilities.

The Port owns a number of industrial lands designated as Title 4 RSIA's. This includes the 3,000-acre Portland International Airport, 458-acre Portland International Center, 2,800-acre Rivergate, 580-acre Swan Island and 800-acre West Hayden Island. We also own Title 4 industrial sites that are not designated as RSIA's, but serve a similar function (221-acre Gresham Vista Business Park and 700-acre Troutdale Reynolds Industrial Park). The Port is a long-time supporter of trails within our industrial parks as we believe they are important amenities for business. Our industrial developments typically include trails and some accessory trail uses. For example, Swan Island includes trails and interpretive sites along the path. Where trails present hazards to the public at our marine terminals, we have worked with stakeholders to find alternate alignments which offer viewpoints to the river.

The Port believes that the proposed Ordinance C (attached and highlighted below) retains the primary industrial focus of RSIA's, while addressing the needed administrative fix for "trails and accessory facilities". The "and" in the last sentence is key to achieving this middle ground.

"D. Cities and counties shall review their land use regulations and revise them, if necessary, to prohibit the siting of schools, places of assembly larger than 20,000 square feet or parks intended to serve people other than those working or residing in the RSIA. Nothing in this subsection is intended to prohibit trails and facilities accessory to and in support of trails from being located within an area designated RSIA on Metro's Title 4 Map, including but not limited to trailhead amenities, parking areas, benches, information kiosks, restrooms, shelters, bicycle racks, picnic areas and educational facilities. Where possible, trails and accessory facilities should be planned and located in a manner that limits impacts on industrial uses. 2) does not interfere with existing or future industrial development or expansion, and 3) while still fulfilling the purpose of the trail and providing a positive experience for trail users."

We urge Metro Council to adopt the proposed Ordinance C language.

Lise B. Glancy
Regional Government Relations Manager
Port of Portland
503/415-6519 work
503/961-5123 cell
lise.glancy@portofportland.com

BEFORE THE METRO COUNCIL
PROPOSAL FROM PORT OF PORTLAND

FOR THE PURPOSE OF AMENDING	)	ORDINANCE NO. 14-1329ABC
TITLE 4 OF THE URBAN GROWTH)	
MANAGEMENT FUNCTIONAL PLAN	)	Introduced by Martha J. Bennett, Chief
REGARDING THE ESTABLISHMENT OF	)	Operating Officer, with the concurrence of
TRAILS AND ACCESSORY FACILITIES IN	)	Tom Hughes, Council President
REGIONALLY SIGNIFICANT INDUSTRIAL)	
AREAS)	

WHEREAS, on December 16, 2010 the Metro Council adopted Ordinance No. 10-1244B, which included amendments to Title 4 (Industrial and Other Employment Areas) of the Urban Growth Management Functional Plan (UGMFP); and

WHEREAS, those amendments included the addition of new protections for Regionally Significant Industrial Areas (RSIAs) under Metro Code Section 3.07.420.D that require cities and counties within the Metro region to adopt land use regulations for RSIAs that “prohibit the siting of parks intended to serve people other than those working or residing in the RSIA”; and

WHEREAS, on February 28, 2013 the Metro Council adopted Resolution No. 13-4415 approving Metro’s Ice Age Tonquin Trail Master Plan, which describes a proposed 22-mile regional trail facility connecting the Tualatin River to the Willamette River and includes a preferred trail alignment that crosses through an area southwest of the City of Tualatin that is mapped with an RSIA designation; and

WHEREAS, on November 1, 2013 the Land Use Board of Appeals (LUBA) issued an opinion in *Terra Hydr v. City of Tualatin*, LUBA No. 2013-016, holding that the proposed regional trail described by Metro’s Ice Age Tonquin Trail Master Plan fell within the meaning of a “park” as that word is used in Metro Code 3.07.420.D and therefore would not be allowed within the RSIA; and

WHEREAS, under Metro’s 2006 Natural Areas bond measure and Metro Resolution No. 06-3672B, Metro was provided funds to purchase property, including easements for regional trails, from willing sellers only; and

WHEREAS, on April 23, 2014, the Metro Policy Advisory Committee voted to recommend that the Metro Council approve the proposed amendment to Title 4 in order to ensure that the Metro Code does not prohibit trails and accessory facilities from being located within industrial areas in the Metro region; and

WHEREAS, the Metro Council has determined that the protections created in Metro Code 3.07.420.D should not be construed to prohibit trails and accessory facilities that provide active transportation options and pedestrian and bicycle connectivity from crossing through an RSIA; now therefore,

THE METRO COUNCIL ORDAINS AS FOLLOWS:

1. Section 3.07.420.D of the Metro Code is hereby amended as follows:

"D. Cities and counties shall review their land use regulations and revise them, if necessary, to prohibit the siting of schools, places of assembly larger than 20,000 square feet or parks intended to serve people other than those working or residing in the RSIA. Nothing in this subsection is intended to prohibit trails and facilities accessory to and in support of trails from being located within an area designated RSIA on Metro's Title 4 Map, including but not limited to trailhead amenities, parking areas, benches, information kiosks, restrooms, shelters, bicycle racks, picnic areas and educational facilities. Where possible, trails and accessory facilities should be planned and located in a manner that: 1) limits impacts on industrial uses where there is a willing seller, 2) does not interfere with existing or future industrial development or expansion, and 3) while still fulfilling the purpose of the trail and providing a positive experience for trail users."

2. The Metro Council hereby adopts the findings of fact and conclusions of law set forth in Exhibit A, attached and incorporated into this ordinance, in support of its decision to amend Section 3.07.420.D of the Metro Code.

ADOPTED by the Metro Council this _____ day of May 2014.

Tom Hughes, Council President

Attest:

Approved as to Form:

Troy Rayburn, Recording Secretary

Alison R. Kean, Metro Attorney