

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AMENDING) ORDINANCE NO. 04-1042A
 METRO CODE CHAPTER 5.02 TO)
 AMEND DISPOSAL CHARGES AND) Introduced by: Michael Jordan, Chief Operating
 SYSTEM FEES) Officer, with the concurrence of David Bragdon,
) Council President

WHEREAS, Metro Code Chapter 5.02 establishes solid waste charges for disposal at Metro South and Metro Central transfer stations; and,

WHEREAS, Metro Code Chapter 5.02 establishes fees assessed on solid waste generated within the District or delivered to solid waste facilities regulated by or contracting with Metro; and,

WHEREAS, pursuant to its charge under Metro Code Chapter 2.19.170, the Solid Waste Rate Review Committee, has reviewed the Solid Waste & Recycling department's budget and organization, and has recommended methodological changes to the calculation of administrative and overhead costs, and the allocation of these costs to rate bases; and,

WHEREAS, Metro's costs for solid waste programs have increased; now, therefore,

THE METRO COUNCIL ORDAINS AS FOLLOWS:

Section 1. Metro Code Section 5.02.025 is amended to read:

5.02.025 Disposal Charges at Metro South & Metro Central Station

(a) The fee for disposal of solid waste at the Metro South Station and at the Metro Central Station shall consist of:

- (1) The following charges for each ton of solid waste delivered for disposal:
 - (A) A tonnage charge of ~~\$42.55~~45.55 per ton, which includes the Metro Facility Fee set forth in Section 5.02.045;
 - (B) The Regional System Fee as provided in Section 5.02.045;
 - (C) An enhancement fee of \$.50 per ton; and
 - (D) DEQ fees totaling \$1.24 per ton;
- (2) All applicable solid waste taxes as established in Metro Code Chapter 7.01, which excise taxes shall be stated separately; and
- (3) A Transaction Charge of ~~\$6.00~~7.50 for each Solid Waste Disposal Transaction.

(b) Notwithstanding subsection (a) of this section, there shall be a minimum solid waste disposal charge at the Metro South Station and at the Metro Central Station for loads of solid waste weighing 340260 pounds or less of \$17, which shall consist of a minimum Tonnage Charge of ~~\$11.00~~9.50 plus a Transaction Charge of ~~\$6.00~~7.50 per Transaction.

(c) Total fees assessed in cash at the Metro South Station and at the Metro Central Station shall be rounded to the nearest whole dollar amount, with any \$0.50 charge rounded down.

(d) The Director of the Solid Waste & Recycling Department may waive disposal fees created in this section for Non-commercial Customers of the Metro Central Station and of the Metro South Station under extraordinary, emergency conditions or circumstances.

Section 2. Metro Code Section 5.02.045 is amended to read:

5.02.045 System Fees

(a) Regional System Fee: Solid waste system facility operators shall collect and pay to Metro a Regional System Fee of ~~\$16.57~~15.09 per ton for the disposal of solid waste generated, originating, collected, or disposed of within Metro boundaries, in accordance with Metro Code Section 5.01.150.

(b) Metro Facility Fee: Metro shall collect a Metro Facility Fee of ~~\$1.09~~1.12 per ton for all solid waste delivered to Metro Central Station or Metro South Station, which fee is included in the tonnage charge set forth in subsection 5.02.025(a)(1)(A).

(c) System fees described in paragraph (a) shall not apply to exemptions listed in Section 5.01.150(b) of this Code.

Section 3. Metro Code Section 5.02.047 is amended by amending section 5.02.047(c) as follows:

(c) Any person delivering Cleanup Material Contaminated By Hazardous Substances that is derived from an environmental cleanup of a nonrecurring event, and delivered to any Solid Waste System Facility authorized to accept such substances shall be allowed a credit in the amount of ~~\$14.07~~12.59 against the Regional System Fee otherwise due under Section 5.02.045(a) of this Chapter.

All other provisions of Metro Code Section 5.02.047 remain the same.

Section 43. Effective Date

The provisions of this ordinance shall become effective on ~~July~~September 1, 2004, or on the first day of the month following 90 days after adoption by Metro Council, whichever is later.

ADOPTED by the Metro Council this _____ day of _____, 2004.

David Bragdon, Council President

ATTEST:

Approved as to Form:

Christina Billington, Recording Secretary

Daniel B. Cooper, Metro Attorney

STAFF REPORT

IN CONSIDERATION OF ORDINANCE NO. 04-1042A, FOR THE PURPOSE OF AMENDING METRO CODE CHAPTER 5.02 TO AMEND DISPOSAL CHARGES AND SYSTEM FEES

Date: May 4, 2004

Prepared by: Douglas Anderson

BACKGROUND

This "A" version amends the FY 04-05 solid waste rates in Ordinance No. 04-1042 as follows:

Table 1. Summary of Metro FY 04-05 Solid Waste Rates Under this Ordinance, No. 04-1042A

Rate Component	Solid Waste Charges			Change From	
	Current (FY 03-04)	Original Ordinance	This "A" Version	Current Charges	Original Ordinance
Transaction Fee	\$6.00	\$9.50	\$7.50	\$1.50	(\$2.00)
Charges per ton:					
Tonnage Charge	\$42.55	\$ 47.45	\$45.55	\$3.00	(\$1.90)
Regional System Fee	\$16.57*	\$ 13.20	\$15.09	(\$1.48)	\$1.89
Excise Tax	\$6.32	\$ 8.58	\$8.58	\$2.26	- 0 -
DEQ & Host fees	\$1.74	\$ 1.74	\$1.74	- 0 -	- 0 -
Metro Tip Fee	\$67.18	\$70.97	\$70.96	\$3.78	(\$0.01)

Table 2. Summary of Metro Charges to Private Facilities Under this Ordinance, No. 04-1042A

Rate Component	Current 2003-04	Proposed 2004-05	Change
Regional System Fee	\$16.57*	\$15.09	(\$1.48)
Excise Tax	\$6.32	\$8.58	\$2.26
Total	\$22.89	\$23.67	\$0.78

* The current (FY 2003-04) Regional System Fee is subsidized by \$1.00 from the fund balance. All other rates in these tables represent full-cost-recovery (unsubsidized) rates.

The solid waste rates in the original ordinance (No. 04-1042) reflect the results of the new cost allocation model developed by the Rate Review Committee (“RRC”) after a thorough review of the department’s cost structure last winter. The RRC made three basic recommendations that directly affect rates:

1. Administration and overhead related to transfer operations should be re-allocated from the Regional System Fee to transfer station charges (tip fee and transaction fee).
2. Costs of regulating private facilities should be allocated from the Regional System Fee to a new license/franchise fee paid by non-Metro customers.
3. A portion of the debt service equal to the proportion of transfer capacity currently utilized should be re-allocated from the Regional System Fee to transfer station charges (tip & transaction fees).

These recommendations are documented in the staff report for the original Ordinance No. 1042.

These recommendations, applied against the FY 04-05 Proposed Budget, resulted in the figures shown in the “Original Ordinance” columns of Table 1. On review of these rate components, the RRC further recommended that certain of their recommendations be phased in; specifically, phasing-in the allocations to the transaction fee to avoid “price spikes” and implementing the license/franchise fee in FY 05-06. The RRC also gave some discretion to staff to ensure a smooth transition to the new rate structure.

Subsequent work, in consultation with the solid waste industry, has resulted in the rates of this “A” version of the ordinance.

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AMENDING) ORDINANCE NO. 04-1048A
 METRO CODE CHAPTER 7.01.023 TO)
 INCREASE THE AMOUNT OF)
 ADDITIONAL EXCISE TAX DEDICATED) Introduced by Metro Council
 TO FUNDING METRO'S REGIONAL PARKS) President David Bragdon
 AND GREENSPACES PROGRAMS)

WHEREAS, In July 1992, the Metro Council approved Resolution No. 92-1637, thereby adopting the Metropolitan Greenspaces master plan that identifies a desired regional system of parks, natural areas, trails and greenways for fish, wildlife and people; and

WHEREAS, The Metropolitan Greenspaces Master Plan states that Metro will seek a regional funding mechanism to assemble and develop a regional greenspaces system and assume operations and management for components of the system in cooperation with local governments; and

WHEREAS, In December 1997, the Metro Council approved Resolution No. 97-715B, thereby adopting the Regional Framework Plan that set regional policy to inventory, protect and manage a regional system of parks, natural areas, trails and greenways for fish, wildlife and people; and

WHEREAS, The Regional Framework Plan states that Metro, in cooperation with local governments, shall pursue the identification and implementation of a long-term, stable funding source to support the planning, acquisition, development, management and maintenance of the regional greenspaces system; and

WHEREAS, in December 2001, the Council-appointed "Green Ribbon Committee" of citizens and local officials designated a specific list of parks maintenance and facility development needs and recommended solid waste excise tax revenue be dedicated to this purpose; and

WHEREAS, On March 28, 2002, the Metro Council approved Ordinance No. 02-939A, amending the Metro Excise Tax set forth in Metro Code Chapter 7.01 to provide revenues for Metro's Regional Parks and Greenspaces Programs; and

WHEREAS, over the course of the last year, the Regional Parks and Greenspaces staff has developed and presented to Council specific, detailed expenditure plans for developing and operating 4 new facilities open for public use, expanding habitat restoration and landbanking on open space properties, providing enhanced environmental education and volunteer stewardship activities at the new facilities, and fully funding the renewal and replacement needs of the current and proposed facilities managed by Metro; now therefore,

THE METRO COUNCIL ORDAINS AS FOLLOWS:

SECTION 1. Metro Code Section 7.01.023 is amended to read as follows:

7.01.023 Amount of Additional Excise Tax; Budgeting of Additional Revenue for Regional Parks and Greenspaces Programs

Commencing with the Metro fiscal year beginning July 1, 2002 on the first day of the month following the effective date of this Ordinance No. 04-1048A, the additional excise tax authorized

in Section 7.01.020(c) shall be ~~\$1~~\$2.50 per ton. Such additional excise tax shall be dedicated to funding Metro's Regional Parks and Greenspaces programs. For each fiscal year ~~thereafter~~ following the fiscal year during which this Ordinance No. 04-1048A is enacted, the additional excise tax dedicated to Metro's Regional Parks and Greenspaces programs shall be not less than the amount of the additional excise tax in the previous fiscal year increased by a percentage equal to (a) the annualized rate of increase in the Consumer Price Index, All Items, for Portland-Salem (All Urban Consumers) reported for the first six (6) months of the federal reporting year as determined by the appropriate agency of the United States Government or (b) the most nearly equivalent index as determined by the Metro Council if the index described in (a) is discontinued, or such lesser amount as the Chief Operating Officer deems appropriate.

SECTION 2. If Section 1 of Ordinance No. 04-1052 becomes law, then this Section 2 is adopted in lieu of Section 1 above, and Metro Code Section 7.01.023 is amended to read as follows:

7.01.023 Amount of Additional Excise Tax; Budgeting of Additional Revenue for Regional Parks and Greenspaces Programs and Tourism Opportunity and Competitiveness Account

~~Commencing with the Metro fiscal year beginning July 1, 2002 on the first day of the month following the effective date of this Ordinance,~~ the additional excise tax authorized in Section 7.01.020(c) shall be ~~\$1~~\$3 per ton. ~~Such~~ Of such additional excise tax, \$2.50 per ton shall be dedicated to funding Metro's Regional Parks and Greenspaces programs, and \$0.50 per ton shall be dedicated to funding Metro's Tourism Opportunity and Competitiveness Account. For each fiscal year ~~thereafter,~~ following the fiscal year during which this Ordinance is enacted, the additional excise tax dedicated to Metro's Regional Parks and Greenspaces programs and Metro's Tourism Opportunity and Competitiveness Account shall be not less than the amount of the additional excise tax in the previous fiscal year increased by a percentage equal to (a) the annualized rate of increase in the Consumer Price Index, All Items, for Portland-Salem (All Urban Consumers) reported for the first six (6) months of the federal reporting year as determined by the appropriate agency of the United States Government or (b) the most nearly equivalent index as determined by the Metro Council if the index described in (a) is discontinued, or such lesser amount as the Chief Operating Officer deems appropriate.

ADOPTED by the Metro Council this _____ day of _____ 2004.

David Bragdon, Council President

ATTEST:

Approved as to Form:

Recording Secretary

Daniel B. Cooper, Metro Attorney

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AMENDING)	ORDINANCE NO. 04-1052
METRO CODE CHAPTER 7.01.023 TO)	
PROVIDE DEDICATED FUNDING FOR)	
METRO'S TOURISM OPPORTUNITY AND)	Introduced by Metro Council
COMPETITIVENESS ACCOUNT)	President David Bragdon

WHEREAS, enhancing the revenues directed to the operations of the Oregon Convention Center through Metro's Tourism Opportunity and Competitiveness Account will benefit the economic development of the entire Metro region; now therefore,

THE METRO COUNCIL ORDAINS AS FOLLOWS:

SECTION 1. Metro Code Section 7.01.023 is amended to read as follows:

7.01.023 Amount of Additional Excise Tax; Budgeting of Additional Revenue for Regional Parks and Greenspaces Programs and Tourism Opportunity and Competitiveness Account

~~Commencing with the Metro fiscal year beginning July 1, 2002~~ on the first day of the month following the effective date of this Ordinance No. 04-1052, the additional excise tax authorized in Section 7.01.020(c) shall be ~~\$1~~\$1.50 per ton. ~~Such~~~~Of such~~ additional excise tax, \$1.00 per ton shall be dedicated to funding Metro's Regional Parks and Greenspaces programs, and \$0.50 per ton shall be dedicated to funding Metro's Tourism Opportunity and Competitiveness Account. For each fiscal year ~~thereafter~~ following the fiscal year during which this Ordinance No. 04-1052 is enacted, the additional excise tax dedicated to Metro's Regional Parks and Greenspaces programs and Metro's Tourism Opportunity and Competitiveness Account shall be not less than the amount of the additional excise tax in the previous fiscal year increased by a percentage equal to (a) the annualized rate of increase in the Consumer Price Index, All Items, for Portland-Salem (All Urban Consumers) reported for the first six (6) months of the federal reporting year as determined by the appropriate agency of the United States Government or (b) the most nearly equivalent index as determined by the Metro Council if the index described in (a) is discontinued, or such lesser amount as the Chief Operating Officer deems appropriate.

SECTION 2. If Section 1 of Ordinance No. 04-1048A becomes law, then this Section 2 is adopted in lieu of Section 1 above, and Metro Code Section 7.01.023 is amended to read as follows:

7.01.023 Amount of Additional Excise Tax; Budgeting of Additional Revenue for Regional Parks and Greenspaces Programs and Tourism Opportunity and Competitiveness Account

~~Commencing with the Metro fiscal year beginning July 1, 2002~~ on the first day of the month following the effective date of this Ordinance, the additional excise tax authorized in Section 7.01.020(c) shall be ~~\$1~~\$3 per ton. ~~Such~~~~Of such~~ additional excise tax, \$2.50 per ton shall be dedicated to funding Metro's Regional Parks and Greenspaces programs, and \$0.50 per ton shall be dedicated to funding Metro's Tourism Opportunity and Competitiveness Account. For each fiscal year ~~thereafter~~, following the fiscal year during which this Ordinance is enacted, the additional excise tax dedicated to Metro's Regional Parks and Greenspaces programs and Metro's Tourism Opportunity and Competitiveness Account shall be not less than the amount of the additional excise tax in the previous fiscal year increased by a percentage equal to (a) the

annualized rate of increase in the Consumer Price Index, All Items, for Portland-Salem (All Urban Consumers) reported for the first six (6) months of the federal reporting year as determined by the appropriate agency of the United States Government or (b) the most nearly equivalent index as determined by the Metro Council if the index described in (a) is discontinued, or such lesser amount as the Chief Operating Officer deems appropriate.

ADOPTED by the Metro Council this ____ day of _____ 2004.

David Bragdon, Council President

ATTEST:

Approved as to Form:

Recording Secretary

Daniel B. Cooper, Metro Attorney

ASSOCIATION OF METROPOLITAN PLANNING ORGANIZATIONS * AMERICAN PUBLIC TRANSPORTATION ASSOCIATION * INTERNATIONAL BRIDGE TUNNEL AND TURNPIKE ASSOCIATION * SAN DIEGO ASSOCIATION OF GOVERNMENTS * SAN FRANCISCO METROPOLITAN TRANSPORTATION COMMISSION & BAY AREA TOLL AUTHORITY * REASON PUBLIC POLICY INSTITUTE * ENVIRONMENTAL DEFENSE * PARSON'S BRINCKERHOFF * ENVIRONMENTAL AND ENERGY STUDY INSTITUTE * TRI-STATE TRANSPORTATION CAMPAIGN * FLEXCAR * ACTION COMMITTEE FOR TRANSIT * CONSERVATION LAW FOUNDATION * THE INDEPENDENT INSITUTE * JACK FAUCETT ASSOCIATES * MOBILITY POLICY INSTITUTE * RESOURCE SYSTEMS GROUP * NEW ENGLAND TRANSPORTATION INSTITUTE * THUNDERHEAD ALLIANCE * TIME / TO IMPROVE MUNICIPAL EFFICIENCY

May 3, 2004

The Honorable Don Young
Chair, House Transportation and Infrastructure Committee
2111 Rayburn HOB
Washington, DC 20515

The Honorable James Oberstar
Ranking Member, House Transportation and Infrastructure Committee
2365 Rayburn HOB
Washington, DC 20515

The Honorable James M. Inhofe
Senate Environment and Public Works Committee
453 Russell Senate Office Building
Washington, DC 20510

The Honorable James M. Jeffords
Senate Environment and Public Works Committee
413 Dirksen Senate Office Building
Washington, DC 20510

Re: Road Tolls and Pricing Incentive Pilot Program in Transportation Bill

Dear Chairs and Ranking Members of the Committees,

Thank you for your efforts in the transportation bill to expand the opportunities for transportation agencies to apply time-of-day road tolls and other market incentives to help finance transportation, improve system efficiency, manage travel demand, and expand travel choices for all Americans. As you work to reconcile the respective tolling provisions of HR 3550 and S.1072, we hope you will develop a final conference bill that maximizes support across a diverse array of stakeholders. We believe this can be accomplished by adopting Section 1609 of S.1072 with only minor adjustment.

We urge you to give states and communities expanded opportunities to use toll revenues to invest, operate, and manage new and expanded highways and public transportation services that enhance mobility while protecting the environment and improving equity of access to opportunities. Many of these opportunities would be foreclosed by HR 3550's very restrictive limits on state and local discretion for allocating local toll revenues. We believe it is vital to ensure, as in S.1072, that surplus toll revenues can be used for any purpose authorized under Title 23 and Title 49, such as

improved roads and traffic management, transit and vanpool services, and mitigation of adverse impacts of transportation, while ensuring that tolls are spent first to ensure effective project financing and toll corridor operations. HR 3550 would bar the many state transportation agencies that do not now rely on toll revenues from adopting the highly successful and popular toll traffic management strategies used by agencies such as the Port Authority of New York/New Jersey and the operators of the Interstate I-15 High Occupancy Toll lanes north of San Diego. In both cases, toll revenues are used to underwrite existing and improved transit services in the tolled corridor, so motorists and those without cars have better transit options and face less congestion.

We support S.1072's provisions promoting accountability for performance and monitoring of toll initiatives, as these are often key to ensuring public confidence and support. We oppose the HR 3550 provision that would deny local discretion to use time-of-day tolls as a long-term traffic management strategy. We have no objection to allowing discounted fees for qualified hybrid vehicles in HOV/HOT lanes, as free access may seriously harm long-term operational effectiveness of these lanes.

We support section 1209(c) of HR 3550 as reported from the Transportation and Infrastructure Committee, authorizing continued support for non-toll congestion pricing pilot projects. These have shown great promise in pilot projects funded under TEA-21. We urge you to broaden S. 1072's language to authorize program promotion funding and pilot project support at the \$3 million a year approved by the T&I Committee for such non-toll incentives, out of a total \$15 million a year authorization for value pricing. We urge support for these House committee provisions in lieu of S. 1072's language authorizing program promotion support and \$11 million a year for project preparation and evaluation efforts related to FAST lanes.

As you move forward with the reauthorization of the federal transportation bill, we hope you will work together to advance this broadly supported and balanced approach to expanding the use of market incentives and toll revenue enhancement that can improve our nation's transportation system. We believe Section 1609 of S.1072, with these few minor adjustments suggested above, which are reflected in the attached amendment text, will provide the best foundation for accomplishing that end.

Thank you for your consideration.

Sincerely,

Mayor Richard Kaplan
President
Association of Metropolitan Planning Organizations

William W. Millar
President
American Public Transportation
Association

Patrick Jones
Executive Director
International Bridge, Tunnel & Turnpike
Association

Steve Heminger
Executive Director
San Francisco Metropolitan Transportation
Commission & Bay Area Toll Authority

Michael Replogle
Transportation Director
Environmental Defense

Carol Werner
Executive Director
Environmental and Energy Study Institute (EESI)

Neil Peterson
Founder and Chairman
Flexcar

Martha Broad
Managing Director
CLF Ventures
Conservation Law Foundation

Michael F Lawrence,
President
Jack Faucett Associates

Thomas Adler
President, Resource Systems Group, Inc.
and Director, New England Transportation Institute
White River Junction, Vermont

Sue Knaup
Executive Director
Thunderhead Alliance

Lee W. Munnich, Jr.
Senior Fellow and Director
State and Local Policy Program
Humphrey Institute of Public Affairs

Ellen Roundtree
Director of Government Relations
San Diego Association of Governments

Robert W. Poole, Jr.
Director of Transportation Studies
Reason Public Policy Institute

Jim Bourgart
Vice President & Manager of Government
Relations
Parsons Brinckerhoff

Jon Orcutt
Executive Director
Tri-State Transportation Campaign

Jim Clarke
Vice President for Legislative Affairs
Action Committee for Transit

Gabriel Roth
Research Fellow
The Independent Institute

Dr. Edward H. Clarke
Senior Economist
Mobility Policy Institute

Roger J. Herz
Executive Director
TIME / To Improve Municipal Efficiency

John T. Berg
Formerly Senior Economist and
Value Pricing Team Leader
Federal Highway Administration

Jose Holguin-Veras, Ph.D., P.E.
Associate Professor
Department of Civil and Environmental
Engineering



Willamette Resources, Inc.
A waste management and recovery company

0504/04c-05

May 4, 2004

Council President David Bragdon
Members of the Metro Council

RE: Ordinance Nos. 04-1042, 04-1043 and 04-1048

Ordinance No. 04-1042.

Our company continues to support the recommendation your Rate Review Committee (RRC) made earlier this year. The committee's recommendation was presented to the Council by Solid Waste and Recycling Department staff on April 6, 2004. RRC recommended a transaction fee of \$7.50 and a tip fee of \$70.21/ton. This rate recommendation is not reflected in the proposed Ordinance before the Council.

We request the Council amend the proposed Ordinance to reflect RRC's rate recommendation. I am aware that RRC observed, as part of its rate recommendation, that Council may find it necessary for other policy reasons to phase in full implementation of its rate recommendation. Our company appreciates the wisdom of this comment and supports a two-year phase in period of RRC's full rate recommendation, i.e., FY 2004-05 and FY 2005-06.

The primary reason our company supports RRC's rate recommendation is the committee's meticulous observance of various criteria established by Metro as the committee developed the tip and transaction fees recommendation. Specifically:

Excerpt From Metro Code section 2.19.170.

"The RRC is established for the following purposes:

"(1) To enhance the credibility of solid waste disposal rates and the rate setting process.

"(2) To provide a rational, consistent, stable and predictable process for establishing solid waste disposal rates.

“(3) To make recommendations to the Metro Council regarding proposed solid waste disposal rates.

“(4) The RRC has the authority and responsibility to review and make recommendations to the Metro Council regarding:

“(A) Proposed solid waste disposal rates and charges at facilities owned, operated or under contract to Metro and at Metro franchised facilities as provided under the terms of a franchise agreement;

“(B) All policy and technical issues related to solid waste disposal rate setting.

“(C) Direct and indirect expenses included in proposed solid waste disposal rates before the committee; and

“(D) Any technical analysis of proposed rates or rate setting procedures, developed by Metro staff or a consultant to Metro, for facilities under the purview of the committee.”

Councilors' Values for the Solid Waste System Developed in Public Work Sessions, June-August 2003

“The following values were articulated by Metro Council during the summer of 2003 during public work sessions with Solid Waste & Recycling Staff. The Council intended that these values should guide the department's development of options and recommendations on a wide variety of solid waste issues. The numbers in parentheses are weights indicating the relative importance that the Council placed on each value.

- “1. Maintain health & safety. (threshold value)
- “2. Protect the public investment in the solid waste system. (+/- 5)
- “3. ‘Pay to Play.’ Participants & users of system pay appropriate fees and taxes. (+/-5)
- “4. Environmental sustainability. Ensure the system performs in a sustainable manner. (+/-5)
- “5. Preserve public access to disposal options – location & hours (+/-4)
- “6. Ensure regional equity – equitable distribution of disposal options. (+/-3)
- “7. Maintain funding source for Metro general government. (+/-3)
- “8. Ensure reasonable/affordable rates. (+/-3)”

Rate Setting Criteria – Adopted from Resolution #93-1824A

- “1. Consistency: Solid waste rate setting should be consistent with Metro's agency-wide planning policies and objectives, including but not limited to the Solid Waste Management Plan.
- “2. Revenue Adequacy and Reliability: Rates should be sufficient to generate revenues that fund the costs of the solid waste system.
- “3. Equity: Charges to users of the waste management system should be directly related to services received. Charges to residents of the Metro service district

who may not be direct users of the disposal system should be related to other benefits received.

“4. Waste Reduction: The rate structure should encourage waste reduction, reuse and recycling.

“5. Affordability: Rate setting should consider the customer’s ability to pay, e.g., the cost of living for residential customers and the cost of doing business for commercial customers.

“6. Implementation and Administration: Rate setting should balance the relative cost and effort of implementing and administering the rates with financial and policy goals. Rates should be enforceable.

“7. Credit Rating Impacts: The rate structure should not negatively impact Metro’s credit rating.

“8. Authority to Implement: Metro should ensure that it has the legal ability to implement the rate structure; or, if such authority is not already held, evaluate the relative difficulty of obtaining the authority.

“9. Predictability: Metro rate adjustments should be predictable and orderly to allow local governments, haulers, and rate payers to perform effective planning.”

Ordinance No. 04-1043.

This proposed Ordinance was introduced to reflect a policy recommendation by RRC that all privately owned solid waste facilities pay all costs incurred by Metro for regulating and auditing the operations of these facilities. We agree with this principal and support RRC’s recommendation.

This ordinance, however, is not needed at this time. An ordinance accomplishing RRC’s policy recommendation should be developed and introduced before the Council with RRC’s rate recommendation for fiscal year 2005-06.

RRC’s policy recommendation has been achieved, in that, Solid Waste and Recycling Staff has adjusted the appropriate cost classifications reflected in the rate configuration presented to the Council on April 6, 2004. Effective with the adoption of RRC’s rate recommendation, privately-owned solid waste facilities will be paying all of the regulatory and auditing expenses Metro incurs to monitor the operation of these facilities. No user of Metro’s transfer stations will pay any of the regulatory and auditing costs incurred in conjunction with private facility operations.

Ordinance No. 04-1048.

Our company does not support this proposal. We support Metro's goal of funding the Regional Parks Program and the economic development tool provided by the Convention Center. We believe that these worthwhile programs should be funded by a revenue source other than an excise tax on solid waste.

Our company as well as other interested parties wants to help Metro achieve its goal of providing adequate funding for Regional Parks and the marketing activities of the Convention Center. We want to be part of the "Metro Solution" for these funding needs. We are available and ready to work with Metro in whatever way we can to identify appropriate funding for these programs. We do not support a continuation of levying excise taxes on the solid waste disposed in the metro region.

Our resistance to the proposed Ordinance is based on at least two very serious concerns.

First, haulers collecting waste in the region do not always receive the appropriate rate adjustment from local regulators in order to recover all of Metro's cost increases, such as the excise tax.

Second, an increase in Metro's tip fee is a very serious problem for haulers collecting commercial and industrial waste generated in the City of Portland. As you know, the City does not franchise this class of waste collection even though the City maintains substantial regulations on how haulers must provide and perform services. This is a significant hardship on haulers since this collection activity is not franchised, thus collection rates are competitively determined and not set by the regulator.

This is a very serious issue and Metro needs to work with haulers collecting commercial and industrial waste in the City of Portland.

Thank you for this time you provided me. I am happy to answer questions.

May 3, 2004

Metro
600 N.E. Grand Ave.
Portland, Oregon

RE: Hearing of May 4, 2004
Preservation of Watersheds

Greetings:

As I will probably be unable to attend the hearing in Clackamas on May 4 and because I feel so strongly about this issue, I submit the following.

I'm a long-time resident of Clackamas County. I've lived here all my life and have watched this area change dramatically from a rural landscape to urban/residential/industrial environment. I read with interest Letters to the Editor from landowners who feel threatened by any regulation that would restrict in any way what they want to do with their land. It is my belief that we own this land for a very short time and, during this time, we are simply stewards of it. What we do effects every generation that follows us. Once we fill in a wetland or floodplain, it is gone forever.

I believe it is imperative that regulations are put in place to protect the health of our water sources. Although it would be nice if everyone could be trusted to do the right thing, very often that is just not going to happen. For the good of all, we need a plan in place to save this very precious resource.

Sincerely,



Judith M. Vetsch
7783 SE Dolinda St.
Milwaukie, Oregon 97267

Mr. Pat Russell
16358 SE Hearthwood Drive
Clackamas, OR 97015
(503) 656-9681
Email: agypsyrose@earthlink.net

A Semi-retired Public Urban Planner since 1973
Citizen Activist for Public Involvement
Proactive Environmentalist

May 4, 2004

Metro Council
600 N.E. Grand Avenue
Portland, OR 97232

RE: Public Testimony
May 4, 2005 Public Hearing
Goal 5—Fish and Wildlife Protection

Dear Metro Council Members,

Thank you for taking the time to visit Clackamas County and conduct hearings concerning the latest phase of the Goal 5 process, Selection of ESEE Analysis Options. I have been participating in this Goal 5 process since about December 1999 when I read Metro's CPR—Conserve Protect and Restore document, authored by Metro staff—the one recommending a minimum of 200 foot setback from all perennial and intermittent streams and rivers. This plan/program publication was prepared and scientifically documented in anticipation of implementing 4(d) Rules under the Endangered Species Act under consideration by the federal fisheries agency. I was impressed with its forthright presentation and recommendations—even if it caught policy makers by surprise.

While I lived in Beaverton, I unsuccessfully submitted map corrections to get Metro mappers to include all of the intermittent drainage patterns and degraded areas that historically supported prime fish habitat. I tried to no avail to discourage the promotion of construction activities, fills/cuts, development in the historical 500-year floodplain not protected by Title 3 or other state or federal laws administered by the confusing layers of bureaucracy. My participation in my local city Neighborhood Associate Committee (NAC); Beaverton's Committee for Citizen Involvement (CCI); and at the Metro table for citizen involvement (MCCI) has convinced me lately that the region is backpedaling on its commitment toward Salmon restoration. Our region is also rapidly losing its multi-species habitat to development. This fish and wildlife habitat is irreplaceable and we do not have 100 to 200 years to wait around for Nature to repair our damage. I feel many of our elected officials (speaking for their constituents) have misplaced and even ignored the public's faith in our region to restore viable fish and wildlife habitat in our urban areas. I believe the region's citizens are demanding more CPR—Conservation, Protection and

Rehabilitation—not less. In many cases, local land use decisions have been craftily written to override broad Comprehensive Plan policies that guide the protection of the natural resources.

While living here in Clackamas over the last 2-1/2 years, I have personally followed a number of development proposals here in Clackamas County. I have been amazed at all the planning exceptions and fine print written that literally insures developers have full development potential. Some of these include bonus density, and broad Metro dictates to achieve efficient urban infill—seemingly at the expense of wetlands, natural, healthy drainage patterns or streams, significant native tree stands, steep slopes, unstable slopes, high water tables or highly visible resource areas. As a planner I know this was not Metro's original intent. After participating in the periodic review process—resulting in a significant (unwarranted) urban growth boundary expansion in Damascus—I am convinced there is room for both responsible and sensitive urban development and preservation of our “Ribbons of Green”.

This apparent lack of protective natural resource legislation at the federal, state, and local governmental levels has convinced me that as long as there is more than one governmental entity in control of our natural resources, the likelihood of that resource destruction is good. The only sure way to give our resource a chance for some degree of protection is through land ownership.

I am distressed about the current direction of the Goal 5 process. I feel that what started as a good effort in 1999 has been gradually compromised to the point that we are now arguing about “saving” pristine “high quality” areas from development impact, while just as equally important natural (and not so natural degraded) links (“Ribbons of Green”—Tualatin Riverkeepers/Coalition for A Livable Future/Portland Audubon and others) are being downgraded and exposed to development potential. We are gradually losing of the fabric of a network of natural habitat areas to the extent that the system will fail to support much wildlife at all. This is not fair to compromise urban area natural systems and thinking that agricultural and forestlands can keep the ecosystem alive and well.

I have attached for your review an outline of “issues” I have with the current Goal 5 process/program. I encourage the Council to focus on ESEE OPTION 1A and improve this option to assure more protection for our fish and wildlife habitat including prioritizing areas that need rehabilitation (please, map it these degraded areas as high priority just like the existing high quality habitat areas). If Metro doesn't step up to the plate, I fear no other governmental agency will take charge in a responsible manner. Thank you for listening.

Sincerely,



Patrick P. Russell

Attachment: Metro Goal 5 Issues (summary)

Metro Goal 5 Issues

In the
Clackamas County
Urban Area,
Particularly west of I-205

4(d) Rule Compliance: Metro needs to demonstrate how its “plan” (regulatory, program), etc. will comply with the Endangered Species Act. The focus of the “plan” right now seems to be toward the State’s Goal 5 process which is a significant compromise in itself and with very little teeth. We need to go back to “start” with the December 1999 CPR Plan which was authored by very respected individuals and was based upon science.

Protection of existing local fish runs as a regionally-significant priority: Kellogg Creek and Mt. Scott Creek and the Oatfield Ridge are habitat areas that historically contained salmon runs and host to numerous fish and fauna. These areas must be mapped to their highest protection potential regardless of historic tree removal and drainage control/flood protection. To map ONLY the PRESENT apparent quality vegetation indicators is a mistake and will lead to further incremental degradation through permitting processes and uncontrolled tree cutting practices (currently NOT controlled by the county—no permit is required to cut a tree down in the urban area).

Establish a permanent singular lead agency: our urban habitat areas are governed by a complex web of public agencies and quasi-public agencies from local to state to federal, etc. There needs to be ONE agency with ONE program/plan and ONE agency regulating land use. Historically, this complexity of responsibility has allowed abuse and declining protection of habitat.

Require Property Owners to alter their current land use pattern: activities such as keeping up lawns in the flood plain; allowing the grazing of large animals (such as horses and cattle); the growing of vegetable gardens or tree/fruit “farms”/orchard; leaving fallow fields with invasive weeds—these activities adversely affect the habitat needed to rear fish. These activities need to be treated as new non-conforming uses (by formally notifying the land owner and conducting a hearing/determination) and be required to be amortized over a reasonable period (say between 5 to 10 years).

NO alterations or development within the 500 year floodplain or the area of historical flooding and stream/river movement within the last 150 years.

Where institutional/commercial/industrial activities were permitted to develop in historic floodplain and wetland areas (such as box retail stores, warehouses, freeways), a **specific program should be established by Metro** to evaluate each site and determine if over the

long range (25 years) whether a site could be redeveloped to reduce impervious surface areas (by reduced parking or increasing building height or modifying the land use) and return the savings area back to nature.

Mapping: There should be no such animal as Regionally significant habitat—all habit is significant to maintain a viable HABIT ECOSYSTEM: instead the mapping should be used as a way to identify the areas that need extra attention because of their abuse and misuse or destruction.

Delineation of “resource” category areas too small—with changes occurring in some places within 100 feet or less of another category. This leads to micro-managed delineations that can change over time. This leads to a disjointed pattern when overall the riparian (in this case Kellogg Creek and parts of Mt. Scott Creek) area overall and the creek is a high priority fish creek.

[Currently there are no plans to indicate whether the denuded or compromised (but minor) portions of the stream are going to be repaired or rehabilitated].

Upland areas, particularly the steeply sloped and unstable Oatfield Ridgeline are not fully mapped. Also many mature native trees within a 100 feet or so of the “delineated” areas are left out.

Native Treed area of CPO in general not considered: Areas of the north urban area of the county contain low density neighborhoods which are not likely to change over a long period—perhaps over the next 30 years (planned residential low density, 10,000 minimum zoning lots); if maintained these neighborhood will likely continue indefinitely—they should be placed on a regional significance level to assure protection of existing native trees (upper story habitat)—ie from unwarranted or non-restricted tree removal—issue here is upper story habitat in Douglas Fir Trees (for example) that are over 100 feet tall.

Public agencies/utilities need better self regulation: many of the most flagrant examples of habitat and in-stream destruction has been from road construction and utility installation. This has got to stop. Metro must step in with its monitoring authority (Title 8).

CIP funding and maintenance: This program will need funding. It should be paid from development within the region through such tools as System Development Charges (on the same caliper as road fees—here’s where a master plan of development is needed with a price tag for its ultimate land acquisition and improvement); permit “fees” as a mitigation tax should be imposed on all permits for “minor remodeling” where new development SDC fees would not kick in.

Also each business and homeowner should pay a monthly maintenance fee for use of the water resource/habitat—currently in Clackamas County (in most urban areas east of

Milwaukie), there is a \$6 charge per month per residence for “surface water management” purposes. In reality, much of this fund is used for storm water management, INCLUDING capital improvements—not related to water quality “maintenance”. This should be stopped. Its like paying for school construction with M/O operating funds and paying teachers. Perhaps the monthly assessment should be increase (say two-fold) to address system deficiencies.

[Right now, Clackamas County CCSD#1 (sewer, surface water special district administered by the Board of County Commissioners) has set aside \$1million to prepare a Surface Water Master Plan for the urban area it covers, including areas outside its current jurisdiction (such as the expanded UGB in Damascus). This exercise should address all the needs to **achieve Salmon-recovery** in the affected streams to their historic levels. Right now, it is not clear what the scope of the planning will include.]

Other funding resources should also be examined. One idea by a citizen is the taxing of all single story commercial/office/industrial buildings with the idea of promoting more multi-story, mixed use land development to reduce the demand on existing prime agricultural and forestry lands (as well as pressure on floodplains and riparian habitats and steep hillsides).

North Clackamas Citizens Association

A COMMUNITY PLANNING ORGANIZATION

8010 SE Cypress Road
Milwaukie, Oregon 97267
Phone (503) 655-7875

President: Kay Pearson
Vice-President: Sue Tong
Secretary-Treasurer: Pat Russell

May 4, 2004

Metro Council
600 N.E. Grand Avenue
Portland, OR 97232

RE: Goal 5 Public Hearing Testimony
May 4, 2004
Minutes from North Clackamas Citizens Association (Clackamas County-CPO)

Dear Council Members,

Attached for your record at the May 4, 2004 Public Hearing are Minutes of March 9, 2004 from the NCCA (CPO).

The NCCA expresses its appreciation to Metro staff, particularly Malu Wilkenson and Councilor, Brian Newman, for taking the time to appear at our meetings to provide our members with information on this very important program and the complexities of the ESEE Analysis Phase.

A good attendance of property owners along or near Kellogg Creek and Mt. Scott in our CPO area indicates the interests/concerns that citizens have concerning Goal 5—see meeting attendance list. I am certain that the CPO will want to participate in the next phase of planning this fall.

Sincerely,



Pat Russell
Secretary-Treasurer North Clackamas Citizens Association

MY address/phone:
16358 SE Hearthwood Drive
Clackamas, OR 97015
(503) 656-9681
Email: agypsyrose@earthlink.net

North Clackamas Citizens Association

A COMMUNITY PLANNING ORGANIZATION

8010 SE Cypress Road
Milwaukie, Oregon 97267
Phone (503) 655-7875

Minutes of the March 9, 2004 Regular Meeting

Called to Order by President, Kay Pearson at Bilquist Elementary School, 157708 SE Webster Road, Milwaukie, Oregon 97267. Thirty three individuals signed the attendance sheet.

GOAL 5, METRO Presentation

Secretary Russell indicated that Metro Councilor, Brian Newman was not able to attend the meeting as he was heading to Europe and offered to meet the Association at another time. For the discussion of this meeting, Russell noted that about 200 fliers were placed on mailboxes in the area from about Theissen to I-205 in the vicinity of Kellogg Creek so that property owners, residents would be aware of the opportunity of this meeting. He also contact various friends of streams groups and government staff.

Russell introduced **Metro Representative, Malu Wilkenson** who provided an overview of the Goal 5 efforts—further explaining the purpose of a mailer that was sent by Metro over the last month residents in the Metro region. She indicated the folks can also fill out the green comment cards and leave them with her or mail them in. She also brought copies of the 12-page summary brochure on Goal 5 entitled: “Protecting the Nature of the Region, 2003-04.

Malu noted that the effort to protect riparian areas and greenspaces in the region has been ongoing for a number years since the adoption of Metro’s Charter, gaining momentum with the passage of the \$135 Million 1995 Bond Measure to purchase lands of regional significance. Title 3 water quality measures created setback requirements for many streams in the region, but did not specifically address habitat protection. Goal 5 is designed to address habitat protection for both fish and animals along riparian corridors, upland areas and area of special interest. An inventory of these areas began a few years ago and last year the Metro Council adopted a map and mission statement for areas it deemed of regional significance.

The second step is evaluating the economic, social, environmental and energy (ESEE) impacts of protecting habitat area in the designated areas mapped. This step is nearing completion. Metro wants to share their information with the public and receive input. She noted the various meeting dates/locations in the Association’s area.

Its possible that the Council will finalize their proposals this fall after further hearings which will include mapping, programs and probable regulation. Property owners and interested parties will again be notified by mail. Right now Metro is looking at various scenarios as were pointed out—ranging from protective to less protective—Title 3 being a minimum base line standard. She noted that Washington County and its cities are progressing in a parallel course and will be making recommendations to Metro under a separate agreement. Other jurisdictions in the region are currently working with Metro under its efforts.

Malu noted that non-regulatory program efforts could include stewardship, restoration, grants, acquisitions, among the many ideas already presented that will be considered by the Council concurrently with the regulatory recommendations.

There were questions/comments about:

- The wetlands near I-205 (north of Strawberry Lane)—headwaters of Kellogg Creek
- Method of determining which treed areas would be designated
- Current and planned tree protection policies of Metro and the county
- What properties in our area would be affected—riparian and upland
- What regulatory policies would be imposed upon existing properties, such as existing landscaping in residential areas, landscape maintenance, gardening, animal keeping, etc.
- The plans for wetlands and areas not designated Regionally Significant
- Lack of coordination/enforcement by all agencies who are responsible in one aspect or another in the sensitive lands, riparian areas, etc.
- General mistrust that these agencies are protecting the resource
- General disappointment that Metro “promises” do not get delivered at the local level (ie sensitive lands seem to lack protection through development codes of the county, along with variances—perhaps the expectations of the neighborhood are higher than what was planned for the area—such as stream setbacks, grading in steeply sloped areas, unstable slopes, wetland areas, seepage areas, etc.).
- there are drainage problems not being addressed in the area.
- gradual loss of habitat in the Association’s area through neglect and inadequate protection measures by various levels of public agencies –local to federal

Malu indicated that if Metro does act on Goal 5, it usually takes about 1 to 2 years before policies will be adapted at the county/local level.

ELECTION OF BOARD—President Pearson indicated that the present board is soliciting nominations and that elections should occur at April’s meeting. *Due lack of volunteers, Moved by Nancy Stoll, seconded by Chuck Serface to defer Elections to the May meeting, unanimous (except for one NAY vote).*

MINUTES of February 10, 2004 *motion Nancy Stoll, seconded by Chuck Serface, unanimously adopted, to adopt the minutes. Note: Minutes of Executive Board Meeting of March 1, 2004 on file.*

FINANCIAL REPORT, Treasurer Russell presented his report dated March 9, 2004 indicating \$437.00 in the checking account, \$20.96 donated at the February meeting, reimbursing expenses of \$19.76, now having \$69.00 cash on-hand.

CORRESPONDENCE/ Member Communications—President Pearson went over items of interest to the Association received or scheduled:

- the Association’s Candidate’s Forum on April 27th (6:30-8:30pm) here at Bilquist School
- Completing Communities in the Oak Grove/North Clackamas area/Jennings Lodge—Chuck Serface gave an overview. Judy Ganoe is a task force member representing our area.

The meeting adjourned at 8:25pm.

Respectfully submitted,

Pat Russell, Secretary-Treasurer NCCA, April 13, 2004

North Clackamas Citizens Association

A COMMUNITY PLANNING ORGANIZATION

8010 SE Cypress Road
Milwaukie, Oregon 97267
Phone (503) 655-7875

Attendance List for the March 9, 2004 Meeting

(33 Persons signing the attendance sheet)

Kay Pearson NCCA President; Email: Madeline.pearson@usbank.com	(503) 655-7875	8010 SE Cypress Road, Milwaukie, OR 97267
Pat Russell NCCA Secretary-Treasurer; Email: agypsyrose@earthlink.net	(503) 656-9681	16358 SE Hearthwood Drive, Clackamas, OR 97015
Paul Bell Email: paul.diane@comcast.net	656-8644	16758 SE Blossom Avenue, Milwaukie, OR 97267
Archie K. Mecklem	513-9410	14733 SE Anna Maried Court, Milwaukie, OR 97267
Lawrence F. Progovitz	353-6740	16235 SE Merganzer Court, Milwaukie, OR 97267
Gale L. Persyn	(503) 654-3328	7217 SE Jennings Avenue, Milwaukie, OR 97267
Susan Tong NCCA Vice-President	(503) 513-5163	7348 SE Thiessen Road, Milwaukie, OR 97267
Andrew Haugen	(503) 652-1962	15987 SE Alpenglade Court, Milwaukie, OR 97267
Larry OBrien	(503) 654-7173	15813 SE Alpenglade Court, Milwaukie, OR 97267
Marita Hickman	(503) 697-4861	6833 SE Mabel Court, Milwaukie, OR 97267
Dick Shook	(503) 654-4160	4815 SE Casa Dol Roy Drive, Milwaukie, OR 97267
Nancy Stoll NCCA Area Representative	(503) 659-8279	6919 SE Bixel Way, Milwaukie, OR 97267
Mike Jewitt	(503) 786-5390	1443 SE Creekside Drive, Milwaukie, OR 97267
Jim & Josie Lisenbee	659-9073	6680 SE Aldercrest Court, Milwaukie, OR 97267
Winn & Lenora DeMenge	657-9804	15485 SE Hartnell Avenue, Milwaukie, OR 97267
Scott & Kari Fowler	353-1731	16207 SE Merganzer Court, Milwaukie, OR 97267
Mike & Lisa Gibson	654-0471	6350 SE Aldercrest Court, Milwaukie, OR 97267
Shawn Saylor	657-4733	15470 SE Morning Glory Court, Milwaukie, OR 97267
Charles Serface	(503) 655-2126	15442 SE Morning Glory Court, Milwaukie, OR 97267

NCCA Minutes March 9, 2004 Attendance List

Page 2 of 2

NCCA Area Representative

Bruce Fontaine	(503) 654-8529	16205 SE Webster Road, Milwaukie, OR 97267
Jeannie Schuster	(503) 723-6267	7880 SE Hood Court, Milwaukie, OR 97267
Gilbert Couttern	-	6525 SE Aldercrest Court, Milwaukie, OR 97267
Christine Jeibmann Email: ccs@nwnatural.com	(503) 721-2463	15400 SE Hartnell Avenue, Milwaukie, OR 97267
Drew Garvin	(503) 653-5410	7016 SE Mabel Avenue, Milwaukie, OR 97267
Duane Ternes Email: nclackeitznassoc@ternes.net		14531 SE Creekside Drive, Milwaukie, OR 97267
Jubrow Deir	(503) 453-7743	7573 SE Lillian Avenue, Milwaukie, OR 97267
Tom Carothers NCCA Area Representative	(503) 655-7407	8029 SE Hood, Milwaukie, OR 97267
Brad Dodson	659-1206	7633 SE Lillian Avenue, Milwaukie, OR 97267
Jody Carter	786-0598	6825 SE Clackamas Road, Milwaukie, OR 97267

050404c-09



May 4, 2004

Metro Council
600 NE Grand Ave.
Portland, OR 97232

RE: Metro Regional Fish and Wildlife Protection Program

Dear Metro Councilors,

I am testifying on behalf of the Audubon Society of Portland and our 10,000 members residing throughout the Portland Metropolitan region. Thank you for the opportunity to comment on the Phase II ESEE analysis, the draft "ALP" decision, and recommended program decision for the regional fish and wildlife plan. I first want to commend the excellent work by the staff and the depth of involvement by the Council in supporting this essential component of the 2040 Vision. The completion of the Regional Fish and Wildlife Plan is essential to realize a region of vibrant urban communities amidst healthy, restored watersheds.

At this juncture, the significance of your decision in determining which regionally significant resources will become part of a regional program is monumental. We urge Metro to apply the precautionary principle in making this decision and keep in mind the big, hopeful vision of Region 2040 in integrating environmental, social, and economic goals for the region's future.

Unfortunately the modified option 2B proposed by staff falls short of this vision by over-relying on crude quantifiable measures to simply "balance" environmental and economic values. It applies low levels of protection to high value habitats in the name of "development capacity" or "economic development." This represents a false choice between economic and environmental health that will result in the degradation of our region's natural wealth.

It is clear the public believes economic and environmental goals are inextricably linked, and should be in our planning for the region. In the 2002 Oregon Values and Beliefs study 69% of Oregonians chose "maintain[ing] a quality environment to attract people and companies to Oregon" over (22%) "relax[ing] regulations to make it easier to do business" as more important to promoting economic growth in Oregon.¹ The overwhelming comments from the public to date have supported

¹ Davis, Hibbits & Midghall, Inc. 2002 Oregon Values & Beliefs Study

*Inspiring people to love &
protect nature since 1902*

5151 NW Cornell Road
Portland, Oregon 97210

Tel 503.292.6855
Fax 503.292.1021

www.audubonportland.org

stronger protections for fish and wildlife habitat emphasizing regulatory tools.

For example, 54% of those who participated in Metro "preference polling" during the recent outreach efforts supported strong/more emphasis on habitat protection, 63% supported habitat based Options 1A-C and 37% supported the regulatory Options 2A-C that weight protection based on "development value." Contrary to Metro's own assumptions about how property owners perceive their interests, over 2/3rds of those who participated by registered these views were directly affected property owners.

In truth, everyone in the region has a stake in these decisions, whether or not they are fortunate enough to live near a stream, wetland, or other natural area. Hence, it is critical that Metro consider the broad public interest and future generations in making decisions that will protect and restore our regional ecosystem. The public has called for Metro's leadership on this front for over a decade regional planning.

The status quo represented in local comprehensive plans still treats a significant portion of our region's remaining habitat as a stock of "vacant" or developable acres rather than part of a dynamic interconnected ecosystem functioning within a watershed and regional context. As a consequence, local and regional growth management is currently degrading our urban watersheds at a rapid rate.

For the health of these watersheds and the fish and wildlife they support, for the quality of life in our existing and newly urbanizing neighborhoods, for smart, competitive economic development in the 21st century, and for sustaining a sense of place and a sense of regional identity for the next generation, this region urgently needs a strong regional fish and wildlife protection plan.

We strongly urge Metro to make the following changes to the Phase II ESEE analysis, draft "ALP" decision and Exhibit C direction for developing a regulatory program in order to achieve an ecologically viable fish and wildlife plan for the region.

Phase II ESEE Analysis: The Phase II ESEE analysis needs to be revised to expand and extend the valuation of ecosystem services and amenities in order to adequately articulate the *social* and *economic* consequences of not maintaining the ecological functions and values that support them.

The analysis fails to grapple with the broader quality of life issues at stake in neighborhoods and centers throughout the region. Metro's analysis needs to adequately capture the social value of protecting and restoring nature places and associated ecosystem processes close to where people live inside the UGB. This would help identify where environmental and economic goals could be better integrated and aligned to optimize outcomes for the region.

There needs to be a clearer determination of the consequences of Option 2B to habitat lands and the functions they provide, especially the high value habitat areas. This should occur before the Metro Council and the various advisory committees proceed in deliberating on this recommendation. We request that Metro staff determine the impacts of the modified option 2B currently unavailable in the ESEE analysis.

Specifically, the lightly, moderately, and strictly limit designations in the proposed modified option 2B would apply how many:

- acres of title 3 flood management areas?
- acres of undeveloped floodplain?
- acres of Habitat of Concern?
- acres of primary function riparian habitats (Class I an II)
- acres of wildlife Class A and B habitat?
- acres of wildlife class A and B on slopes greater than 25%?
- acres of wildlife class A and B in DOGAMI debris flow hazard areas?
- miles of previously unmapped stream?

Allow, Limit, Prohibit Decision – Modified 2B: We strongly support the decision to make no outright allow decisions in the program option. This will be vital in establishing a program that can realistically achieve the goal of improving the overall health of environmental conditions in the region.

Our paramount concern with Metro's recommended Modified Option 2b remains the lack of adequate protection of high value riparian and upland habitats. In the current form, Modified Option 2b will almost certainly lead to the further degradation of the region's watersheds.

In order to achieve the overall goal and meet key environmental criteria in a scientifically defensible fashion, Metro must incorporate components of the habitat-based approach in Option 1A as part of the regulatory program. Increasing protections for many high value habitats regardless of ownership or development status will be essential to support ecological integrity of riparian corridors, their connectivity across the region and provide critical habitat to sensitive or at risk species.

To this end we suggest the following changes to Metro's modified 2b program option/ALP decision:

1.) Increase protections for high value riparian habitats (Class I and II). Increase protection of Class I and Class II riparian habitats (primary function) in high and medium development value areas to ensure avoidance of impacts that could jeopardize ecological connectivity and viability of riparian corridors. Avoidance could include rezoning, density transfers, and redrawing center and industrial land boundaries. Moderately limiting Class I Riparian areas in high urban development value areas, as currently proposed, will result in the potential loss or degradation of riparian habitats providing 3-5 primary riparian functions including shade, stream flow moderation, and bank stabilization. Degradation of these areas is not acceptable. We view the amendments proposed by the Goal 5 TAC and Water Resource Policy Advisory Committee on April 30, 2004, as the minimum to achieve regional policy goals summarized in the Goal 5 Vision Statement.

The lower level of protection for Class II riparian habitats also puts many primary ecological functions at risk of degradation including our remaining and rapidly disappearing undeveloped floodplains. The region needs to cease allowing development (clearing, grading, paving, or building) within the 100-year floodplain and 1996 flood inundation areas. We must begin restoring the social, ecological, and economic value of these lands for the habitat and ecosystem services they provide. Undeveloped floodplains also represent high restoration potential and will likely serve as important mitigation sites to recover ecological functions lost elsewhere to development.

Increasing high value habitats near denser "high value" housing and employment areas for ecological connectivity and economic amenity values (livability and access to nature) will bring economic and environmental goals into alignment. The degree to which technology, talent, and quality of life are fueling economic development in the 21st century is not represented in the low-level protection for these high value habitats in Metro's modified 2B.

2.) Increase protections for upland wildlife habitat along headwater streams (including intermittent tributaries) and steep slopes outside Title 3 water quality management areas, and Habitats of Concern. The low and moderate levels of protection applied to upland wildlife habitat must be reevaluated across all upland habitat classes. We strongly advocate increasing protections necessary to maintain and improve water quality by protecting

headwater streams (including intermittent streams) outside water quality management areas.

We strongly urge Metro to update the fish and wildlife habitat inventory to include previously unmapped streams. The program phase should consider regional application of protections intermittent streams draining less than 100 acres already in place in jurisdictions like Oregon City or Clean Water Services service district.

Stronger protections for upland habitat on steep slopes (greater than 25%) and debris flow hazards mapped by the Department of Geology and Mineral Industries (under SB12) would optimize economic and environmental outcomes. By reducing habitat loss, forest canopy removal, soil compaction and associated cumulative watershed impacts in these areas, the a regional program will decrease threats to life and property from increased landslide and debris flow hazard.

We also urge the Metro Council to amend the staff recommendation in Modified Option 2B to increase protections for Habitats of Concern regardless of development value category. Much of the remaining upland habitat with high urban development value is located in the Columbia Slough, where upland habitats are extremely scarce and the reduction of urban forest canopy over the decade compromises efforts to maintain and improve water quality in the Slough. The loss of high value upland habitat critical to supporting water quality and sensitive species within the Columbia Slough and is a prime example of how Metro must address the cumulative watershed impacts that occur at a regional scale. The proximity of these habitats to a population historically underserved by parks and greenspaces again highlights the need for Metro to consider the social consequences of these decisions.

3.) Increase protections for West Hayden Island: We are particularly concerned about the outstanding habitat values of West Hayden. Despite being a habitat of concern located entirely within the 100-year floodplain, the proposed modified Option 2 proposes to only to moderately limit premier habitat resource in the region. Future development on West Hayden Island should be held to the highest standards for avoiding, minimizing and mitigating environmental impacts.

4.) Impact Areas: We advocate retaining lightly limiting development in impact areas. Many of the riparian impact areas have a *direct* hydrological connection to the adjacent stream corridors and have future restoration potential. Opportunities to implement low impact design that can increase infiltration, replace tree canopy, or restore

ecological functions of near-stream areas can and should be captured when these areas redevelop.

5.) Analyze cumulative impacts of decisions and revise ALP decision to achieve regional policy directives and meet key environmental criteria. Metro must revisit the ESEE decision based on the substance of the program decisions and an analysis of the environmental consequences of those program decisions to the overall goal and environmental criteria, including Clean Water and Endangered Species Act compliance.

Direction for Program Development

1.) Defining Limit Designations: We strongly support Metro's inclusion of the policy hierarchy, "first avoid, then minimize and finally mitigate" in the "limit" definitions. We recommend using federal and state mitigation policies as a basis for developing criteria in a regional fish and wildlife program.

2.) Local Programs and Environmental Baseline: The environmental baseline must include all existing local government programs in addition to Title 3.

3.) Avoidance of roads and utilities impacts: The staff report also proposes to allow "trails, roads, and other public access to meet the public good" under the definition of strictly limit. Strictly limit must apply avoidance and minimization criteria to roads and utilities addressing their potential cumulative impact within a resource site/sub-watershed. For example, the direct and local impacts of an individual road or utility crossing may be minimized and mitigated but the cumulative basin-wide impacts of multiple crossings still result in degraded riparian corridors throughout a watershed. Minimizing stream crossings at a landscape scale will require avoiding them at particular sites. One standard developed for the Damascus Community Design establish 1,200 feet (or two blocks or a five minute walk) maximum distance between crossings to reduce losses to riparian corridor continuity.²

4.) Mitigation: The staff report identifies mitigation as an important program tool and lists key issues to be resolved in developing a program. These issues include mitigation ratios, where mitigation will occur, monitoring and enforcement. We feel that mitigation must ensure functional equivalency of lost habitat (no net loss), monitoring and enforcement, and occur within the resource/sub-watershed sites

² Damascus Community Design Workshop, Final Report. Online at:
<http://www.designdamascus.org/damascus%20final%20report/Final%20Report.pdf>

that formed the basis of Metro's inventory of regionally significant fish and wildlife habitat. Given the poor track record of wetland mitigation, mitigation ratios must be high, erring strongly on the side of full recovery of ecological functions.

5.) Restoration: Placeholders are needed for the development of a regional restoration framework (ideally as part of the Goal 5 program), and future steps beyond Goal 5 to include watershed planning, storm water management, and unresolved gaps for addressing the Clean Water Act and Endangered Species Act.

6.) Need for vegetation clearing standards: The staff report failed to address the need for clearing controls or ordinances to sufficiently dissuade habitat destruction in advance of development or permit applications. Several local jurisdictions have provisions that create a strong disincentive for habitat destruction in advance of development applications. These should become a part of an effective regional program.

7.) Non-regulatory tools: The impressive discussion of a broad range of non-regulatory tools obviously represents considerable work on the part of staff. However, there needs to be a broader discussion about the short and long-term sources of funding to make them happen and what it would take from local, county, and state government to develop those sources.

We wish to thank you again for your work and look forward to working with you in finalizing the "ALP" decision and developing a fish and wildlife protection program for the region.

Respectfully,



Jim Labbe

Urban Conservationist Audubon Society of Portland
Chair Coalition for a Livable Future Natural Resource Working Group

May 4, 2004

Council President Bragdon and Councilors,

My name is Dick Shook I am a board member of The Friends of Kellogg and Mt. Scott Creeks Watershed. My home is within the Urban Growth Boundary of unincorporated Clackamas County. I am fortunate enough to live on the banks of Mt. Scott Creek, the Urban stream that flows just a few hundred yards to our south. According to the Metro fish and wildlife Habitat map, my property is overlain by three different riparian and wildlife protection zones. Not only is my property indicated to be an Impacted Area, but it also shows that it includes Class 1 and 2 Riparian and Wildlife areas. You have been polite enough in the past to listen to my urgent requests to approve the maximum protection under goal 5 for our streams, riparian, and upland areas so today I would like to emphasize the importance of these green corridors to our Public Parks.

Since I am most familiar with the Kellogg Creek/Mt Scott Watershed, and it is probably typical of most streams in the Metro area, I will start with it. Mt. Scott Creek has its headwaters in Happy Valley City Park. Downstream its course takes it along a City sponsored walkway and past Southern Lites Park. After crossing under Sunnyside Road, which now spans it via a wildlife friendly bridge instead of a culvert and fill it passes alongside the magnificent Mt. Talbert Nature Park, purchased by Metro Green Spaces Funding and the North Clackamas Parks and Recreation District. It continues through the mostly undeveloped N. Clackamas District Park and then N. Clackamas Park before converging with Kellogg Creek. From there Kellogg Creek goes past Dogwood Park before emptying into the Willamette at Milwaukie River Front Park.

Johnson Creek, which flows into the Willamette at the North end of the Milwaukie water front also flows through numerous parks. Several in the Gresham area and further downstream along the Spring Water Trail, Mill Park, Tideman Johnson Park and Scott Park in Milwaukie on a tributary. These are just a few of the parks on Johnson Creek.

Opponents to increased protection of streams may say that we already have enough of their banks protected in Publicly owned properties, but connectivity is vital for fish and wildlife movement. In addition, both of these watersheds have been impacted by development in their upper reaches and in their flood planes. Development with its additional impervious surfaces has increased the amount of surface water and its accompanying pollution that flows into these streams. This increased water flow also increases bank erosion and suspended solids in the streams. We must act NOW to stop any further degradation of these watersheds from development in the flood plains and riparian areas. No net loss to flood plain areas.

A recent wetland study done in N. Clackamas Park revealed an area that had been a wetland, but because of the lowering of the water table from increased high water flows brought about by upstream development it is no longer classifiable as a wetland. This degradation of our urban streams has got to stop. Not only for the damage done to these important fish rearing streams

and wildlife corridors, but for the esthetics, since vistas and enjoyment of the public in these parks is extremely important to our quality of life and must be preserved for future generations.

Come On ... Let's provide the maximum protection for our urban streams while we still can, so that our children and grandchildren can also enjoy them and our open spaces and parks in the future.

Thank you for listening to me and please consider our future, not just a few dollars profit.

Dick Shook
4815 SE Cas Del Rey Dr.
Milwaukie, OR 97222



050404c-11

Commercial Real Estate Economic Coalition

1211 SW Fifth Ave. ♦ Suite L-17 ♦ Portland, OR 97204
(503) 228-9214 ♦ Fax (503) 223-1659

**TESTIMONY OF BEVERLY BOOKIN, AICP
ON BEHALF OF THE COMMERCIAL REAL ESTATE ECONOMIC COALITION (CREEC)
RELATED TO THE REGIONAL GOAL 5 PROGRAM
MAY 4, 2004**

Good Afternoon. I am Beverly Bookin, AICP, The Bookin Group, 1020 SW Taylor Street, Suite 760, Portland, Oregon 97105. I have been following Metro's work related to the Regional Goal 5 Program both in my capacity as a land use consultant to CREEC and as a member of MTAC on behalf of the Columbia Corridor Association, which is a CREEC affiliate. I am here today to provide a business community perspective on the staff recommendation to adopt a modified version of Option 2B as the basis for development of the ultimate regulatory program which will be applied to all regionally-significant riparian and upland habitat outside the Tualatin Basin.

First of all, economic development and environmental protection are not mutually exclusive, but stakeholders of goodwill can disagree on the balance between the two. We want to praise Metro staff for proposing the selection of Option 2B as this is a "middle-of-the-road" option in the "B" series that permits the balancing of both economic and natural resource values. Even as modified to be more stringent, the proposed option has no "prohibit" designations and proposes that the "lightly limit" designation for Impact Areas be down-graded to "allow", which makes these areas subject only to existing regulations. We are also pleased that the staff recognizes the need to develop non-regulatory tools to encourage preservation and enhancement.

We do have several concerns about the proposal, and argue that it should be brought more in line with the Tualatin Basin Natural Resource Coordinating Committee's (TBNRCC) proposal.

1. At the very least, Industrial Areas, which are now in the "medium urban development value" category, should be moved into the "high urban development value" category, as in the recommended version of the Title 4 regulations, there are only marginal differences between the two, so the distinction here is artificial. And because of its value, we suggest that Class III/Class C-mapped sites be "allow" rather than "lightly limit". However, we would prefer the TBNRCC approach that puts all employment land into the "high value" category.
2. The treatment of "Other Lands" assumes that they have no economic value. This is only true for that portion that is already dedicated to parks and open space. We assume that this category also includes rural land within Metro's jurisdiction but not yet included in the UGB. Should it be brought in, this rural land will be given an urban designation, which should then allow it be moved to the appropriate urban category. Again, the TBNRCC proposal includes this land in "future urban", as distinct from "non-urban" and provides for a re-evaluation of the applicable regulatory program at the time the land's status changes.
3. It is our understanding, only Metro can approve site-specific map amendments and then only on an annual basis. Waiting this long for relief from a mapping error or change of condition is tantamount to prohibiting development. We believe that local jurisdictions should have the right to make map corrections during the land use development process, when the applicant can obtain relief in a timely fashion, with the local jurisdiction then passing up the correction to Metro to modify the regional map

Associated Builders & Contractors ♦ Associated General Contractors ♦ Certified Commercial Investment Members of Commercial Investment Real Estate Institute ♦ Columbia Corridor Association ♦ Commercial Association of REALTORS® ♦ International Council of Shopping Centers ♦ National Association of Industrial & Office Properties ♦ Olson Engineering Inc. ♦ Oregon Mortgage Lenders Association ♦ Portland Metropolitan Association of Building Owners & Managers ♦ Providence Health Systems ♦ Retail Task Force ♦ Schnitzer Investment Corp. ♦ Society of Industrial and Office REALTORS® ♦ Westside Economic Alliance

inventory. Again, TBNRCC provides for local map modifications despite the fact that its map inventory is already probably more accurate as it was undertaken at the site-specific level.

4. The requirements for "strictly", "moderately" and "lightly" limit are still quite stringent, i.e., prohibition of development on 80%, 65% and 50% of the mapped resource, respectively. We are particularly concerned about the "lightly" limit standard, which presumably applies to lower-value resources. It is impossible to determine the total acreage impact because the inventory is so complicated – e.g., will there be additional impact on the development capacity of Title 3 lands? – and the regulations themselves have not been drafted – e.g., will there be buffers required between the protected portion and unprotected portion of the resource that will increase the total acreage?
5. What we can tell you is that some of the staff's assumptions are overly-optimistic. For example, there is the assumption that even at a 65% and 50% protection level for "moderately" and "lightly" limit, respectively, there will be no net development loss by employing the transfer of development rights (TDRs). The ability to shift lost capacity onto the developable portion of retail and industrial sites is marginal because there is no market and/or it is infeasible to go to two-story buildings in many cases. Even on residential sites, the transfer of units can significantly increase densities and result in a change of housing type, e.g., from single-family-detached to -attached housing. We believe that there is also not much opportunity to transfer the density onto other sites as we already are systematically up-zoning throughout the region to minimize the need for future expansions.
6. Moreover, it is already difficult to redevelop obsolete industrial land within the UGB, in addition to which, Metro's supply calculations are dependent on such redevelopment occurring to achieve the 20-year land supply to minimize the need to expand the UGB into prime farmland. Because the Goal 5 regulations themselves are not yet developed, it is difficult to tell what impact an additional layer of regulations will have on meeting the region's goal for "compact growth". Thus, redevelopment sites should be exempt from these regulations to the greatest extent possible. This suggests that Metro may want to consider a regulatory program that takes into consideration the difference between land inside the pre-2002 UGB, a significant portion of which is already developed, and land that was brought in during the 2002-2007 UGB expansion, which is just undergoing its Title master planning.

This being the case, we believe that it is likely that the total loss of developable land within the UGB due to the implementation of the proposed Metro modified Option 2B could be in excess of 10,000 net acres. To replace this at the UGB's edge will require substantially more acreage, to account for the net-gross conversion factor and to deduct the to-be-protected natural resources on the expansion property. We could be talking here close to the equivalent of the last UGB expansion of 18,600 acres, the biggest expansion in Metro's history. We need to be honest about the full range of implications if this is truly the price of such a stringent Regional Goal 5 Program.

On behalf of CREEC, I wish to thank you for the opportunity to testify today. CREEC reaffirms its commitment to continue working with Metro and other regional stakeholders on this important issue.

Karen Mondak

050404c-12

Metro Goal 5
Metro Hearing May 4th

CLACKAMAS
Tuesday, May 4th, 1:00pm
Sunnybrook Service Center Auditorium
9101 SE Sunnybrook Blvd

- Urban Wildlife Resource Office and ^{emphasize} see ~~everyday~~ the importance of the urban landscape for biodiversity. Our urban landscape is ~~populated with migratory and breeding bird populations~~ ^{migratory nesting feeding}
- What amazing diversity we still have. Migratory flyway, and the birds will come, the question is if there will be habitat for them when they arrive.
- See the failures every day, the injured animals which resulted from habitat destruction and loss.
- Ask for improving the staff recommendations to increase the level of protection for habitats of concern in upland wildlife areas – important for terrestrial wildlife
- Many of these remaining upland wildlife areas are in the Columbia Slough and are a scarce habitat type within that watershed. They are also located in a region that is historically underserved by parks and greenspaces.
- Increasing protections for these scarce habitats will optimize both social and environmental outcomes for the region.

Please improve staff recommendations to
increase the level of protection on habitats of concern

TESTIMONY

John Frewing, 7110 SW Lola Lane, Tigard, OR 97223 jfrewing@teleport.com

METRO Goal 5 ESEE Phase II, Ordinance 04-3440, May 4, 2004

Chair Bragdon and Council Members,

My concerns with your current ALP matrix, a modified Option 2B, relate to its failure to more highly value riparian habitats and associated upland resources (I, II, A, B). These resources were fixed long before we came to this country and will try to survive after we are gone. Our government efforts are misplaced when we try to 'develop' them. The need for human development land can be adjusted by the UGB, zoning and other mechanisms, whereas, these streams, wetlands and associated uplands and their plants and animals cannot adjust.

I want to suggest that in your ESEE analysis of need for industry land, that you subdivide industry by desired and expected type, recognizing that at the margin, there will be more demand for space that has natural amenities than just bare ground. Alternatively, your consultants might simply weight the value of industrial land by a judged factor of say, 0.8, in determining the optimum balance of competing demands in your ESEE analysis. Or as another alternative, you should include in your valuation of riparian habitats and associated uplands a negative factor, which is the increased cost of developing these lands. I think any of these three approaches would yield a conclusion that Option 1A or 1B would better serve our long term regional interests.

I commend your goals which state that a purpose of this activity is to 'restore' riparian habitats and associated upland forests, but your ALP approach only looks at different degrees of degradation. There is no absolute 'prohibit' category lands at all; I obviously believe that there should be some. Your mapping at this stage should provide the best opportunity for restoration by strictly limiting all undeveloped floodplain areas, regardless of development value and similarly classifying all lands already committed to open space, such as local park lands and your own open space acquisitions.

In an earlier life, I was concerned and active regarding protection of habitat in the Johnson Creek corridor; today I am concerned and speaking for protection and habitat of the Ash Creek tributary of Fanno Creek, flowing from the extreme southwest corner of Portland through Tigard and unincorporated Metzger, adjoining the southern part of the Washington Square Regional Center to join Fanno Creek near its crossing of North Dakota Street.

- The death and falling of giant white oaks this winter just east of Hall Blvd near Spruce St. tell a dramatic story of how development affects our community over a long time. The tree rings on what are now stumps show that these trees thrived for some 100 years, relying on summer drying of their site near a wetland area of an Ash Creek tributary. With adjacent housing development, lack of stormwater retention and blockage of natural flows across Hall Blvd, water levels rose to the point that when they fell, there was standing water in their root ball holes after they fell. Each element of development was imperceptible, but combined, they led to early death for these trees and the habitat they supported. I ask that your ESEE analysis at this stage show the combined impact on remaining wetland habitats and associated upland forests at a regional scale.
- South Fork Ash Creek forks from the main stem at Metzger Park and heads east through residential back yards of Metzger, flowing under SW 80th Avenue in a culvert and continuing uphill toward Washington Square Estates behind the Tigard Fred Meyer store. Oregon's largest and most dense grove of Western Red Cedar straddles this branch on 9.5 acres just east of SW 74th Ave. The uniqueness of this stand was not recognized in your staff analysis of high value habitat and it is threatened today by a development, which proposes a 200-foot fill across the stream instead of a bridge which would allow connectivity of wetland areas and associated upland forest on either side of SW 74th Ave. Your goals speak of connectivity, but your current mapping does not give special value to nearby and linearly connected wetland habitats – individual sites appear as islands. Resulting fragmentation of the Goal 5 habitats does not meet regional needs.

Your choice of Option 2B does little to protect these vanishing habitats which make the METRO area 'livable'. I urge you to ask staff re-evaluation of their weightings of need and the feasibility of finding comparable space elsewhere for the competing space needs of human activity and remaining wetland and associated upland natural habitat.

I have discussed my views with those of Audubon participants and find that the suggestions they make would go a long ways toward meeting my concerns. Please also give them serious consideration.

Ribbons of Green

My name is Nancy Yuill and I am the Executive Director of the Clackamas Community Land Trust. We are a non-profit organization that provides permanently affordable homeownership opportunities to people of low and moderate income in Clackamas County. I am also a founding member of the Clackamas Housing Action Network and I am a member of the Coalition for a Liveable Future.

I am here today to testify in support of the maximum protection ^{option} for the regional fish and wildlife plan. We must protect our streams, our floodplans, the habitats of concern, our trees and upland forests. ^{+ streams} If we don't, once they are gone, we will never get them back.

As a developer of affordable housing, I can tell you first hand that our mission is strengthened and leveraged by wise management of our limited environmental resources. In our first subdivision off Lake Road in Milwaukie, we established a conservation easement for the environmentally important section of land that buffers Mt. Scott Creek. Our homeowners and volunteers, especially the Tsumani Crew, have put countless hours and hundreds of natives trees into the area to restore it to a healthy status. Our homeowners want the stream protected and the wildlife to thrive ^{for their quality of life.}

We are currently developing a subdivision of 14 homes on Fuller Road in Milwaukie. We have worked very hard to ensure that our rainwater management system handles all of the rainwater on site. The roof drains are handled by a french drain system, the driveways are made with grass pavers and our private street runs off into a bio swale. We do this because we do not want the run off going into the surrounding stream system. If we piped our run off into the

stormwater system it would flow into Phillips Creek, destroying its fragile eco system, then on to the Mt Scott Creek watershed, and ultimately the Willamette. That is not acceptable to us.

In developing the site we determined that we could put 18 homes on 1.25 acres. We chose to only put 14 homes on the site and set aside an area as a pocket park for the community. We did this because we seek to balance our short-term needs with our long term responsibilities.

An important part of our mission is to steward the land we put in trust. That includes being environmentally responsible in the developments we do. Our commitment is so strong we named our new neighborhood SE Phillips Creek Place.

My homeowners are people of modest means. They are working families who earn on average 60% of the area median income. We have many single parents and families with small children. They will probably never be able to afford a vacation to an eco tourism site in Costa Rica or a bird sanctuary in California. They can ~~only~~ access and enjoy green space that is near by. The provision and protection of our green ribbons will allow our people to enjoy the benefits of interacting with nature.

We are committed to balancing our housing development to be economically efficient, equitable for our communities and environmentally wise. I am asking Metro to share in our commitment and leverage our work by implementing the highest possible protection option for our regional fish and wildlife protection plan. Thank you.

May 4, 2004

Metro Council
600 NE Grand Ave.
Portland, OR 97232

RE: Metro Regional Fish and Wildlife Protection Program

Dear Councilors:

I am writing in support of the comments and testimony submitted by the Audubon Society of Portland and the Tualatin Riverkeepers. Both of these organizations have provided careful and clear comments to help protect and enhance our community livability through smart natural resource policy and management. I also strongly support the Goal 5 Program recommendations put forward by Goal 5 TAC and WRPAC that strengthen protection of Habitats of Concern and high value habitats, both riparian and upland.

As Council and staff approach the third and final step of the Goal 5 process, two primary directives should drive the program and implementation. The regulatory program should:

- Define "limit" definitions that relate back to the Goal 5 program goal: *"To conserve, protect and restore a continuous ecologically viable streamside corridor system, from the streams' headwaters to their confluence with other streams and rivers, and with their floodplains in a manner that is integrated with the surrounding urban landscape."*
- Set high avoidance criteria. Exhibit C to Resolution No. 04-3440 states that *"as a guiding principle, first avoid, then limit, then finally mitigate adverse impacts...."* This is an important and necessary policy framework that will provide direction for meeting the overall, holistic goal through clear regulatory definitions and requirements. For example, in Exhibit C, each of the concerns that Council directs staff to address includes Habitats of Concern listed in parentheses as especially important. In accordance with the "avoid first" policy approach and the overall Goal 5 program goal, ALL Habitats of Concern should be strictly limited.

A rigorous regulatory program will provide the "scaffolding" for non-regulatory programs that will round out an overall Goal 5 program. I applaud the Council's commitment to restoration, education, and acquisition programs. Technical assistance programs should support a habitat-based approach that identifies and protects the natural capital that we will increasingly need to support future growth. Here are two areas of knowledge and practice that will help us make our best decisions:

- We know, for instance, that protection and enhancement of riparian corridors and forested areas are essential for maintaining urban watersheds that will provide value to our community. If we do not act now to protect this vital resource, we will simply spend more and more money and time mitigating the negative consequences.
- We also know that we can provide residential and commercial development that protects urban streams and watersheds through creative stormwater designs that mimic nature by absorbing rainfall on-site through eco-roofs, planters, dry wells, and porous (pervious) surfaces. These practices, along with other urban design and planning strategies, can provide healthy human and natural communities.

So, we can protect our resources and still provide housing and basic services for the people who call this place home. But we must change our perspective. Protecting urban watersheds now will provide the catalyst for smarter development and overall resource management.

I am an educator at heart and have always championed outreach efforts as well as incentive programs and policies that help us imagine and implement more sustainable approaches to growth and natural resource management. But without a strong regulatory program to help protect what we have, the work is moot.

Thank you very much for your consideration and time with these important issues.

Sincerely,



John LeCavalier
1622 SE 55th
Portland, OR 97215
503.234.5935
lecavalier@comcast.net

May 4, 2004

President David Bragdon
Councilor Burkholder
Councilor Hosticka
Councilor McLain
Councilor Monroe
Councilor Newman
Councilor Park
Metro
600 NE Grand Ave
Portland, OR 97232

RE: FISH AND WILDLIFE HABITAT PROGRAM
PUBLIC TESTIMONY

President Bragdon and Councilors:

As you are aware, AGC has been involved in Metro's Fish & Wildlife Habitat Program process for many years and has provided testimony at other major junctures. As an "involved participant" we hope that you will weigh carefully the following comments and concerns as you move forward with directing staff to initiate the long-awaited program phase of this work.

Areas for Agreement:

- AGC commends the COO's recommendation for using the 2B option of the six options available. While we are concerned about the effect modifying 2B will have on availability of buildable lands inside the UGB (see later comments), the "2 Series" of options are the only ones in our opinion which meet the intent of the required ESEE analysis as outlined in Oregon statute and administrative rule. We suggest that no further modifications to 2B be done at this point in the process.
- The COO recommendation and Council intent to have no "prohibit" designations is a good one. We recognize that you will receive many comments from others that a "prohibit" treatment should be used. We disagree and support your goal of avoiding takings.
- Changing the "lightly limit" designation for Impact Areas to "allow" is a good recommendation that should be carried forward into the program development phase.

2004 OFFICERS

Terrence L. Edgar
President

John Bollier
*First
Vice-President*

Robert Schommer
*Second
Vice-President*

Dave Alexander
Secretary

Fred Williams
Treasurer

Jeanne Staton
*Immediate
Past President*

EXECUTIVE DIRECTOR

Craig Honeyman

2002 AGC of America Chapter of the Year

The Voice & Choice of the Construction Industry!

- ❑ The recommendation that map corrections be an ongoing and regular part of the F&W Program is a good one. We would further encourage that Metro delegate the map corrections to local jurisdictions with a reporting to Metro so that as discrepancies are found during the local land use/permitting process they can be solved expeditiously rather than having to wait for a Metro process. We all know that time is money and having map corrections put into some sort of queue at Metro will discourage good development from happening at the local level.
- ❑ We applaud the efforts of staff to identify non-regulatory approaches to fish and wildlife habitat preservation and enhancement. We encourage the Council to instruct staff to pursue non-regulatory approaches with at least as much fervor as regulatory solutions.

Areas of Concern:

- ❑ The “high” economic valued land should include more employment land categories and be consistent with the “high intensity urban” category of the Tualatin Basin Partners. As you are aware, ETAC recommended that all industrially zoned land be placed in the high category. The Council made a political decision to bifurcate the RSIA and other industrial land. That earlier decision should be reversed. We are also concerned that some of the most economically important land in this region is being relegated to “medium”. This, together with the modification suggested by the COO to raise the protection levels on Class I and III Riparian and Class C Upland creates a “double whammy” effect on these economically important lands.
- ❑ The treatment of “other lands” assumes that they have no economic development potential in the future. Rural and open land not currently designated as parks or owned publicly could be used for future development and should have some value attached to it as suggested by the IEAB.
- ❑ The Ordinance adopted by the Council and subsequent program should include the ability to revisit the Allow-Limit-Prohibit recommendations and ESEE analysis once on-the-ground effects of the program are known. There needs to be some way for local jurisdictions to seek modifications once they are more aware of actual impacts—similar to the map correction process suggested above.
- ❑ The economic analysis portion of the ESEE referenced that there would be no loss of development capacity on the lands where “lightly limit” and “moderately limit” regulations are enforced; yet, the definition of “allow” is that no additional regulations will be added to the underlying local regulations—that seems to infer that “lightly limit” will add some level of regulation to underlying and “moderately limit” will be a step higher on the effect on developable land. We have several concerns about the impact program regulations will have on the vacant and redevelopment capacity of land inside the current UGB. Those concerns are summarized below:
 - Amount of land affected—while it is difficult to use the graphs and charts in the ESEE analysis document to clearly understand the impact of regulations on vacant land, doing our best to tabulate the percentages of vacant acres in the SL, ML and LL categories leads us to believe that something on the order of 10,000-

20,000 acres could be taken out of the vacant, build-able inventory. If we are anywhere close on this estimate, we find it difficult to imagine where, outside the UGB, such a large amount of new land will be found. Using the words of COO Jordan at a recent meeting, we concur that the last UGB expansion of 18,000+ acres was the last “easy expansion”, and the region is going to be faced with increasingly harder decisions about urban versus farm/forest uses in the future. This amount of land cannot be recouped by upzoning and transfer of development rights alone—especially when things like employment clusters, jobs-housing balance, just-in-time supply chains and infrastructure investment (or lack thereof) are taken into consideration.

- Redevelopment capacity--we see no indication that lands that could be redeveloped are being given any different consideration from vacant land. This could be a serious problem if not addressed in the program stage. As you are aware, it is difficult at best right now to redevelop industrial land within the UGB; however, Metro’s supply calculations are terribly dependent on redevelopment occurring to achieve the 20 year land supply. Layering more regulations on existing employment land such that redevelopment opportunities are made more difficult will certainly have another adverse affect on the supply side of the equation and will ultimately result in needing more UGB expansion.
 - Underlying regulations--the baseline assumption in the ESEE analysis is Title 3; however, there are jurisdictions that have much more stringent underlying regulations and recently acknowledged Goal 5 programs. The notion that Metro’s F&W Program will only impact existing development when a “land use action” is initiated is not entirely correct and needs to be recognized in the development of Metro’s program.
 - Pre-2002 UGB versus post-2002 UGB—the program to be developed must take into consideration the difference between land inside the pre-2002 UGB and land that was brought in during the 2002 UGB expansion and which has yet to be comprehensively planned. It seems logical that regulations could be more stringent in the newer areas since the effects will be much less to existing development.
- During the discussion at MTAC about the A-L-P mapping, it was noted that no comparison to the RTP has been to date. We encourage this analysis to be done so that potential conflicts between planned infrastructure investments and the F&W Program are avoided earlier rather than later.
 - The analysis thus far has been very academic and lacks critical input from the development community about what is possible. We suggest that staff bring together an advisory group of local industrial, commercial and retail developers early in the program development phase to “ground truth” the program ideas that staff develops and to provide real-life perspectives on the effects of regulatory and feasibility of non-regulatory program recommendations.

As in the past, AGC commits to continuing to work with the Metro Council and staff to fine-tune this program over the next several months.

Sincerely,



Cindy Catto
Public Affairs Director

cc: AGC Board of Directors
Craig Honeyman, Executive Director

Testimony before Metro Council: Tuesday, April 4, 2004

President Bragdon, Metro Councilors

N. Netusil, Associate Professor of Economics at Reed College. For the past 2 years I have served as a member of the Goal 5 ETAC. I also reviewed ECONorthwest's Draft Literature Review and Draft Economic Report and the Phase I and Phase II ESEE reports as a member of the Northwest Power and Conservation Council's Independent Economic Analysis Board. The testimony I provide today reflects my own opinions and not those of the IEAB.

For more than 10 years my research has investigated how factors, such as proximity to open spaces, influence the sale price of single-family residential properties in the city of Portland, Multnomah County. I have also conducted research on the relationship between the sale price of properties and Portland's environmental zones.

My research has shown that properties located near open spaces sell, on average, for more than properties not located near those amenities. The estimated increases range from 16% for properties near a natural area park to 2% for properties near an urban park.¹

There are relatively few peer-reviewed published studies that examine how environmental zoning influences the sale price of properties. The literature that does exist has generally found a very small economic loss from restricting development rights and a large positive effect from preserving amenities.

In my study the net effect of environmental zoning was found to vary by location (SW, NW, SE, NE, N) and amenity type. For example, the net effect for properties in Southwest Portland with a c-zone designation and tree canopy in the surrounding neighborhood was small, but positive.

While I have not directly examined the relationship between water quality and the sale price of properties studies conducted elsewhere have consistently shown that water quality is capitalized into the sale price of homes.² Restoration projects have also been shown to increase property values - one study conducted in an urban area of California estimated the value of restoring urban streams at 3 to 13% of the mean property price.

¹ 13% (golf courses) and 8.5% (specialty parks)

² A stream located within 200 feet of a property decreases its sale price by 2.80%. The presence of tree canopy and a stream on a property increases its sale price by almost 13%.

Trees on a property and trees in the area surrounding a property have been shown to influence property values. A published study conducted in Georgia determined that properties with trees in their front yard sold for 3-5% more than properties without trees. Another published study estimated that a forest view increases a property's sale price, on average, by almost 5%.

The results I have cited are averages and therefore mask the distribution of benefits and costs arising from programs such as the one currently being discussed. Distributional issues are extremely important and, to the extent possible, should be considered as staff develop regulatory and non-regulatory options.

My final comment focuses specifically on the ESEE analysis. This analysis tends to portray the relationship between the environment and development as a strict trade-off. This characterization is unfortunate since preservation can enhance the economy.³

Recently, over 100 economists in the West, including two Nobel Laureates, signed a letter to western governors asking them to consider the importance of the environment when making economic decisions. The letter concludes with the following statement: "Nearly all communities in the West will find they cannot have a healthy economy without a healthy environment."

I thank the Metro staff for all of their hard work and Metro Council for the opportunity to testify.

³ Examples – jobs created as a result of preservation. Ecosystem services, reduced cost of air and water treatment because these are cleaner. The nebulous "quality of life."

President Bragdon and Metro Councilors

My name is Kathleen Sala and I live at 19620 SE Wooded Hills Drive.

My house is located on 2^{1/2} acres on Bliss Butte, which is one of the Boring lava domes. The butte is located between 190th, Tillstrom, and Rodlun Roads. I have lived at this location for 28 years and in the Portland area for my entire life years.

My property is in an area with dense tree canopy, steep slopes and intermittent streams. Deer and coyotes are frequent visitors to my property. Almost all of the land on Bliss Butte, including all of my property, has been designated as Class A Upland Wildlife Habitat.

I want to encourage the Metro Council to consider changing the designation for properties on the buttes with Class A Upland Wildlife Habitat from moderately limit to strictly limit for the following reasons:

1. Metro has made a considerable investment to preserve wildlife habitat and protect water quality by purchasing land on the buttes. Metro, through its open space acquisition program, has purchased approximately 170 acres on the north and east part of my butte. A strictly limit designation for the remaining properties would provide the highest level of wildlife habitat and water quality protection.
2. Properties on my butte drain to Rock Creek and Kelley Creek. Development on other buttes, for example, Hawthorne Ridge on Mt. Scott, has resulted in severe water quality problems. Most of the land on my butte has steep slopes (> 20%) and a "moderate" designation for earthquake hazard. (You should include a statement about what you have observed as a result of development on our butte (unstable ground, ^{erosion} water runoff over 190th, etc.) in rainstorms resulting in erosion)
3. Homebuyers want a beautiful view, so the pressure to develop the steep part of the buttes will be enormous. This results in many homeowners seeing their views destroyed.
4. Many buttes have been recently brought into the urban growth boundary. These lands have not yet been rezoned, so subjecting these properties to a strictly limit designation, instead of a moderately limit designation, will not unduly burden existing property owners.

(Metro has, through actions such as its open space acquisition program, recognized the importance of the buttes for wildlife, water quality and recreation. I hope the Metro Council will continue to protect the Class A Upland Wildlife Habitat located on the buttes by designating these areas as strictly limit.)

Thank you for your time and consideration.

CHRISTOPHER & RUTH BURKETT

0504/04c-17

May 4, 2004

We appear before you today feeling trapped in the path of your Chapter Five plans. We are not sure that anything we have to say here will change the course you have already set into motion. Nevertheless, we are here to express our doubts and fears.

Our land is our joy and our sorrow. Our joy, because it is beautiful beyond words, beyond description. A joy to behold, a cherished wonder that we have the privilege and honor to call this place home. Our sorrow, because that beauty and wonder is threatened to be harmed by yet another round of impersonal regulatory restrictions.

Our property has been actively cultivated and landscaped for over 100 years. It is unique in place and character — there is not another place like it on earth. If any place is to be known intimately, you must live on it, love it, and work with it for many years. You can never come to know it all. It is different every day, and the more you pay attention, the more aware you are of those differences. It requires sensitive discernment and discretion to manage it properly.

Applying knowledge sensitively is an art. What is needed is not more regulation but more wisdom. We need to act compassionately, with an understanding that we can never know it all, but through a delicate and careful response to our observations of our land, we can bring it back into a wholeness.

Suggesting or requiring plant buffers along streams is one thing, stipulating precisely which plants must be used is another. We find it completely unacceptable that you propose to dictate to us what trees, shrubs and plants we may or may not grow on our own property. Compelling us to do so unreasonably restricts the use of our property without compensation and is an insensitive and inappropriate response to our exquisitely landscaped property.

However lofty the concepts behind the regulations, they cannot be applied **both** generally and sensitively. These regulations, which by their nature, cover a generalized area, can actually only be applied to one unique, specific place at a time. And as they are applied in their generalized form to these specific places, they obscure their uniqueness and damage their beauty and value. They can be hurtful and counterproductive — even destructive. The forced implementation of these heavy-handed restrictions and regulations will be harsh and oppressive to us. One size does not fit all — in reality, one size fits none. Human eco-engineering will never replace a sensitive, informed response to nature's wisdom.

We believe that Metro should concentrate on finding ways to educate, inform and suggest ideas for improvement. We also believe that Metro should simply leave us alone to manage our own property. Livability and sustainability are best achieved through careful stewardship by responsible, caring property owners. We are fully capable of managing our land by ourselves and wish to do so. The proposed regulations will only hinder us in our efforts and will result in a degradation of the beauty, grace and life of our property.

Sincerely,



SCHNITZER
INVESTMENT CORP.

May 4, 2004

Metro
Attention: Metro Councilors
600 NE Grand
Portland, OR 97232

Re: **Habitat Protection for Developed Industrial Lands**
Comments for Council Consideration

Dear Metro Councilors:

It is with major concern that Schnitzer Investment Corp. addresses this letter to the Council relative to the proposed Goal 5 Inventory and Habitat Protection Options. While we applaud Metro's efforts to protect the region's wildlife habitat, we would like to take this opportunity to help Council understand the site specific impacts of the Recommended Habitat Protection Option 2B, as modified.

Specifically, the International Terminals site (IT), an industrial property totaling approximately 250 acres located adjacent to the Willamette River in the Portland Harbor (see attached Map #1), is severely impacted by the COO's Recommended Option. This site includes several existing businesses including, but not limited to, Boydston Metal Works, Northwest Pipe, Portland Container and until recently Ryerson Steel. The largest business is Schnitzer Steel, which is a large-scale scrap metal recycling facility.

You will recall that, previously, this parcel was a Kaiser Shipbuilding site. As such, this industrial site has offered businesses access to the harbor and heavy rail systems since the 1930's; and, more recently, improved connections to the interstate freeway system. It is important to note that materials flow both into and out of the IT site by barge, rail and truck, clearly making this a unique, multimodal site that the region cannot afford to lose.

It was our understanding, at the time the inventory was created, that Metro took a very liberal approach to designating regionally significant habitat and that the implications of such an inclusive view would be sorted out in later phases of the program. Now is the time, as Metro moves through the ESEE analysis, to carefully evaluate the significant economic benefits of this unique industrial property in the Portland Harbor against the relatively marginal habitat benefits offered from its long developed floodplain.

After reviewing the August 2002 Inventory and technical appendices, we found that areas within International Terminals that has been developed for nearly 75 years are considered "Class 3 Riparian." In addition, the slip, which actively serves the shipping industry, is being considered "Class 1 Riparian." Since Metro's on-line mapping does not indicate the relationship of existing development within the inventory, Group McKenzie provided us with an aerial photograph with an overlay showing the location of Class 1, 2 and 3 "riparian" areas on the site (see attached Map #2). Using Metro's GIS data (See Map #3), Group McKenzie calculated the specific areas that

are identified by the COO Recommended Option for “Strictly Limit”, “Moderately Limit” and “Lightly Limit” on the site:

International Terminals

Total Site Area:	249.52 acres (upland area only)
Less Strictly Limit Area	- .29 acres (.01%)
Less Moderately Limit Area	- 3.31 acres (1.32%)
Less Lightly Limit Area	-204.97 acres (82.1%)
Total Site Area Not Impacted	40.95 acres (16.4%)

From an area standpoint, of a total of 249.52 acres, the COO’s Recommended Option impacts about 208 acres. This results in only 16% of existing developed, active industrial land not subject to development or redevelopment restrictions. Although the Metro staff report indicates that a lightly limit designation should result in no net development loss, a minimum 50% non-disturbance of the habitat area is proposed.

The proposed limitations on these 208 acres of land would impact 80 direct jobs and an estimated 150 secondary jobs (based on a multiplier of 1.9 found in the City of Portland’s Portland Harbor Industrial Lands Study). Additionally, Schnitzer Steel, as well as the other businesses operating at the IT site, offers a net benefit to the public good with contributions to local and state revenues with property taxes, business income taxes, business surcharges, franchise fees on utilities and the like.

It is important to note that in addition to these economic factors, this riverfront site is essential to the viability of Schnitzer Steel’s recycling operation, which has grown in the last year, now recycling 750,000 tons of steel per year. The recycled materials are then sold domestically as well as internationally using trucks, rail and barge, keeping transportation costs low to remain competitive. Additionally, Schnitzer Steel contributes to the region’s sustainability by recycling old cars, refrigerators, demolition salvage and the like, keeping the community’s waste product out of landfills; using scrap to make steel rather than raw materials equates to roughly a 74% savings in energy.

The transfer of development rights (TDR) program offered as a way to offset the negative economic impacts of habitat protection on inventoried land is simply not viable for industrial land uses, particularly in the Portland Harbor. There is no other location in the region that can provide critical marine access for water dependent and water related uses. Additionally, an expansion of the Urban Growth Boundary (UGB), which may be necessary in order to accommodate the region’s land supply needs given the potential restrictions on land within the UGB, cannot provide any similarly situated industrial land.

The economic benefit derived from this site becomes even more relevant when evaluated against the environmental functions provided. Since Metro’s regional scale inventory does not consider site-specific issues, we recently retained the services of Paul Fishman of Fishman Environmental Services. Based on his preliminary review of Metro’s resource inventory and mapping, he offered additional information regarding the habitat functions provided by the IT site, which is incorporated into the letter below.

The Metro riparian inventory appears to consider developed floodplain areas as areas that provide ecological functions, such as streamflow moderation and water storage. While it is correct that areas within the mapped 100-year floodplain are occasionally inundated (with a probability of 1 percent per year) and thus contain, or store, floodwater during these rare events, this alone is not a reason to assign an ecological function to these lands. Metro describes the streamflow moderation and water storage function in terms of allowing groundwater recharge and discharge, storing of rainwater, preventing flooding, and providing sources of stream flow during dry parts of the year. Metro attributes the provision of these functions to wetlands, vegetated areas, and un-compacted topsoil (Exhibit A, Appendix A, Resolution 01-3141C).

The subject property is neither wetlands, forested areas, or areas with un-compacted topsoil – it is a developed industrial site with impervious surfaces – and they do not provide the ecological function described by Metro (Figure X). At best, these areas along the lower Willamette River provide a hydrologic function during extreme high-water events, and these sites are subject to federal and local regulations concerning floodplains. The International Terminals site operates with full knowledge of, and under the assumption that the site may be inundated very infrequently. The proposed program that suggests anywhere from 50% to 65% of the “habitat” (i.e. mapped riparian resource) would be protected from development is inappropriate, considering that 100% of the “habitat” is already developed for industrial and water dependent uses.

In addition to mapping the International Terminal site for the function of streamflow moderation and water storage, Metro also maps portions of the site for the following functions: bank stabilization, sediment and pollution control (Figure X); large wood and channel dynamics (Figure X); and organic material sources (Figure X). The validity of mapping for each of these is questionable for this site.

For the bank stabilization, sediment and pollution control function we agree that the 50-foot “default to maintain basic functions” area can generally provide this function; however, this may not be appropriate for a water dependent industrial site where water access is required. In these cases, engineered bank structures and stormwater facilities provide the function. The inclusion in the Metro mapping for the IT site of existing very small clumps of vegetation inland of the 50-foot zone is not appropriate; this vegetation does not provide the mapped function.

The large wood and channel dynamics function described by Metro is most appropriate for smaller stream/riparian systems, not large, low-gradient streams like the lower Willamette River, and particularly not for a working marine industrial site. Large wood in the lower Willamette River, and in the off-channel slip on the IT site, does not “form important habitat for fish such as pools, riffles,

Metro
Habitat Protection for Developed Industrial Lands
5/4/2004
Page 4

eddies, side channels, meanders, and instream cover” (Metro Exhibit A, Appendix A, Resolution 01-3141C). Nor does the lower Willamette River in the Portland Harbor have a stream meander zone, as discussed by Metro for this function. The mapping of IT site vegetation for this function is incorrect, based on the ecosystem type and industrial use of the site.

The organic material sources function mapped on the IT site is also not supported when considered on a site basis. Metro states that “...in larger streams and rivers organic matter may come from aquatic plants and upstream sources” (Metro Exhibit A, Appendix A, Resolution 01-3141C), which correctly ascribes this function to off-site sources upstream for the lower Willamette River. Metro also states that “fallen insects from riparian vegetation can make up 40-50% of the diet of trout and juvenile salmon during the summer months.” This statement is certainly true for small stream systems; however, there are no data to support this conclusion for the lower Willamette or similar rivers. In fact, recent research by the Oregon Department of Fish and Wildlife (and a 1986 report by FES for lower Columbia Slough) found that the major food source of juvenile salmonids in the lower Willamette River is zooplankton (ODFW research for City of Portland).

While this site provides significant economic benefits to the region, its environmental benefits are less clear. In weighing these interests, it appears clear that inhibiting development or redevelopment of this site will result in negative economic impacts not sufficiently offset by the marginal environmental functions provided.

In summary, the International Terminals site offers unique and numerous economic benefits to the region, particularly given its location in the Portland Harbor and ability to serve water-dependent and water-related uses. The environmental benefits, however, particularly viewed in context, are marginal. Given this, we respectfully request that this site retain an allow designation in order to continue to provide the significant economic benefits this property is uniquely able to accommodate.

Sincerely,

A handwritten signature in blue ink that reads "Ann Gardner" followed by a circled "AG".

Ann Gardner

Enclosures





