Coordinated by:

## Smith & Bybee Lakes Wildlife Area

**Management Committee** 

Nancy Hendrickson, Chair

Metro

600 NE Grand Ave. Portland, OR 97232 (503) 797-1870

## **Smith & Bybee Lakes Management Committee Meeting**

5:30 p.m. - 6:30 p.m., Tuesday, March 26, 2002 Metro Regional Center, Room 270 600 N E Grand Ave. Portland, Oregon 97232

## AGENDA

Welcome and introductions/ 5 min.	5:30 - 5:35 pm
Approve January and February 2002 meeting notes/ 10 min.	5:35 - 5:45 pm
Update: Water control structure design and operation/ 30min. (Stewart and John Axford, Ducks Unlimited)	5:45 - 6:15 pm
Discussion: Integrating St. Johns Landfill with wildlife area/ 40 min. (Hendrickson)	6:15 - 6:45 pm
Updates/ 10 min.	6:45 - 6:55 pm
Setting April agenda/ 5 min.	6:55 - 7:00 pm

## Smith & Bybee Lakes Management Committee Summary Meeting Notes March 26, 2002 5:30 pm

In attendance:

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Greeg Everhart * Portland Bureau of Parks & Recreation	Troy Clark * Jim Morgan * Dennis O'Neil Denise Rennis * Pat Sullivan Nancy Hendrickson * Holly Michael * Elaine Stewart Frank Opila * John Axford Emily Roth * Merle G. Rosier Patt Opdyke * Gregg Everhart *	Portland Audubon Society Metro Executive Metro Regional Environmental Management Port of Portland Metro Regional Parks & Greenspaces Portland Bureau of Environmental Services Oregon Dept of Fish & Wildlife Metro Regional Parks Wildlife Area Mgr Friends of Smith & Bybee Lakes Ducks Unlimited The Wetlands Conservancy Oregon Bass and Panfish Club North Portland Neighborhoods Portland Bureau of Parks & Recreation
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\* denotes voting member

#### Review January and February 2002 meeting notes

The meeting notes were approved with the inclusion of a reference in the January notes to the dike stabilization project and the letter from the Metro Chief Financial Officer Jennifer Sims regarding the increase in overhead costs. The vote for approval was unanimous for the January meeting notes. It was also unanimous for the February notes with the exception of Patt Opdyke's abstention due to her absence from that meeting.

### Update: Water control structure design and operation

John Axford, the project manager from Ducks Unlimited and Elaine Stewart reported on the status of the new water control structure. It will consist of four box culverts each fitted with an assembly for placing wooden stop logs for water level control and a fish passage structure. It will be located in the same location as the previous structure and be managed by Stewart. The purpose of the structure is twofold: 1) to attempt to restore historic hydrology to the wetland and 2) to control reed canary grass and other pest plants. The permitting process is well under way and ground breaking should take place in August. Axford distributed copies of: 1) the Construction Management Pan, 2) the Proposed Development Plan and 3) the Existing Conditions Site Plan. Also provided were cross section and end section drawings.

Questions and discussion followed including:

- the operation of the stop logs; how and when to remove them
- another objective of the structure is to allow unimpeded water flow as much as possible between the slough and the lakes, how often will this be possible
- there is no plan for a standing stock of fish in the lakes
- use by coho and chinook salmon is anticipated

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- fish will be able to move in and out because of openings
- the habitat should be very beneficial to water fowl
- to what height will the water be able to be raised

Allow

 committee members were hopeful that one of the culverts would be passable by canoe or kayak or that there will be an opportunity to create passage

#### Discussion: Integrating St. Johns Landfill with the wildlife area

The question was raised as to what SBLMC's recommendations should be regarding the integration of the landfill with the wildlife area. Did the group want to respond to the <u>basic</u> <u>principles on interim and long-term use of the landfill and adjacent property</u> (which were recently defined in a document from Metro's Executive Officer, department directors and legal counsel)? Some of the guidelines that were listed in that document included:

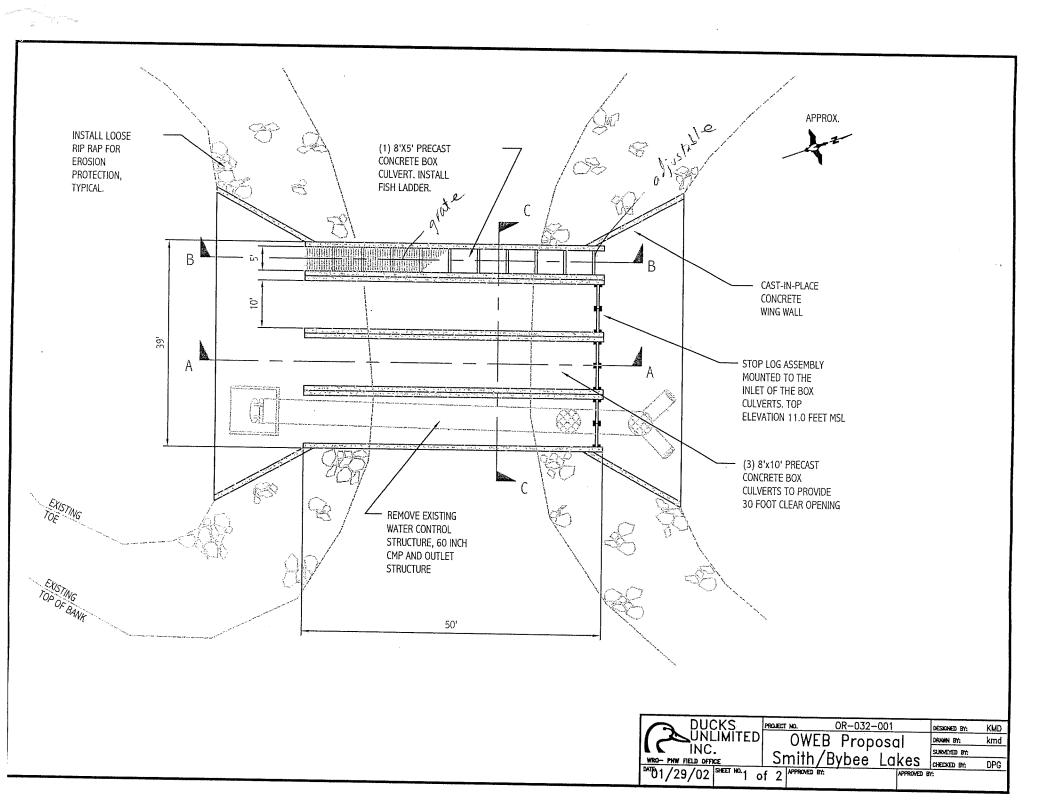
- No public uses should be permitted on the landfill until DEQ and Metro have agreed that is safe to do so and a master plan has been adopted.
- Master planning for the landfill should begin no earlier than 3 years before the site is suitable and safe for public access.
- No public trail should be permitted on the south side of Smith or Bybee Lakes unless access can be regulated.

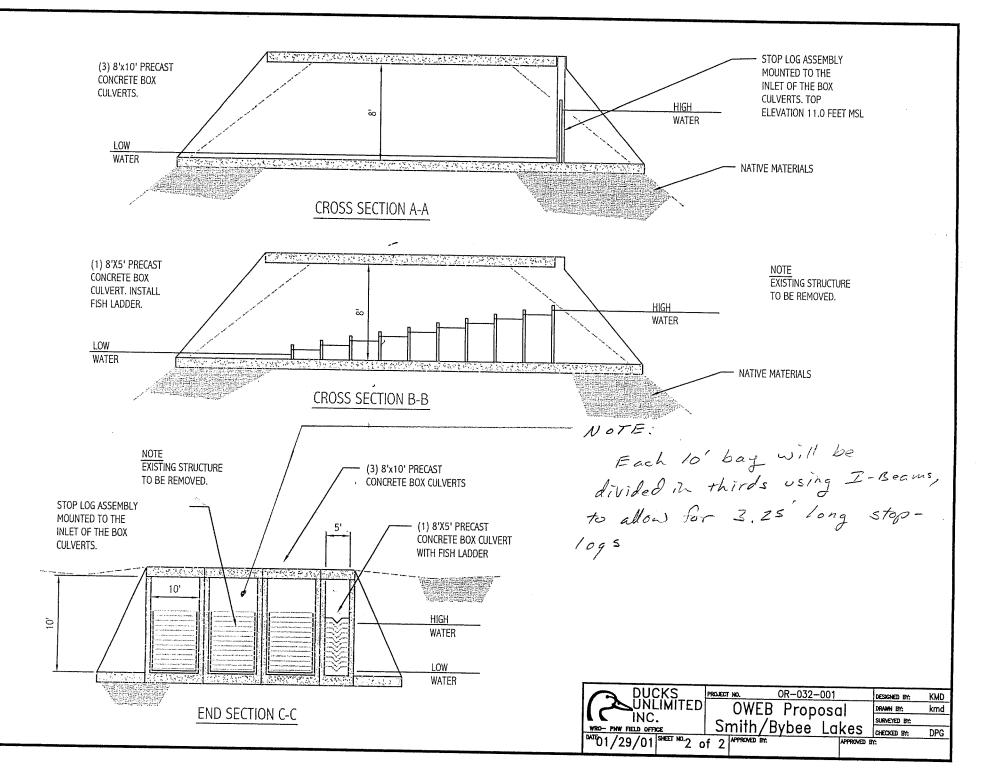
Among issues raised and discussed were:

- The Consent Decree issued as a result of the Jones v. Thorne, et. al suit includes construction of part of the 40-Mile Loop Trail inside the wildlife area, to the confluence of North Slough and Columbia Slough.
- Impacts of this trail on the rest of the wildlife area.
- The City and Metro have been working on an agreement to examine alignments.
- Can funding for the Port's portion be placed in escrow until the alignment discussion is completed?
- The Land Use Review for the Port's section of the trail will be out for public comment soon. Does the SBLMC want to comment?

The committee requested additional information be brought to the next meeting for further discussion of the landfill issue. Dennis O'Neil was asked to provide material on the regulatory constraints imposed by DEQ. Elaine Stewart will investigate options concerning enhancement of wildlife habitat on the landfill. Stewart will research work being done at other closed landfills.

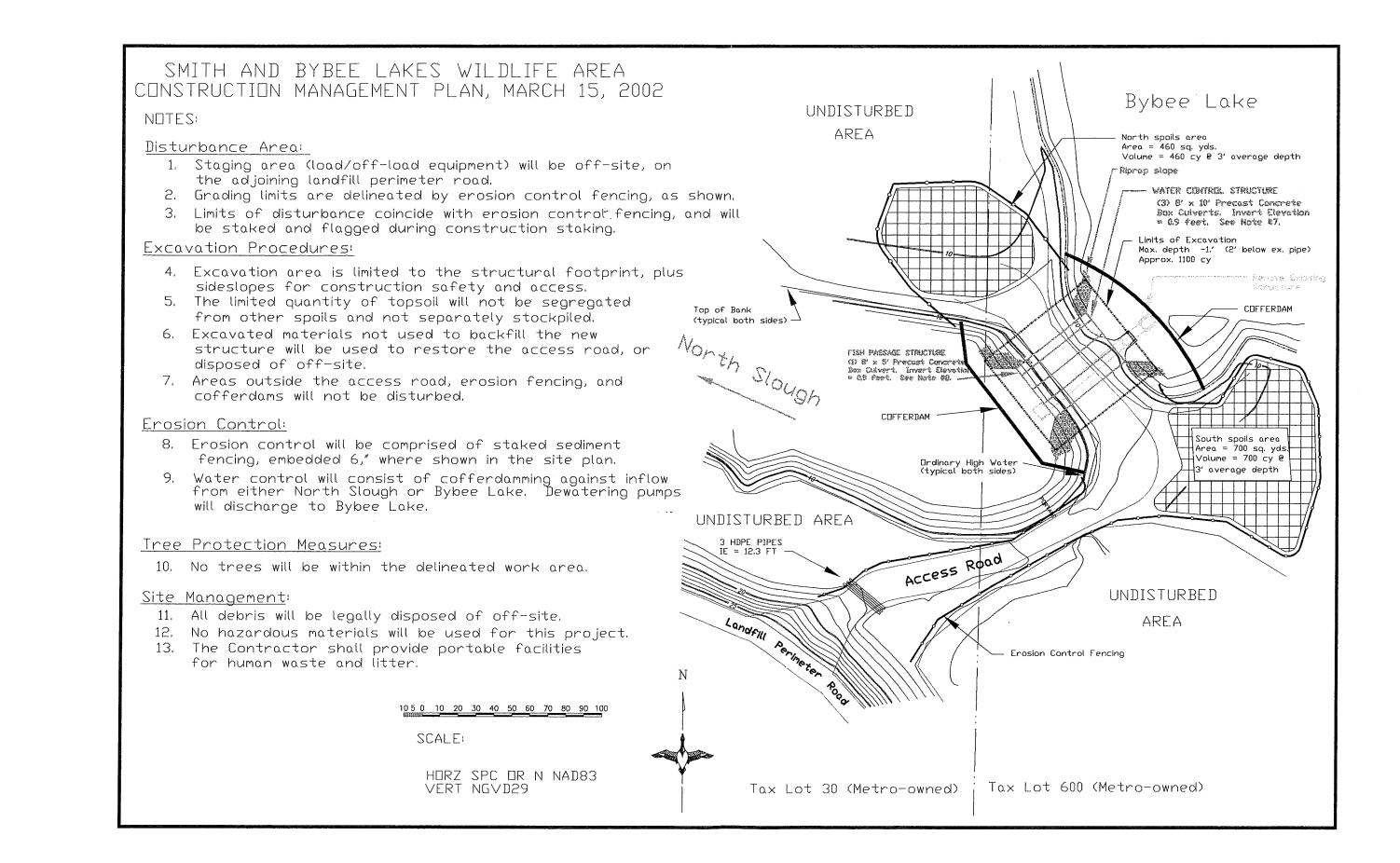
The next meeting will be May 28<sup>th</sup> at 5:30 pm.



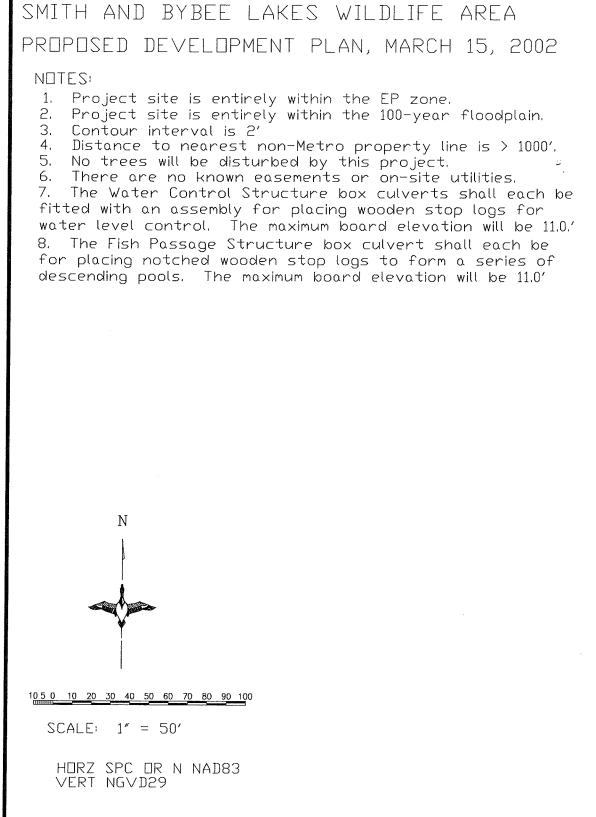


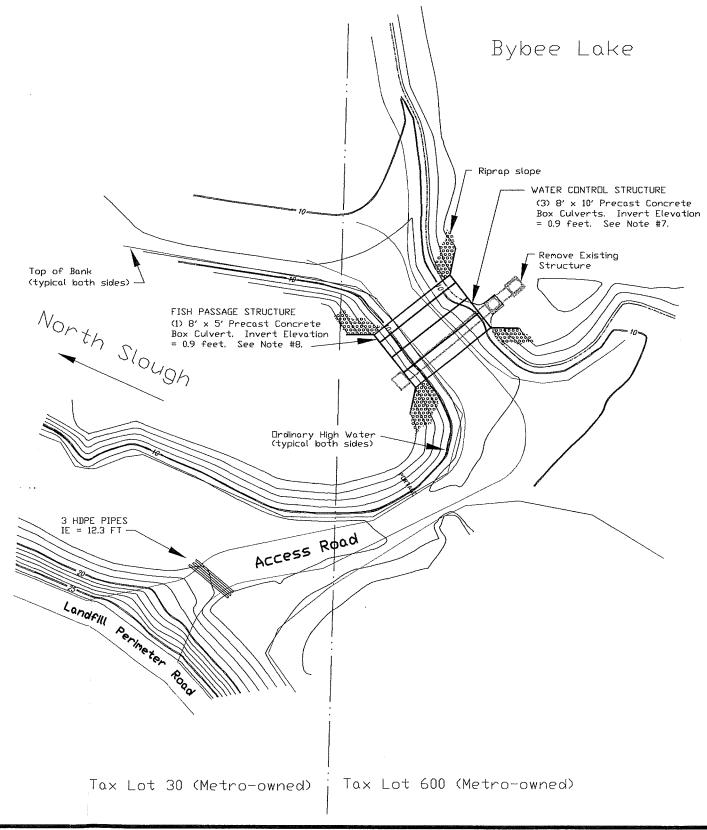
1. ORIGINAL THOUGHT 40' - 4-10 CULVERTS
2. REQUESTED I BAY TO BE DIVIDED TO ALLOW PASSAGE OF CANORS/KAYARS - WILL 40" BE ENDUGH
3 HOW LONG NEE THESE CULVERTS
4. IS POTTAGE UPGRADED IN THIS PROTECT?
WHOSE NOTES?

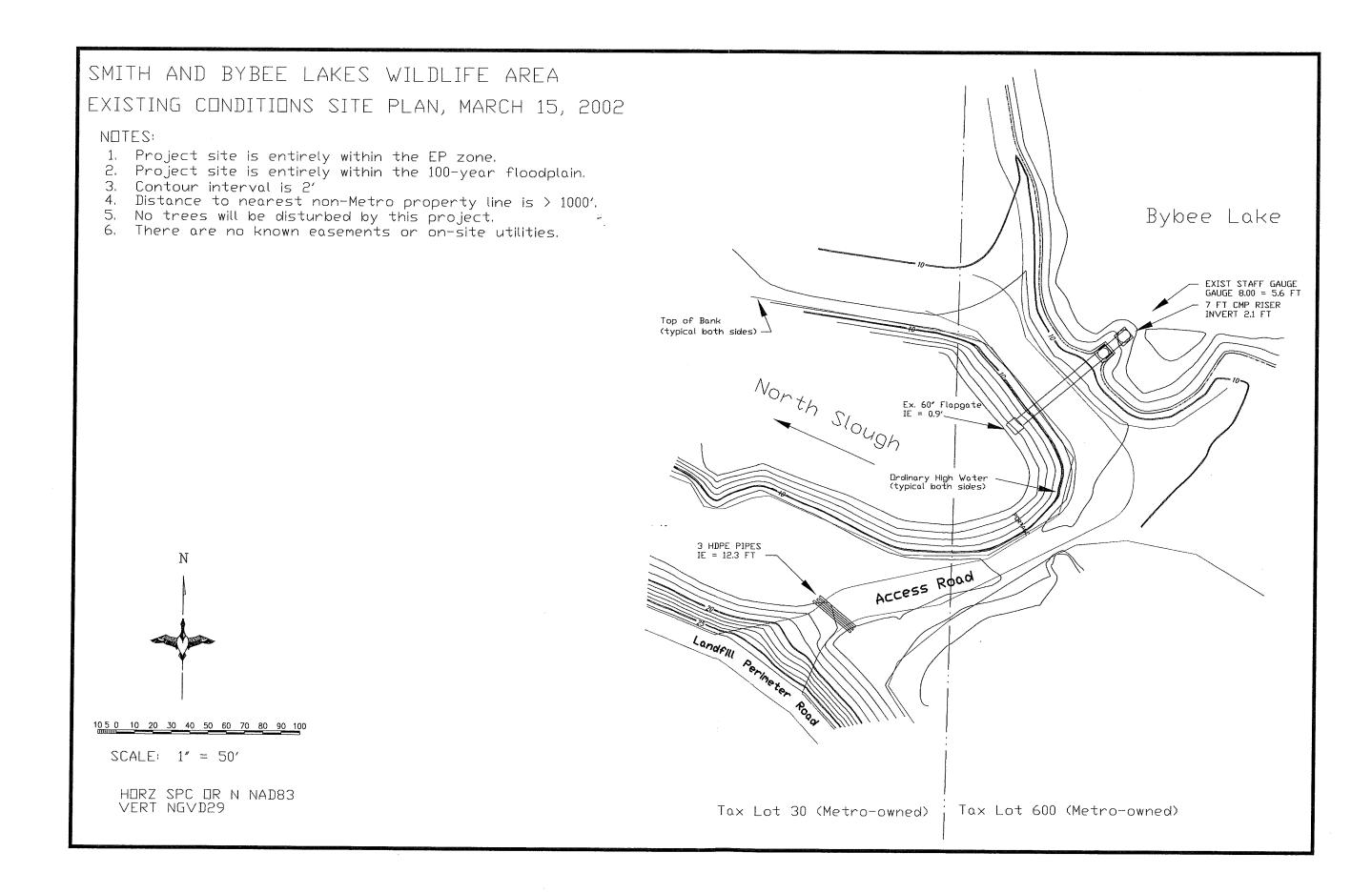
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### INTERGOVERNMENTAL AGREEMENT

#### Smith and Bybee Lakes Trails Alignment Development Plan

This Intergovernmental Agreement ("Agreement") dated this March 15, 2002, is by and between the City of Portland, Parks and Recreation Department, (the "City") and Metro, a metropolitan service district organized under the laws of the state of Oregon and the 1992 Metro Charter ("Metro"). (The City and Metro shall be individually referred to herein as a "Party" or collectively as the "Parties.") The Parties acknowledge that they have authority to enter into this Agreement pursuant to the powers contained in their respective charters and in ORS 190.010.

The Parties agree as follows:

#### 1. Project Declaration.

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a. The activities and funding described in this Agreement are for the research, public involvement process, alternative alignment study, and preferred routes(s) selection and phasing of trails in the vicinity of the Smith and Bybee Lakes Wildlife Area (the "Wildlife Area"), including St. Johns Landfill or SJLF (the "Project").

The Smith & Bybee Lakes Management Committee (the "Management Committee") was established by the *Natural Resources Management Plan for Smith and Bybee Lakes* ("Management Plan") to advise Metro on implementation of the Management Plan and to advise Metro on the Smith & Bybee Lakes Wildlife Area. The Management Committee includes representatives of Metro, the City, the 40 Mile Loop Land Trust, neighborhood citizens' groups and the Port of Portland.

The Regional Parks and Greenspaces Advisory Committee (RPAGAC) was established to advise Metro on issues relating to the Regional Parks and Greenspaces system, including regional trails.

The Solid Waste Advisory Committee (SWAC) was established to advise Metro in issues related to solid waste management, including closure of the St. Johns Landfill.

A "Project Advisory Committee" will be created with representation from the Management Committee, RPAGAC, and SWAC. The size and composition of the project advisory committee shall be mutually agreeable to the "Parties".

b. To assure an outcome that is consistent with efforts to protect natural resources at Smith and Bybee Lakes, efforts to complete the 40 Mile Loop Trail, and efforts to maintain public safety at the St. Johns Landfill site, the Project will be managed by Metro Parks and Greenspaces Department in collaboration with Portland Parks and Recreation and with Metro's Regional Environmental Management Department. Metro and the City will collaborate to ensure key goals and objectives of each agency are addressed in the planning process and a suitable public involvement process is implemented. c. The Project shall consider all conceptual recreational trail alignments included in the Natural Resources Management Plan for Smith and Bybee Lakes; a map of the Wildlife Area is attached as Exhibit A to this Agreement. However, the Project is not limited to these conceptual alignments, and other alignments may be considered.

## 2. Development of Proposed Alignments for Recreational Trails.

- a. Metro will hire a consultant to research and evaluate conceptual alignments for recreational trails within the project area. Recreational trail connections to other trails, adjacent business and residential neighborhoods shall be reviewed and additional alignments may be considered. The tasks described in this Agreement include research, evaluation, alternative alignment study, and public involvement, in accordance with the Project Schedule attached as Exhibit B to this Agreement. Portland Parks will participate in selection of the consultant. The consultant's work will include:
  - i. Gather field data, existing plans, regulatory requirements, management goals and policies, and other relevant information;
  - ii. Develop alternative recreational trail alignments for analysis, including short- and longterm alignments, if applicable; identification of all easements, permits, and plan amendments required for each alignment; appropriate schematic designs; proposed phasing of trail development; and cost estimates for construction and maintenance;
- iii. Present findings and preliminary recommendations to the project advisory committee and make revisions and refinements addressing and incorporating their comments as appropriate;
- iv. Design and implement a public involvement process to seek and receive public input on all alignments deemed viable by the project advisory committee;
- v. Present the project advisory committee's consensus alignment, including phasing and preliminary cost estimates, to the Management Committee, RPAGAC and SWAC for their consideration, deliberation and recommendation; and
- vi. In cooperation with Metro's Regional Parks and Greenspaces Department, present the consensus alignment of the three committees to the Metro Council.
- b. Metro's Regional Parks and Greenspaces Department will manage the consultant's contract. In addition, acting through both its Regional Environmental Management Department ("REM") and Metro Parks, Metro will perform the following tasks:
  - i. Provide topographic survey and other relevant maps and data for the Wildlife Area, including the SJLF;
  - ii. Pay for design, permitting, and construction of any trail segment on the SJLF and complete construction of any such trail segment according to the timeline determined by the Project as adopted by the Metro Council;
  - iii. If the recreational trail plan adopted by the Metro Council requires the construction of a bridge across the slough to the SJLF, allocation of the costs shall be based on a method acceptable to both Metro and the City of Portland.

- c. The City will perform the following tasks:
  - i. Participate in the selection of the consultant;
  - ii. Collaborate with Metro on trail alignment work; examples include reviewing consultant reports prepared for Metro and attending meetings of Metro and its consultant.
- iii. Participate in the creation of the project advisory committee and the development and implementation of the public involvement process.
- iv. Provide information required for the development of alternative trail alignments when they are located outside of the Wildlife Area.
- 3. <u>Design, Construction, Management, Maintenance, and Operations</u>. Except as specifically provided in Paragraph 2, responsibility for design, construction, management, maintenance, and operations of any portion of a recreational trail will be determined by separate intergovernmental agreement(s) to be developed following final determination of alignment(s).
- 4. <u>Project Budget</u>. Metro REM agrees to pay for costs incurred for development of alternative trail alignments, up to \$10,500. The City agrees to pay up to \$15,000 of such costs; Metro will bill the City as work is completed and the City will reimburse Metro within 30 days of date of invoice. If additional funds are needed to complete development of alternative trail alignments, they shall come from sources mutually acceptable to Metro and the City.
- 5. <u>Termination of Funding Obligation</u>. The obligation of Metro to provide up to \$10,500, and the City to provide \$15,000, in funding shall terminate June 30,2003 unless extended by mutual agreement between Metro and the City.
- 6. Indemnification.
  - a. To the extent permitted by Oregon law, and subject to the limitations of the Oregon Tort Claims Act, ORS 30.260 to 30.300, as may be amended from time to time, the City shall defend, indemnify, and hold harmless Metro and its respective officers, employees, and agents, against any and all liabilities, damages, claims, demands, judgments, losses, costs, expenses, fines, suits, and actions, whether arising in tort, contract, or by operation of any statute, including but not limited to attorneys' fees and expenses at trial and on appeal, arising out of the City's obligations as set forth in this Agreement.
  - b. To the extent permitted by Oregon law, and subject to the limitations of the Oregon Tort Claims Act, ORS 30.260 to 30.300, as may be amended from time to time, Metro shall defend, indemnify, and hold harmless the City, and its respective officers, employees, and agents, against any and all liabilities, damages, claims, demands, judgments, losses, costs, expenses, fines, suits, and actions, whether arising in tort, contract, or by operation of any statute, including but not limited to attorneys' fees and expenses at trial and on appeal, arising out of Metro's obligations as set forth in this Agreement.

7. <u>Notices.</u> All notices or other communications required or permitted under this Agreement shall be in writing, and shall be sent by personal delivery (including by means of professional messenger service), facsimile, electronic mail, or regular mail to the other Party's designee. The City and Metro may change their respective designee by providing written notice of such a change to the other Party. Unless changed as provided in this paragraph, the Parties' respective designees are:

For the City: Gregg Everhart City of Portland Parks and Recreation 1120 SW Fifth Ave, Rm. 1302 Portland, Oregon, 97204 503-823-6009 office 503-823-5570 FAX

For Metro: Elaine Stewart Metro Regional Parks and Greenspaces 600 NE Grand Avenue Portland, Oregon, 97232 503-797-1515 office 503-797-1849 FAX

## 8. General Provisions.

- a. <u>Funding Declarations</u>. The Parties will document in any publication, media presentation, or other presentations, the sources of funds for the project. If signs are placed in the project areas, such signs shall include the logos of the Parties to this Agreement, and shall recognize the Parties' respective contributions to the project.
- <u>Oregon Law and Forum</u>. This Agreement shall be construed according to the laws of the State of Oregon. Any litigation among the Parties arising out of this Agreement or out of work performed under this Agreement shall be brought, if in the state courts, in Multnomah County, and, if in the federal courts, in the United States District Court for the District of Oregon.
- c. <u>Assignment</u>. No Party shall assign this Agreement, in whole or in part, without the prior written consent of the other Party, except that a Party may delegate or subcontract for performance of any of its respective responsibilities under this Agreement.
- d. <u>Severability</u>. If any non-material provision in this Agreement is found to be illegal or unenforceable, all other provisions of this Agreement shall nevertheless remain in full force and effect and the illegal or unenforceable provision shall be stricken.
- e. <u>Integration</u>. This Agreement contains the entire agreement among the Parties regarding the subject matter set forth herein, and supersedes all prior written or oral discussions or agreements. No waiver, consent, modification or change of the terms of this Agreement shall bind any Party unless it is in writing and signed by both Parties.

IN WITNESS WHEREOF, the Parties hereto have set their hands on the day and year set forth above.

## CITY OF PORTLAND:

Ву:	Approved as to Form:
Title:	
Date:	Deputy City Attorney

## **METRO:**

Approved as to Form:

By:\_\_\_\_\_\_ Scott Moss Title: Asst. Director, Admin. Services Date:

Metro General Counsel

# EXHIBIT A

Map of Wildlife Area showing parcels (see Project Declaration, 1<sup>st</sup> paragraph).

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## EXHIBIT B

Date Completed	Task
April 2002	✓ City/Metro IGA executed.
May 2002	✓ Put out RFP for consultant.
June 2002	✓ Select consultant.
July-August 2002	<ul> <li>Begin site analysis and research historic documents plus more recent information.</li> </ul>
	<ul> <li>Form project advisory committee composed of representatives from Management Committee, RPAGAC, SWAC and other interested groups.</li> </ul>
	<ul> <li>Meet with project committee to identify important issues and considerations.</li> </ul>
	<ul> <li>Develop matrix of potential trail alignments summarizing pros and cons and, if necessary, conduct alternatives analysis required under Title 3 of Metro's Urban Growth Management Functional Plan.</li> </ul>
September 2002	<ul> <li>Consultant presents matrix and preliminary recommendations for alignment to project committee.</li> </ul>
September - October 2002	<ul> <li>Project advisory committee comments on preliminary recommendations and selects viable alignments for further study.</li> </ul>
	<ul> <li>Consultant revises recommended alignments based on project advisory committee input and completes analysis of viable alternatives.*</li> </ul>
	<ul> <li>Consultant implements any public involvement scheduled for this stage.*</li> </ul>
	<ul> <li>Project advisory committee selects consensus alignment.</li> </ul>
November 2002	<ul> <li>Consultant implements any additional public involvement.*</li> </ul>
	<ul> <li>Consultant presents consensus alignment to Management Committee, RPAGAC and SWAC for review, consideration and recommendation.</li> </ul>
November 2002	<ul> <li>Consultant finalizes trail alignment planning document.</li> </ul>
December 2002	✓ Metro considers adoption of consensus trail alignment plan.

\* Additional public review may be needed if recommendations include alignments outside the Wildlife Area (e.g., into St. Johns). An additional two months may be needed for identification of stakeholders and additional public involvement.

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From:"Sjulin, Jim" <PKJIMS@ci.portland.or.us>To:"Hendrickson, Nancy" <NANCYH@BES.CI.PORTLAND.OR.US>, 'Bill Briggs'<BillB@bio-stim.com>, 'Denise Rennis' <rennid@portptld.com>, 'Elaine Stewart'<stewarte@metro.dst.or.us>, 'Emily Roth' <emroth57@yahoo.com>, 'Frank Opila'<FrankO@hevanet.com>, 'Frank Opila 2' <fopila@hotmail.com>, 'Holly Michael'<Holly.B.Michael@state.or.us>, 'Jim Morgan' <MorganJ@metro.dst.or.us>, 'Pam Arden'<npdarden@teleport.com>, 'Pat Sullivan' <SullivanP@metro.dst.or.us>, 'Patt Opdyke'opdyke@pacifier.com>, 'Peter Teneau' <tenwa@jps.net>, 'Troy Clark' <brillobrain@ureach.com>Date:3/18/02 7:06PMSubject:RE: Landfill Planning

Nancy and committee members,

I am unable to attend the March meeting, so I am happy to see that Nancy's expectation is that the discussion should continue into April. I ask that you honor that and, frankly, this is a big issue for us and it deserves ample time.

I am still amazed that Metro administrators developed this policy statement with no input from the Management Committee.

#### On Trails:

I think that it's fair to say that while we weren't looking forward to the conflicting sides of the trail discussion, we were indeed looking forward to resolving the specific questions about where and under what conditions could a recreational trial work with the least impact. Assuming feasible, to be followed by a discussion about when a trail might be implemented and at what (order of magnitude) cost. I can see no reason that this discussion and more specific trail planning should be held up. Metro was in the process of preparing an IGA with the City for many months. What's different now?

#### On Other Recreational Uses:

I do think that Mike Burton made the right decision to exclude model airplanes at this time. This has always been a questionable recreational activity for the wildlife area, but it made it into the plan because of the advocacy of the enthusiasts. At least since the late 1980's, no other recreational uses have been contemplated for the landfill other than trails and model airplance. I feel that the Management Committee would effectively resist other potential recreational uses. Identification of another, more suitable site should be a priority for Metro. (It's only fair that Metro have its very own version of Portland Parks' dogs off leash area issue.)

#### On Habitat:

The landfill certainly has its constraints. But that's exactly why the idea of an open meadow habitat was suggested by the NRMP. Some shrub-scrub habitat has also been envisioned by the Management Committee over the years. I cannot see any reason to hold up habitat enhancement work based on what's currently happening at the landfill.

I hope this helps. Anxious to hear other thoughts. I think that Gregg Everhart will be able to attend next week's meeting.

Keep up the good work! Jim Sjulin

> ----- Original Message-----

> From: Hendrickson, Nancy > Sent: Thursday, March 14, 2002 12:26 PM > To: Bill Briggs; Denise Rennis; Elaine Stewart; Emily Roth; Frank Opila; > Frank Opila 2; Holly Michael; Jim Morgan; Pam Arden; Pat Sullivan; Patt > Opdyke; Peter Teneau; Sjulin, Jim; Troy Clark > Subject: Landfill Planning > > Dear Committee Members: > > I am starting a conversation, as we discussed last meeting, regarding > future planning for the Landfill. At the last meeting, we received a copy > of a memo dated October 2001, from Metro managers regarding landfill > planning - or lack thereof. This memo sparked off a discussion of > integrating the Landfill into the rest of the Wildlife Area, which we have > been talking about for some time already. Since this is rather a large > topic, we need to be thinking about it before the March meeting. The idea > is to discuss this at the March meeting (but we do have other agenda > items), continue the discussion at the April meeting, and possibly make > some recommendations at that time about where we want to go with this. > > Here are some things to consider, but please chime in with your own. > What values and constraints does the landfill site have in connection with > the rest of the Wildlife Area? > What information does the SBLMC need to develop recommendations for the > landfill site, for now, and for the future? For example: > \* what type of habitat is out there now or could be developed > \* what species of wildlife should we target in terms of developing > habitat > \* what intensity of recreation activity should be encouraged and when > \* etc etc etc > > Thanks everyone, > Nancy Hendrickson > Chair, SBLMC > > ..... > Nancy Hendrickson > Columbia Slough Watershed Manager > Bureau of Environmental Services > 1120 SW Fifth, Room 1000 > Portland, Oregon 97204 > > 503-823-6001 (phone) > 503-823-5344 (fax) > > NancyH@bes.ci.portland.or.us > >

CC: "Houck, Mike" <houckm@teleport.com>, "Everhart, Gregg" <PKGREGG@ci.portland.or.us>