

Metro | Agenda

Meeting: Smith and Bybee Wetlands Advisory Committee (SBAC)
Date: Tuesday, March 29, 2016
Time: 5:30 p.m. – 7:30 p.m.
Place: Metro Regional Center – Room 270
600 NE Grand Ave, Portland Oregon 97232

5:30 p.m.	Welcome and introductions	All
5:35 p.m.	Approve Jan. 2016 meeting minutes	Troy Clark
5:40 p.m.	Removal/fill law update	Gary Shepherd
6:10p.m.	Planning projects update	Lisa Goorjian
6:40p.m.	Triggco remedial update	Troy Clark
6:55 p.m.	Work plan and water control structure	Jonathan Soll
7:25 p.m.	Goals and next meeting agenda	All
7:30 p.m.	Adjourn	

Upcoming SBAC meetings:

Tuesday, September 27, 2016 at Metro Regional Center
For agenda/schedule information, contact Christy Carovillano at 503.797.1545 or christy.carovillano@oregonmetro.gov

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Smith and Bybee Wetlands Advisory Committee

March 29, 2016

Committee members in attendance

Troy Clark*Audubon Society of Portland (Chair)
Carrie Butler*Port of Portland (Vice Chair)
Adele Rife*Columbia Slough Watershed Council
Emily Roth*Friends of Smith & Bybee Lakes
Jonathan Soll*Metro, Parks and Nature
Pam Arden*40 Mile Loop Trust
Patt Opdyke*North Portland Neighbors
Susan Barthel*City of Portland, Bureau of Environmental Services

Others in attendance

Christy CarovillanoMetro, Parks and Nature
Gary Shepherd.....Metro, OMA
Lisa Goorjian.....Metro, Parks and Nature

Committee members not in attendance

Bill Briggs*ORRCO
Eric Tonsager*Oregon Bass and Panfish Club
Sara Henderson*St. Johns Neighborhood Association
Todd Alsbury*Oregon Department of Fish and Wildlife

*Denotes voting Smith and Bybee Wetlands Advisory Committee member.

WELCOME

Jonathan Soll announced that he is replacing Dan Moeller as the Metro representative on the committee.

Approval of the January 26, 2016 meeting minutes was delayed until later in the meeting to allow more time for committee members to arrive.

REMOVAL/FILL LAW UPDATE

Gary Shepherd, a Metro attorney, provided an update on the removal/fill law that he has been advising the committee on since last fall. After the September Smith and Bybee Advisory Committee (SBAC) meeting, Gary had reached out to DSL to see how they would view a public access project, like the proposed bridge and trails projects at Smith and Bybee Wetlands, that would result in fill. Their response was that unless it was coupled with a habitat improvement project, it would not overcome the statutory prohibition on fill below 11 feet in the lake and wetland complex.

Essentially, this response meant that any kind of public access or recreational improvement projects would not be able to occur under the current statutory framework because they would all require some amount of measurable fill and therefore, latitude on this really restrictive prohibition needed to be explored.

The approach towards getting around this restriction was to pass a legislative amendment that would remove the prohibition for recreational and public access projects. The only available pending bill that worked for this amendment to be attached to was SB 1517, which Metro was originally opposed to due to it putting heavy restrictions on wetland enhancement throughout the Metro region. However, the parties involved in this bill eventually came to a large compromise to make the bill a pilot project for Tillamook County only, so Metro no longer had issue with it and felt comfortable attaching the Smith and Bybee amendment to it.

The amendment is very simple and adds the phrase “or support recreational use or public access” to the sentence that states the fill exception for habitat enhancement. If passed, this amendment would now permit Metro to propose recreational public access projects in the wetland areas and be subject to traditional removal/fill laws.

As of Friday, March 25th, the bipartisan enrolled bill ([Attachment 1](#)) had been approved by the House and the Senate but had not yet been signed by the Governor, but should be shortly.

UPDATE: The governor signed the bill on 3/29/2016 and its effective date is 1/1/2017.

Discussion

One of the approaches originally explored to get around the prohibition was to get rid of the statute entirely, but when Gary mentioned that at the September meeting, the main point the SBAC made to him was that they did not want to lose the overriding protection that the original statute had. By going the amendment route, specifically targeted at public access and recreational use and keeping the habitat improvement component in place as well, it will keep that protection intact.

The bill will not take effect immediately, probably not until next January because it was not an emergency, but no projects are being held up by it. Patt Opdyke said she had felt a sense of urgency at previous meetings about making sure an amendment was presented this year and asked for clarification as to why. Gary said there are two year windows for legislation, so there was urgency to ensure it did not miss this legislative cycle because a lot of work was put in preceding it.

Emily Roth noted that she appreciates that the amendment is for public access and recreational use only because there are still a lot of landowners in the area that if it were broader, may have opened a door for additional permits to be applied for. Troy Clark agreed that the SBAC greatly appreciates the work that was done and the opportunity to participate in the process. Gary closed out the topic by thanking the SBAC for their feedback which he specifically used in the work to get the amendment and was integral to the comfortableness of the team working on the legislation.

PLANNING PROJECTS UPDATE

Lisa Goorjian, Metro’s Parks and Nature planning manager, presented an update and shared her team’s recommendations on next steps for the Comprehensive Natural Resource Plan (CNRP) prioritized projects at Smith and Bybee Wetlands ([Attachment 2](#)).

Since the January meeting, the Metro team did a site visit to evaluate the projects and met with Troy Clark to receive input on what the original intention and goals of the projects were to better inform their recommendations on feasibility.

Discussion

Improving access to the Interlakes Trail

This project was originally identified as a high priority and had two components – improving access from the parking lot to the entrance by widening the buffer that separates the path from the roadway and providing ADA access closer to the trail itself.

For the widening of the buffer piece, it was mentioned that the road was intended to be one lane with a pullover lane, but has been functioning as a two lane road and there had already been quite a bit of compromising to have the both a dedicated pathway and the road. Because of this information, and after being on site and speaking with Elaine Stewart, lead Metro scientist at Smith and Bybee Wetlands, and Troy, the planning team’s recommendation is not to move forward with this piece of the project. The reasoning behind this recommendation was that the pathway already appears to be functioning pretty well and widening the buffer would make the road smaller which may cause permitting and/or traffic issues.

Susan Barthel asked about potentially removing the striping on the road to spur more careful driving, but Troy clarified that the intent of expanding the buffer and adding more vegetation was purely for aesthetic reasons. Troy also agreed that he does not want to lose any road width with all the traffic the road sees. The committee agreed with the recommendation to leave the pathway and buffer as is and find a better use of the funding that would have been spent on it elsewhere.

For the closer ADA trail access piece, Lisa suggested looking at and possibly rethinking how the bus drop-off area operates. Rather than dedicating this area to bus only, there is the potential to look at it spatially for ADA parking spaces and have buses just drop off passengers here and then park in the parking lot. She said they would need to get input from people who work out there frequently with buses as to whether this could work or not. Lisa also said they hope the improvements would be modest as they want to try to avoid adding more space onto this area if they can. Lisa is unsure of the number of spaces that could potentially fit here and without measuring yet, thinks maybe four.

Emily Roth thinks this would be a great improvement and will offer greater opportunity for people of all abilities to be able to experience Smith and Bybee Wetlands. The committee also agreed and asked Lisa to continue to scope this piece of the project.

Seating

The planning team recommends exploring this project further. Turtle Turnout was identified as an area that would benefit from seating opportunities. Lisa agreed this area makes sense and will continue to scope the project to get costs and find out about permitting. She also wants to make sure potential seating wouldn't conflict with Metro's Conservation Education and Volunteer teams and their needs in this popular programming area.

Patt Opdyke mentioned that Turtle Turnout is one of the optimal areas for outdoor education and rather than just benches, could possible large audience style seating be looked at. Lisa said she will be sure to look at additional options rather than just traditional benching. Emily agreed she liked this idea and also suggested more natural seating options such as log rounds and boulders that may discourage unwanted behavior more traditional seating can lead to.

It was also mentioned that having a bench right at the entrance near the sign and where the trail bends with the lookout to heron rookery could be valuable. Emily also asked about seating in the blinds to which Lisa replied they hadn't looked at but could explore.

Interlakes Trail extension

The CNRP identifies a combo of hard surface and boardwalk for extending the Interlakes Trail, and also shows the extension going pretty far. Lisa said there might be some value in extending the trail, but to a shorter extent and in a configuration that would take visitors to a meaningful location overlooking Smith Lake. The planning team recommends further scoping to look at boardwalk options for the purpose of confining people and helping with scope creep, but they would need to look at ground conditions to really understand how it can best be used.

Troy suggested shortening and turning the trail to overlook the small wetland in the middle, allowing visitors to see something different and provide a different feel with the boardwalk. Emily mentioned shortening the trail may also shorten the review period needed. Troy also noted that the CNRP says that Bybee Lake should be less accessible and more for wildlife habitat so that should be kept in mind with potential trail extension locations. Patt asked if the proposed new trail extension will stay away from where the bald eagles nest and the response was yes. She also asked about other potential view options, but Lisa said due to the level of dryness at the site right now and the amount of demand trails, it is hard to determine. Susan asked if the trail extension would be ADA accessible. Lisa answered that there is no reason it won't be a universal access trail because the area is flat.

Emily said they should also take into consideration the new landfill trail that will overlook Smith Lake and whether it is worthwhile to build the trail extension on the Smith and Bybee side to another Smith Lake

viewpoint just because it was a demand trail. She emphasized that they need to be really thoughtful about the impact and if it doesn't make sense they should use the money for something else, perhaps planting signage. Pam Arden weighed in that the people who go the landfill trail may not also be going to Smith and Bybee, so the new landfill trail may not satisfy all needs and she believes both are needed. Troy reminded the committee that the intent of this proposed project was in response to all the demand trails that already exist and was a way to formally address the issue but committee members would still like more definitive answers on how long the extension will be, what direction it will go, and whether it should even be there.

The planning team's recommendation, to which the SBAC agreed, is to move this project to the next stage and scope it out further by doing a feasibility study, getting costs including permitting costs, and coming up with a conceptual design of what the terminus would like look. Patt noted they should also consider the costs of the maintenance and impact of the current demand trails that would continue to occur if they decide not to move forward with an extension.

Signage

The planning team recommends moving forward with this project as well and sees benefit in scoping out costs. The sign on the street would be updated and replaced, but for way finding signs off of Marine Drive and in the right of way, they would have to go through the PBOT process which can be difficult, but Lisa believes it's worth looking into. She mentioned they would try to package the proposal with other Metro Natural Areas that also need signage. The committee agreed to move this project forward but noted they want the 1996 flood marker signage to remain due to its historical value and significance.

North Slough/Bybee Lake portage

This project was originally identified as a low priority but Lisa received word from the land management team that there are plans for water control structure improvements this summer, that could possibly be leveraged to include a portage. Troy asked if they really want to take on this project if they are trying to keep recreation out of Bybee Lake. There was also mention of inviting liability of it is built. Jonathan Soll agreed that if they are trying to discourage use of Bybee Lake, then it does not make sense to put in an amenity that would encourage its use and it would make better sense to put those resources somewhere else. Patt asked if the strong intention is to prevent access to Bybee Lake, should they consider a possible design that would discourage use and prevent people from accessing the lake, but still allow staff in for management needs. The planning team recommends holding off on this project and the committee was in agreement.

Viewing platform renovation

The main component of this project was adding a second level. The planning team's recommendation for this project was to wait. Lisa said the main question raised was what value would be gained by adding a second level. She also mentioned that the proposed designs show staircases which means the current platforms would have to be reengineered and become practically new structures which would be costly. The committee agreed to put this project on hold.

Next Steps

ADA access, signage, seating, and a trail extension were determined the priority projects to move forward in the scoping process at this time. Lisa will continue working with her team and Troy on a scope of work looking at feasibility and cost estimates for these projects and will return at the September meeting to provide another update.

TRIGGCO REMEDIAL UPDATE

Troy Clark provided an update on the happenings of the North Suttle Road businesses ([map - Attachment 3](#)) in relation to the Triggco remedial project after visiting Recology to check out their stormwater improvements.

Background

Chromium had been found in the gravel at Triggco's parking lot. The SBAC had asked both the DEQ and Triggco lawyers to keep them in the loop as to what was being done to mitigate this, but never received any updates. When Troy was recently out there he noticed that the parking lot is now all paved, and with the small area on

the north side of the railroad tracks being a part of Smith and Bybee, there is concern as to how the work on their property will affect this area, and the committee would like to see the engineering plans. There are also now plans for a formal road repair and stormwater management system along North Suttle Road that could send a lot of water towards the Smith and Bybee property with the potential to jeopardize the boat launch and overwhelm the wetlands, so discussion on stormwater management at North Suttle Road will be important.

Discussion

A few options mentioned for where the water could be directed were to Marine Drive with outfall to the Columbia, to the waste water treatment plant, or to the wetland behind ORRICO and Recology, which the SBAC is not fond of. Emily Roth asked if Metro has any kind of policy around stormwater going into the Smith and Bybee wetlands. Jonathan Soll said he will check in with Elaine Stewart and Paul at the landfill to find out and communicate what he finds at the September meeting or via email if it becomes more time sensitive.

Susan Barthel said BES is in discussion with PBOT and has a permit number. She said they are doing what they need to do, but the facility they built to treat the water is contaminated. Patt Opdyke asked what access the SBAC has to the DEQ deliberations and Susan responded none. Troy added he has tried to communicate with them without success. Susan mentioned additional water in the wrong place can be regarded as trespass in some instances.

Troy and Susan are attending a meeting on April 29th to find out more and get ownership questions answered. Troy will stay in touch with Jonathan on his outreach and report back to the committee in September with an update.

WORK PLAN AND WATER CONTROL STRUCTURE

Jonathan Soll gave a brief overview of 2016/2017 Work Plan and an update on the water control structure. Jonathan also provided a proposed budget summary table for fiscal year 2017 ([Attachment 4](#)).

The table shows three restoration projects – St. Johns Prairie (Phase 1 & 2), Columbia Sedge meadow restoration (Phase 1 & 2), and Forested wetland (Phase 1 & 2); general invasive species control work that spans the wetlands, and water and channel management projects and their related monitoring.

St. Johns Prairie

All project funding is split between the levy and the Smith & Bybee Fund which provides good leverage for both. This prairie creation project hopes to attract the streaked horned larks over from Rivergate, but there has been no success on that front yet. Once it is successfully restored, it will be among the biggest native grasslands (prairie) in Metro's portfolio.

Columbia sedge meadow

Jeff Merrill manages this restoration project. Plugs of Columbia sedge (*Carex aperta*) are being purchased for planting beginning in FY17. Phase 1 will be planted soon and Phase 2 is currently in site prep.

Forested wetland

This project is ash forest restoration work, also managed by Jeff Merrill. Phase 1 was planted a few months ago and is in planting maintenance now. Phase 2 will be in heavy site prep for the next few years and will then be planted, likely in January 2018.

Invasive species control

This work is managed by the Natural Areas Land Management program (inquire with Land Manager, Justin Takunnen). They have been aggressively pursuing *Ludwigia peploides*. Control looks promising so far, but they will continue to keep an eye on it along with purple loosestrife and yellow flag iris. Reed canary grass is still a huge threat. Having control of water levels via a functional water control structure is critical in helping to control it. The plan is to keep it dry for a few years and then flood it again to mimic the way it used to naturally operate.

Patt Opdyke asked what the seed viability of the invasive species is over time. Jonathan responded that they are unsure of the seed bank, but Emily Roth added that she thinks purple loosestrife can be there for forever,

it just matters how you manage it. Jonathan said the goal is to decrease the troublesome species to low levels and keep them there if possible, rather than aim for eradication.

Water management, water control structure, and effectiveness monitoring

As presented a previous SBAC meeting, Pacific Habitat Services was brought in to scope and analyze various options for improving the ability to drain Smith and Bybee Lakes – Smith Lake especially. The accumulation of sediment in the channel has made it difficult to effectively drain the lake, leaving pockets of water that don't drain and an increase of reed canary grass and threat of avian botulism.

The only real viable solution to allow control and drainage is to reconfigure the water control structure to have dual tide gates but this would still leave the ongoing issue of the sediment accumulation that would require modest excavation to handle first. Then the reconfigured water control structure can hopefully be used to help scour and drain the lake adequately. They are currently looking at which channel would be the appropriate one to do, but it will probably end up being the main channel. The hope is work through the permit process this summer in time to try the process out this year. Then, next year they would try holding water again and see what happens the following year.

The effectiveness monitoring piece, done every 5 years via collecting 2 years of plot data, has shown the ability to control water has resulted in reduction of reed canary grass and increased native vegetation.

Emily Roth asked if this is a full funded project or if there is emergency work that needs to go into it. She also asked about the beavers and their impact. Jonathan responded that it is not the beavers, but more the nutria, and they are working on nutria control to keep the population at a modest level. Jonathan added that the project is currently fully funded with a mix of Levy and Smith and Bybee funds. On the larger issue, they are implementing the CNRP, but at some point the water management becomes a policy decision as to whether the lakes are going to host native emergent wetland vegetation, reed canary grass or just be deep ponds with standing water all year. He said Metro's plan (reflected in the CNRP) has been trying to maintain the lakes as a diverse wetland mosaic and to try to solve the problems that would prevent this. As for being fully funded, they are still working on the final costs. Elaine Stewart has been working with the Corps of Engineers to see if consent decree money can be used towards this and other projects since it has been sitting there so long. Along with the Smith and Bybee Fund, this would provide plenty of money for the project. Jonathan will check in with Elaine on the progress of this, but he doesn't think there are any barriers, just time issues.

Emily also noted that Metro is out of compliance with the City of Portland. Jonathan responded that they are working very hard to fix this, and they do have a plan and are trying to work as quickly as possible to correct very complicated and bad situations, such as the avian botulism outbreak a few years back and protecting habitat. He added that they are also trying to be smart about what they end up doing to ensure they have a successful outcome and this required a lot of exploration that really couldn't have been done faster. Designs are now getting put in place that meet safety requirements and allow for proper operation. Emily followed up by saying there is a concern that if there is an emergency situation again, what plan Metro has to treat that situation because she understands the project is still going to take a few years. Jonathan said they will have to respond depending on what the case is and how severe it is. It may very well require similar actions as in the past in terms of deconstructing beaver dams, and hazing waterfowl. Pam Arden closed out the topic by asking if other wetland systems have management programs like this to which Emily replied, within an urban context, yes.

GOALS FOR NEXT MEETING AND WRAP-UP

- The January 26, 2016 meeting minutes were approved as written.
- Lisa Goorjian will continue working with the planning team and Troy on a scope of work the identified projects above and will return at the September meeting to provide another update.
- Jonathan Soll will follow-up on the stormwater issue and whether Metro has a policy surrounding it and update the committee at the September meeting, or via email if it becomes more time sensitive.

- Troy will stay in touch with Jonathan on his stormwater outreach and report back to the committee in September with an update from the April 29th meeting he will be attending on the topic.
- Jonathan Soll will check in with Elaine Stewart on the progress of the potential Corps of Engineers funding for the water management projects.
- Troy noted that the dog policy topic is heating up and the committee should be aware.

Meeting adjourned at 7:35 p.m.

Enrolled

Senate Bill 1517

Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Senate Interim Committee on Environment and Natural Resources)

CHAPTER

AN ACT

Relating to land improvement projects; creating new provisions; and amending ORS 196.820.

Be It Enacted by the People of the State of Oregon:

SECTION 1. Sections 2 to 6 of this 2016 Act are added to and made a part of ORS chapter 215.

SECTION 2. The Legislative Assembly finds and declares that Tillamook County experiences unique challenges related to the creation, restoration or enhancement of wetlands on lands zoned for exclusive farm use, including regularly occurring and devastating flood events and landowner conflicts. It is therefore in the public interest to establish a pilot program in Tillamook County that applies conditional use review for the creation, restoration or enhancement of wetlands on lands zoned for exclusive farm use, and that incorporates a means for stakeholders to engage in a collaborative process for ensuring the protection and enhancement of agricultural land uses and wetlands.

SECTION 3. As used in sections 2 to 6 of this 2016 Act:

- (1) "Mitigation bank" has the meaning given that term in ORS 196.600.
- (2) "Permit" has the meaning given that term in ORS 215.402.
- (3) "Reclamation" has the meaning given that term in ORS 517.750.
- (4) "Riparian area" means a zone of transition from an aquatic ecosystem to a terrestrial ecosystem, dependent upon surface or subsurface water, in which existing or potential elements of the soil-vegetation complex are influenced by the surface or subsurface water that the zone is dependent upon.
- (5) "Surface mining" has the meaning given that term in ORS 517.750.
- (6) "Wetlands" has the meaning given that term in ORS 196.800.

SECTION 4. (1) Notwithstanding ORS 215.283 (1)(m), the governing body of Tillamook County may, by ordinance or regulation, adopt a pilot program for reviewing, subject to ORS 215.296, the creation, restoration or enhancement of wetlands in any area zoned for exclusive farm use.

(2) Notwithstanding ORS 215.296 (10), ordinances or regulations adopted by the governing body under the pilot program may not establish standards in addition to the standards described in ORS 215.296 (1) for approving the creation, restoration or enhancement of wetlands in areas zoned for exclusive farm use.

(3) Notwithstanding any contrary provision of ORS 215.416, the ordinances or regulations adopted as part of the pilot program shall provide for a mechanism by which, upon request

by the applicant and prior to the approval or denial of a permit under the procedures required by ORS 215.402 to 215.438, the following parties may enter into a project-specific collaborative process for settling disputes concerning the application:

- (a) The applicant;
- (b) Any person whose use of the person's property may be adversely affected by the proposed use;
- (c) Any person who is entitled to notice under ORS 215.416 (11)(c);
- (d) Representatives of any state or federal agency that is involved in the project for which the application for the use was submitted or that has expertise related to issues raised by the application or by comments received by the governing body; and
- (e) For the purpose of assisting in the project-specific collaborative process, any person with technical expertise in:
 - (A) Creating, restoring or enhancing wetlands in Tillamook County;
 - (B) Creating, restoring or enhancing wetlands in areas with site characteristics similar to those identified in the application for the use; or
 - (C) The impacts of wetlands on agricultural operations.

(4) If an applicant requests to enter into a project-specific collaborative process adopted under subsection (3) of this section, the periods set forth in ORS 215.427 (1) and (5) for the governing body of a county or its designee to take final action on the application shall be extended in the manner provided for in ORS 215.427 (10).

(5) If the parties to a project-specific collaborative process requested under subsection (3) of this section agree to conditions that, if imposed on the proposed use, would satisfy the standards for approval set forth in ORS 215.296 (1) in a manner that is acceptable to all parties, an approval of the application for the permit shall include the conditions agreed to by the parties.

(6) The governing body shall discontinue a project-specific collaborative process requested under subsection (3) of this section if, at any time during the process, the applicant requests that the governing body resume processing the permit application under the procedures required by ORS 215.402 to 215.438.

SECTION 5. (1) As part of a pilot program authorized by section 4 of this 2016 Act, the governing body of Tillamook County shall, subject to subsection (4) of this section, initiate a planning process to:

- (a) Identify areas zoned for exclusive farm use that are suitable for future wetland creation, restoration or enhancement projects; and
- (b) Designate areas zoned for exclusive farm use as priority areas for maintenance of agricultural use.

(2) The governing body shall engage stakeholders in the planning process, including, but not limited to, representatives of conservation interests and agricultural interests, state and federal agencies and Indian tribes.

- (3) A planning process initiated under this section shall include consideration of:
- (a) The historic location and quantity of wetlands within the county;
 - (b) The location and quantity of wetlands within the county at the time the planning process is initiated;

(c) Agricultural interests within the county, and the land use patterns necessary for the stability of agricultural and associated farming practices;

(d) The amount and location of potential wetland projects that would provide the greatest benefits to fish recovery, fish and wildlife habitat, flood mitigation and other values;

(e) Locations where future wetland projects would be most likely to provide the greatest benefits to fish recovery, fish and wildlife habitat, flood mitigation and other values while remaining compatible with the land use patterns necessary for the stability of agricultural and associated farming practices;

(f) Locations where the creation, restoration or enhancement of wetlands is likely to materially alter the stability of the agricultural land use patterns or cause a significant change to farming practice, alone or in combination with other wetlands in the area; and

(g) Locations or land-use arrangements, opportunities, conditions or approaches that could best enable benefits to fish recovery, fish and wildlife habitat, flood mitigation and other values in a manner that complements the land use patterns necessary for the stability of agricultural and associated farming practices.

(4) The governing body is not required to initiate the planning process provided for in this section if the governing body determines that adequate funding, which may include funding from any combination of local, state, federal or other sources, is not reasonably available.

(5) If a plan developed under this section is acknowledged pursuant to ORS 197.625, the governing body may, by ordinance, adopt a process for denying permits or streamlining the permitting process for permit applications subject to the pilot program under section 4 of this 2016 Act. Ordinances adopted under this section must provide for a process that is consistent with the priorities identified in the plan.

SECTION 6. Sections 4 and 5 of this 2016 Act and ordinances and regulations adopted pursuant to sections 4 and 5 of this 2016 Act do not apply to the creation, restoration or enhancement of wetlands:

(1) For purposes related to a mitigation bank;

(2) For reclamation of lands affected by surface mining;

(3) If the wetlands are created, restored or enhanced for the purpose of meeting conditions necessary to comply with a National Pollutant Discharge Elimination System permit or water pollution control facility permit issued by the Department of Environmental Quality pursuant to ORS 468B.050;

(4) For which construction had commenced, or required permits had been issued, prior to the adoption of ordinances or regulations by the governing body of Tillamook County under section 4 of this 2016 Act; and

(5) If the creation, restoration or enhancement of the wetlands only involves planting vegetation in a wetland or riparian area.

SECTION 7. (1) The governing body of Tillamook County shall provide for the production and filing of a report on the progress of a pilot program adopted under section 4 of this 2016 Act in the manner provided in ORS 192.245, to the interim committees of the Legislative Assembly related to environment and natural resources no later than September 15 of each odd-numbered year following the effective date of this 2016 Act, until and including September 15, 2025.

(2) In developing a report required by this section, the governing body must consult with stakeholders including, but not limited to, representatives of conservation interests and agricultural interests, state and federal agencies and Indian tribes.

(3) A report required by this section must include, but need not be limited to:

(a) Information on whether and to what extent the governing body has taken action as provided for in sections 4 and 5 of this 2016 Act and the form of the action taken;

(b) The number of permit applications received under the pilot program adopted under section 4 of this 2016 Act, the number of applicants that have requested entering into a project-specific collaborative process to settle disputes concerning their applications and the disposition of applications received under the pilot program; and

(c) Any significant successes, challenges or recommendations for legislation related to the pilot program.

(4) The report that is required to be filed under this section no later than September 15, 2025, shall include information detailing the success of the pilot program and recommendations on whether the pilot program should be made permanent.

SECTION 8. Sections 2 to 7 of this 2016 Act are repealed on January 2, 2027.

SECTION 9. ORS 196.820 is amended to read:

196.820. (1) Notwithstanding any provision of ORS 196.600 to 196.905 to the contrary, except as provided in subsection (2) of this section, the Director of the Department of State Lands shall not issue any permit to fill Smith Lake or Bybee Lake, located in Multnomah County, below the contour line which lies 11 feet above mean sea level as determined by the 1947 adjusted United States Coastal Geodetic Survey Datum.

(2) [Notwithstanding the provision of subsection (1) of this section,] The Director of the Department of State Lands may issue a permit to fill Smith Lake or Bybee Lake, located in Multnomah County, if such fill is to enhance or maintain fish and wildlife habitat or support recreational use or public access at or near Smith Lake or Bybee Lake. A fill shall be considered to be for the purpose of enhancing or maintaining fish and wildlife habitat if the proposed fill is approved by the State Department of Fish and Wildlife.

Passed by Senate February 18, 2016

Received by Governor:

Repassed by Senate March 2, 2016

.....M,....., 2016

Approved:

.....
Lori L. Brocker, Secretary of Senate

.....M,....., 2016

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Peter Courtney, President of Senate

.....
Kate Brown, Governor

Passed by House February 29, 2016

Filed in Office of Secretary of State:

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Tina Kotek, Speaker of House

.....M,....., 2016

.....
Jeanne P. Atkins, Secretary of State



Metro

3/29 Smith & Bybee
Advisory Committee Meeting



Goals and Parameters



High- Improve Access to Interlakes Trail- widen



High- Improve Access to Interlakes Trail



**High- Improve Access to
Interlakes Trail- ADA**



High- Improve Access to Interlakes Trail- ADA



High- Seating



High- Seating



**Medium- Interlake trail
extension**



Medium- Interlake trail extension



Medium- Trail Head Sign



**Low- N Slough/Bybee
Lake Portage**



**Low- N Slough/Bybee
Lake Portage**



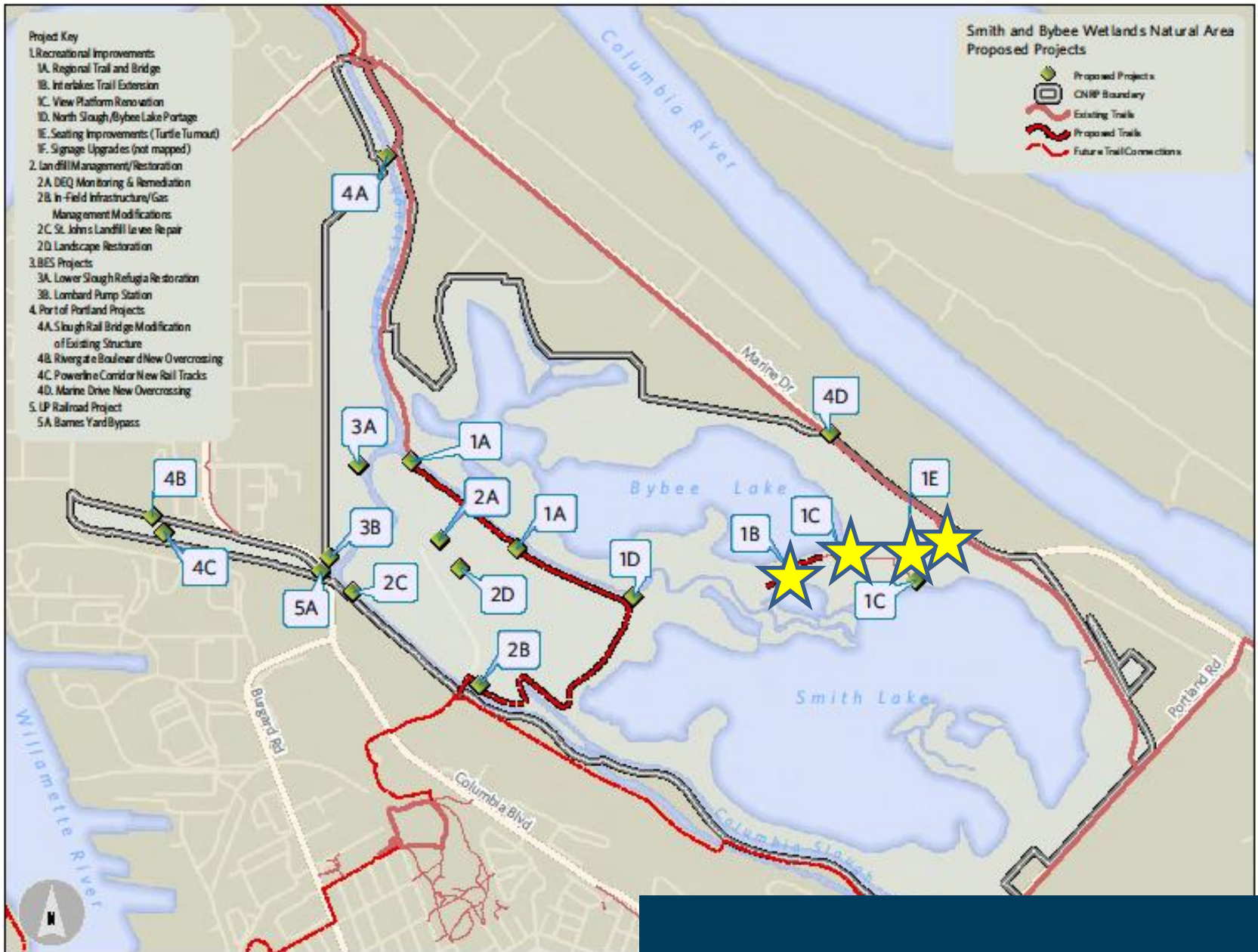
**Low- N Slough/Bybee
Lake Portage**



Low- Viewing platform renovation



Low- Viewing platform renovation



Summary- Next Steps



Smith and Bybee Proposed Budget Summary FISCAL Year 2017
Presented to Smith and Bybee Advisory Committee March 29, 2016

Site	PM	Project	Comment/Question	Total Approved	Levy Restoration Approved	Levy NAM Approved	S/B Fund Approved
Smith and Bybee Wetlands Natural Area	ES	St Johns Prairie Phase 1	Leverage S/B	20000	10000	0	10000
Smith and Bybee Wetlands Natural Area	ES	St Johns Prairie Phase 2	Leverage S/B	65000	32500	0	32500
Smith and Bybee Wetlands Natural Area	JM	Columbia Sedge meadow restoration Phase 1	Project underway,S/B leverage	133000	66500	0	66500
Smith and Bybee Wetlands Natural Area	JM	Columbia Sedge meadow restoration Phase 2	Possible to delay if necessary, some site prep is already done	35500	17750	0	17750
Smith and Bybee Wetlands Natural Area	JM	Forested wetland Phase I	Project underway,S/B leverage	40250	20125	0	20125
Smith and Bybee Wetlands Natural Area	JM	Forested Wetland Phase II	Project underway,S/B leverage	91000	45500	0	45500
Smith and Bybee Wetlands Natural Area	ES	Smith and Bybee Wetlands Water and Channel management	ES hopes for \$100,000. May be able to fund from alternative source (ACOE - Rivergate Consent Decree)	85000	42500	0	42500
Smith and Bybee Wetlands Natural Area	ES/JM	Water control structure upgrades and repairs	Reduced to \$140,000 while exploring final design criteria	140000	70000	0	70000
Smith and Bybee Wetlands Natural Area	ES	Water Management Effectiveness	Project underway - can't reduce	33000	16500	0	16500
Smith and Bybee Wetlands Natural Area	NALM	Invasives Control	Continued treatment of Ludwigia and other important weed species	75000	0	37500	37500
			TOTAL SPENDING	717750	321375	37500	358875
			Percentage		44.8	5.2	50.0