

Metro | *Agenda*

Meeting: Smith and Bybee Wetlands Advisory Committee
Date: Tuesday, September 27th, 2011
Time: 5:30 p.m. – 7:30 p.m.
Place: Metro Regional Center- Room 370A/B
600 NE Grand Ave, Portland Oregon 97232

- Welcome and Introductions (5:30 p.m. – 5:35 p.m.) Dave Helzer
- Approve August Minutes (5:35 p.m. – 5:40 p.m.) Dave Helzer
- Outfall Regulations (5:40 p.m. – 6:05 a.m.) Michael Pronold - BES
- BES process – Stormwater Permits (6:05 p.m. – 6:30 p.m.) Elisabeth Reese-Cardigan
or Stephen Himes - BES
- CNRP Boundary, Buffers and Questions (6:30 p.m. – 7:00 p.m.) Chris Scarzello- BPS
Janet Bebb
- Proposed CNRP Policy on Mitigation (7:00 p.m. – 7:20 p.m.) Dave Helzer
- General Updates (if time allows) (7:20 p.m. – 7:30 p.m.)

Smith and Bybee Wetlands Advisory Committee

September 27, 2011

In Attendance:

Dave Helzer *City of Portland, Bureau of Environmental Services, Chair
Troy Clark *Audubon, Vice Chair
Larry Devroy *Port of Portland
Pam Arden*40 Mile Loop Trust
Susan Barnes *OR Dept of Fish & Wildlife
Dan Moeller*Metro Sustainability Center
Phyllis Cole.....Metro Parks & Environmental Services
Janet Bebb.....Metro Sustainability Center
Jane Van DykeColumbia Slough Watershed Council
Bill Briggs.....Merit Oil Refinery
Carrie Butler*Port of Portland
Sara HendersonSt. Johns Neighborhood Association
Patt Opdyke *North Portland Neighbors
Chris Scarzello.....City of Portland, Bureau of Planning & Sustainability
Elisabeth Reese-Cadigan ...City of Portland, Bureau of Environmental Services
Lynn BarlowCity of Portland, Parks & Recreation
Michael Pronold.....City of Portland, Bureau of Environmental Services

*Denotes voting SBWMC member

The meeting was called to order at 5:40 p.m. and introductions were made.

Approve August Summary Notes

There was a motion by Bill Briggs to accept the August 23, 2011 meeting summary notes, and the motion was seconded by Patt Opdyke. The motion passed without amendment.

Outfall Regulations – Michael Pronold – BES

Michael Pronold, from the City of Portland’s Water Pollution Control Laboratory in BES, made a presentation and answered questions submitted by the Committee. He explained that his group ascertains which industrial stormwater issues require a city permit. They also maintain the system, inform the public and monitor public education.

They deal with stormwater coming off industrial properties. The City and DEQ work together, which satisfies the City’s MS4 requirement and helps DEQ regulate the more than 1200 permits in the system. They administer guidelines to ensure facility compliance. If compliance is not possible the facilities are referred to the state. They also inspect industries to ascertain whether a

Metro | Meeting Summary

permit is necessary based on activities on the property. Non-stormwater pollution systems also come under their purview. This applies to private property only, and not roadways or habitat, and addresses the stormwater that runs off onto city lands. In 1999 the City of Portland increased their responsibility significantly regarding the permit process, although the state still maintains overview of some permits, including the St. Johns Landfill and the Port of Portland. The state manages leaf, water and stormwater facilities.

Michael's group is responsible for discharge directly into surface water bodies. The maintenance inspection program makes sure that swales on 6000 properties and 9000 facilities city-wide are managed correctly.

Michael presented a map of the Smith Bybee Wetlands area that showed 36 MS4 outfalls from the City of Portland into the wetlands, 12 of which are deemed "major." The map also showed non-city outfalls, some from the Port, and others from assorted riparian properties. There are 25 industries that are identified as tax lots with permits, since they drain into the resource area. Clean outfalls may not need permits, and BES doesn't permit the outfalls directly; they permit the property. EPA guidance for permit requirements of sumps, underground injection control structures (UICs) and infiltrates is determined by exposure involved with industrial activities, such as fueling. Some people will alter minor activities; these changes are certified, and carry legal authority to enforce no-exposure certification.

Susan Barnes asked about the possibility of getting designated tax lots to stop discharging completely. This generated discussion on the need for a stormwater pollution control plan. Some people avoid the permitting process by using infiltration-type facilities designed to protect ground water. Putting it into sanitary is also an option, but it is a difficult and expensive process, and is not widely done. Infiltration systems can be used effectively, but require a significant amount of land, which tends to discourage industrial entities from this process.

It was noted that the leachate collection the St. Johns Landfill goes to sanitary. Michael addressed Elaine's question about an outfall at a corner of Affordable Auto Wrecking.

Chris clarified that there may be some existent outfalls that BES is not aware of. These may be inactive or very small.

Michael noted that there are currently no outfalls in the Smith Bybee Wetlands area with substantive documented violations.

It was asked what regulations are triggered by proposal for a new outfall. A permit from the Division of State Lands is required, as well as 401-404 certifications for in-stream work, if the outfall pipe is below high water mark.

BES process - Stormwater Permits - Elisabeth Reese-Cadigan

Elisabeth Reese-Cadigan is in permit review, and her group is working on the CNRP as it applies to stormwater management. The permit system is triggered by new development or redevelopment that is larger than 500 sq ft. Chapter 4 of the Stormwater Management Manual addresses source controls, as well as properties that may not be permitted, but that do engage in activities requiring regulation. The Stormwater Management Manual follows a specific hierarchy which follows a presumptive method; permittees must demonstrate they are capable of meeting the lowest ranking in the hierarchy before they move to the next level.

Metro | Meeting Summary

The following Stormwater Infiltration Hierarchy from the Stormwater Management Manual was received after the meeting from Elisabeth Reese Cadigan for the purpose of clarity.

Categories one and two apply to onsite filtration and categories three and four address offsite discharge.

- 1. Requires total onsite infiltration with vegetated infiltration facilities. Examples include infiltration swales, planters and basins.*
- 2. Requires total onsite infiltration with vegetated facilities that overflow to subsurface infiltration facilities. Examples of subsurface infiltration facilities include drywells, soakage trenches and sumps. These facility types are underground injection control structures (UICs) and must be registered with DEQ. Roof runoff is exempt from pollution reduction requirements and may drain directly to a UIC.*
- 3. Requires onsite detention with vegetated facilities that overflow to a drainageway, river, or storm-only pipe. Vegetated facilities (lined or unlined) must meet pollution reduction and flow control requirements to the maximum extent feasible prior to offsite discharge.*
- 4. Requires onsite detention with vegetated facilities that overflow to the combined sewer system. Vegetated facilities (lined or unlined) must meet pollution reduction and flow control requirements to the maximum extent feasible prior to offsite discharge.*

Direct discharges have occurred when there were no other options available. Issues regarding existing pipes would be handled by Michael's group in BES.

The Stormwater Management Manual does not consider a wetland to be a water body, and it is weak/silent on bodies of water that are not linear. More specific language in the CNRP would be helpful. Susan Barnes asked whether specific language would trigger attention from BES to monitor and/or test existing outfalls, and Elisabeth responded that her group permits only new outfalls. Chris added that the City doesn't go after existing outfalls; they wait until a permit is triggered.

Michael shared that the City has lots of arterial roadways that drain into its outfalls, and they have pollution reduction facilities to manage/treat stormwater, which are replaced upon redevelopment of the property.

Patt suggested that it would be useful to have language that delineates the differences between new, retrofitted and replacement facilities, especially as they relate to the design of, and incorporation into, wetlands. This would include criteria as to when it is appropriate to release stormwater into the wetlands.

Troy asked if a "no outfalls" statement in CNRP would fly; Elisabeth said it wouldn't be helpful in some instances. She added that Recology has no city sewer facility and DEQ refused to allow infiltration, so in this situation their hands are effectively tied as to available options. Bill Briggs noted that there is no place to discharge stormwater on Suttle Road, and that it would be difficult to impose standards in this case.

Patt asked whether it would be appropriate to put the onus on the applicant to demonstrate that no environmental degradation would occur. In theory, anyone connected to an outfall should be reviewed for permitting. Private property with an unmapped outfall could be examined when the owner applied for permits.

Elaine brought up that there are many things that affect the wetlands that may not be a point source, and that this is part of the problem of being surrounded by industrial land. Wash water in Recology's composting process was discussed.

Metro | Meeting Summary

Janet and Chris asked how wording could generate the most protection for the wetland in how outfalls are designed. Dave wondered whether specific functions and values of the wetland could be called out.

Elaine asked whether we should be using goals and ecological objectives, and that aspects such as light and sound could be incorporated into protection criteria.

Patt noted that the BES sentiment to overall cause no harm to water systems seems to require recognition of design factors that might have particular relevance to a wetland. This applies only to new or retrofitted outfalls, and cannot be applied retroactively.

Janet asked whether we shouldn't seek to clarify the situation of existing outfalls. If a problem is found, appropriate resources can be sought. Larry asked if unneeded existing outfalls could be eliminated, and Patt wondered whether reference needs to be made to the City's stormwater process and the Stormwater Management Manual.

Susan Barnes felt that it was important that chemical contaminants included.

The permit center looks up tax lot, and examines the plan for requirements, so CNRP statements the Committee might choose to add need to be easy to access, and should include a list of current projects. Chris said that the Committee doesn't create regulations, but can define desired future outcomes within the current regulatory environment, and she suggested bulleted list of does and don'ts. Janet asked if anyone would like to craft some language for this topic for the CNRP, and Patt volunteered. She and Janet will work together on this.

Troy brought up Recology as an example of a property with no place to discharge water, which is then essentially forced into discharging into a wetland. This could be seen as a good opportunity to apply the environmental assessment resource to an existing problem.

Chris asked what the water quality is currently in Smith Lake. Elaine answered that it differs with the season, and shared that a more pertinent measurement would be sediment levels of substances such as arsenic.

Larry asked for guidance on how to make this document a strong, living entity for 10 years, and Elisabeth cited Appendix A of the Stormwater Management Manual. She also added that it would be valuable if the Committee shared desirable criteria with the Stormwater Management Manual staff.

CNRP Boundary, Buffers and Questions –Chris Scarzello and Janet Bebb

The buffer handout in the back of NRMP policy 21 says that properties adjoining Smith Bybee must provide a 10-foot buffer. This is essentially not enforceable. The Zoning Code can only speak to the properties within the code and property under consideration. The Permit Center notes that property buffers must be at least 10 feet inside the NRMP, rather than outside the boundary. To accomplish the spirit of the NRMP the buffer would need to be extended, or Smith Bybee supporters could volunteer to do landscaping on contiguous parcels of willing owners. The regulation is not triggered unless the property is within the NRMP, so does not apply to contiguous parcels.

The original Smith Bybee boundary was hand drawn in the 1980s. When the square footage of land within the NRMP was assessed by the City of Portland's GIS staff, nine slivers with unclear boundaries emerged; five on private land and four on public. The Metro Data Resource Center has cleaned up this technical problem, and the boundary with property owners listed was handed out.

Metro | Meeting Summary

Within the next two years the City will be reviewing a number of zoning code provisions. This will provide an opportunity to ask the City to address properties that abut or are contiguous to natural area properties, and whether a landscape buffer is desirable due to the presence of wildlife, children, etc. An aspirational goal may be to achieve as much of a setback as possible. It will be important to get this piece of the puzzle in place within this two-year timeframe.

Susan asked if the slivers could be used for buffering, Chris discussed some of the problems of applying very exact data onto a hand drawn system – it gets very messy.

Where is the new boundary in relation to the slough? Are waters included; are stream banks included; or is the boundary considered top-of-bank? While top-of-bank was not favored because it's hard to define, the river plan has a new definition of this term. What are the Committee's intentions for the boundary at the south along the slough? Management priorities need to be set, and then acted upon. Is the Committee prepared to manage the south bank?

Elaine suggested that areas be included if a particular action would further the Committee's stated goals. There are two property owners that would need to be talked with. Troy would like the Wapato wetlands area to be included in the boundary area, but does it further the conservation goals?

Elaine said the fund was used to purchase property last time around, and using it this time could help with the goal of trail alignment. Janet will talk to Metro's real estate negotiators about this possibility, since they have relationships with the owners. She will get back to the Committee on their response. (This should not be confused with the request to align the regional trail in this area.) Jane thought that protecting the Wapato Wetlands was important.

Patt brought up the boundary issue that includes Merit Oil's parking lot. Chris suggested that a slight wetlands boundary modification could resolve the problem. She thinks the National Wetland Inventory was used to establish this, and Bill stated that the designation occurred from a mapping error that included his land, which was never wetland. He showed the map in question to Chris. A revision to wetland delineation can be made through the CNRP if preparatory work is completed. The new delineation would need to be proposed by the time the CNRP land use application is submitted, anticipated to be December 2011.

At 7:15 p.m. Dave needed to leave and turned the meeting over to Troy.

Patt stated an earlier desire to keep the "pipe stem" property within the management area boundary due to the BNSR mitigation site and concern about pollutants in the area. Bill said that it is the only outfall for drainage for Suttle Road, and it was decided the pipe stem would be kept in, and the parking lot will be moved outside the boundary. Elaine asked how management of these areas would change should this is done. Troy mentioned that having the pipe stem and wetlands in the boundary keeps the Committee's attention on water quality discharge issues, and that Metro's review to make sure the mitigation is successful would be valuable.

Based on the map handout with 5 key boundary questions numbers, the following conclusions were decided upon:

1. The Wapato Wetlands area and the boundary at the Slough generated quite a bit of discussion. The committee requested that staff ask the property owners in the Wapato

Metro | Meeting Summary

Wetlands if they'd be interested in joining in the boundary. Metro is going to follow up with them.

- #2 . The group felt that the boundary should be extended down to the Willamette River, including the Port property.
- #2A. Dave Helzer will check with BES to see if they want to include this area or not.
- #3. Yes, make the adjustment to include the Port property by the Wapato Jail.
- #4. Include the visitor parking area within the boundary.
- #5. Take the parking lot out of the boundary, keep the wetlands in and pipe stem in. Merit Oil may propose new wetland delineation.

Proposed CNRP Policy on Mitigation – Dave Helzer

Patt reported that she read Jonathan Soll's draft policy regarding mitigation projects (attached). Chris allowed that mitigation is a complex and exhaustive process, and Larry pointed out that the draft policy was very complete and thorough. The challenges and benefits of mitigation projects were discussed. Looking at mitigation on a case by case basis will keep the Committee from getting locked in to a specific structure to address mitigation. Dave Helzer proposed specific language to be added to the CNRP.

Policy X: It is anticipated that a variety of mitigation projects may be proposed for Smith and Bybee Wetlands Natural Area. These projects typically aim to compensate for wetland impacts elsewhere in the watershed and/or generate ecosystem services credits for off-site impacts. The Plan does not outright prohibit or allow these types of mitigation projects. The Advisory Committee will review any proposed mitigation project and provide a recommendation to Metro on whether or not to allow the project. Metro's adopted *Mitigation Policy Framework* will serve as an essential tool to Metro and the Committee in evaluating potential projects.

Patt suggested that the mitigation policy document, when finalized, be included in the appendix of the CNRP.

General Updates

- Three hundred and fifty white pelicans were sited September 27, 2011 at Smith Lake!
- The October 12, 2011 hearing to repeal the NRMP is set at City Hall, 2:00 p.m. time certain. Committee members are encouraged to sign up at City Hall to provide up to three minutes of testimony, and Janet and Chris will provide testimony suggestions. There will be a presentation to Council, their questions will be addressed, and testimony will be taken from the public. Susan Barnes will not be available, but will send a letter to Janet, who

 **Metro** | *Meeting Summary*

will be sure it is read into the record. Mike Houck's letter will be sent out to the Committee to share his perspective and provide possible ideas for Committee testimony.

- The next meeting will focus on budget, plans and activities.
- The meeting was adjourned at 7:40 p.m.

**Next meeting:
October 25, 2011
Metro Regional Center, Room 370 A/B
5:30 – 7:00 p.m.**