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CITY OF PORTLAND  
BUREAU OF DEVELOPMENT SERVICES  
1900 SW Fourth Avenue, Suite 5000  
Portland, OR 97201

P524

**Land Use Review Notice Enclosed**

**Case #** 02-11.3706 EN



City of Portland  
**Bureau of Development Services**  
Land Use Review Division

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**Date:** January 10, 2003  
**To:** Interested Person  
**From:** Jessica Wilcox and Stacey Wenger, Land Use Review 503-823-7586

**NOTICE OF A TYPE II DECISION ON A PROPOSAL IN YOUR NEIGHBORHOOD**

The Office of Planning and Development Review has approved a proposal in your neighborhood. The reasons for the decision are included in this notice. If you disagree with the decision, you can appeal it and request a public hearing. Information on how to appeal this decision is listed at the end of this notice.

**CASE FILE NUMBER: LU 02-113706 EN**

**GENERAL INFORMATION**

**Applicant:** Elaine Stewart, Smith and Bybee Lakes Wildlife Area Manager  
Metro - Metropolitan Service District  
600 NE Grand Ave  
Portland, OR 97232

**Representative:** Berit Stevenson  
9320 SW Aspen St  
Beaverton, OR 97005

**Site Address:** Smith and Bybee Lakes Complex, northeast corner of St. Johns Landfill

**Legal Description:** TL 600 258.16 ACRES, SECTION 31 2N 1E; TL 200 335.31 ACRESPLIT MAP  
R95131-0090 (R501586), SECTION 36 2N 1W

**Tax Account No.:** R951310090, R971360360, R951310080

**State ID No.:** 2N1E31 00600, 2N1W36 00200, 2N1E31 100

**Quarter Section:** 1622, 1623, 1721, 1722, 1723, 1724, 1821, 1823, 1824, 1923, 1924

**Neighborhood:** St. Johns, contact Ray Piltz at 503-286-5444.

**Business District:** Columbia Corridor Association, contact Stark Ackerman at  
503-224-5560.

**District Coalition:** North Portland Neighborhood Office, contact Tom Griffin-Valade at  
503-823-4524.

**Plan District:** None

**Other Designations:** Smith and Bybee Lakes Natural Resources Management Plan and *Columbia Corridor Industrial/Environmental Mapping Project* Inventory Site 55.

**Zoning:** OS, h,p (Open Space (OS) base zone with, Aircraft Landing (h) and  
Environmental Protection (p) Overlay zones)

**Case Type:** EN (Environmental Review)

**Procedure:** Type II, an administrative decision with appeal to the Hearings Officer.

**PROPOSAL:**

The applicant proposes to remove and replace an existing water control structure located within a 75-foot long earthen berm that separates Smith Lake from the North Slough with three, eight-foot by 10-foot precast concrete box culverts. Additionally an eight-foot by five-foot precast concrete box culvert will be constructed at the site to operate as a fish ladder (Exhibit C.2). The entire site is located within the Environmental Protection Overlay zone (Exhibits B through B.2). The replacement of this structure with a water control structure that provides fish passage and the ability to manage water levels in the lakes will reestablish the connection of the lakes to the Columbia Slough and Willamette

River via North Slough. This will restore hundreds of acres of wetlands that were lost because of the permanent impoundment.

The existing berm and floodgate were built in 1982 with the intention of retaining water in Smith and Bybee Lakes for water quality (Exhibit C.1). The water control structure effectively separates the lakes from the North Slough and thus, the Willamette River. Except in rare flood events, the lakes are no longer influenced by the hydrological dynamics of the daily tidal forces and seasonal floods. The permanent impoundment of the lakes has altered the historical nature of the wetlands and converted them to a non-native system. As a result, more than 350 acres of forested wetlands were permanently flooded, killing the trees. Hundreds more acres of emergent wetlands were lost when the lakes ceased drawing down in the spring and summer. The new structure will provide the ability to draw down the water levels in late spring through summer, mimicking the historical hydrology and reestablishing the historical emergent wetland.

Removal and replacement of the water control structure includes partially removing the existing 75-foot long berm, which is dominated by bare ground with some non-native reed canarygrass and Canadian thistle. Spoils from this removal will be placed on the remaining portion of the berm and in areas on the access road to lessen the degree of the existing slope (Exhibit C.3). All disturbed areas on the berm will be seeded with native grasses and forbs (Exhibit C.4). The berm may be habitat to a small group of western painted turtles, which are listed as sensitive-critical by the Oregon Department of Fish and Wildlife (ODFW). To mitigate for these impacts on turtle habitat, the applicant proposes to restore an area known to be nesting habitat for the largest component of the western painted turtle population in the Smith and Bybee Lakes complex (Exhibits C.5 and C.6). The proposed mitigation site is located approximately one mile northeast of the site, immediately north of a large pond located between North Marine Drive and Smith and Bybee Lakes. Restoration of this area will include excavating and removing sand to a depth of 18 to 24 inches and replacing it with soil that is similar to the Sauvie and Rafton silt loams, which are native to the site and better suited to holding the turtle nest shape (Exhibit C.6). Approximately 0.47 acre of nesting habitat will be improved.

Silt fencing will be placed around all work areas in May to prevent turtles from nesting in the areas before excavation. Equipment staging will be off the site and erosion control fencing and construction staking will delineate grading limits. Nearly all excavation will be performed with a track hoe and small bulldozer. Excavated materials will be used to restore the existing access road and any leftover material will be disposed of off site. Water control during construction will consist of coffer damming against the North Slough and Bybee Lake (Exhibit C.3).

#### RELEVANT APPROVAL CRITERIA:

The project site is located within the Environmental Protection Overlay zone, as well as the boundaries of the *Natural Resources Management Plan for Smith and Bybee Lakes*. Section 33.430.030 of the Portland Zoning Code stipulates that Natural resource Management Plans may contain regulations that supersede or supplement the regulations of the environmental chapter. In this case, the *Natural Resources Management Plan for Smith and Bybee Lakes* has regulations that supersede and supplement the environmental regulations of Chapter 33.430.

The *Natural Resources Management Plan for the Smith and Bybee Lakes* identifies environmental projects within the Plan boundaries that are generally consistent with plan objectives. Potential Environmental Project ENV 2 on page 27 of the Smith and Bybee Lakes NRMP identifies the construction of a flood gate in the existing water control structure to be implemented within the plan boundary. The proposed replacement of the existing structure with a water control structure that provides fish passage and the ability to manage water levels in the lakes is consistent with this identified project.

Therefore, the proposal must be reviewed as "Development in Conformance with the Plan" (shown below) and must meet the approval criteria listed on page 67 of the *Natural Resources Management Plan for Smith and Bybee Lakes*. Development in conformance (listed below) with the *Natural Resources Management Plan for the Smith and Bybee Lakes* will be reviewed by the City using a Type II procedure.

**I. Development in Conformance**

Procedure: Development in conformance with the Plan will be reviewed by the City using a Type II procedure, including projects identified in the Plan that meet applicable e-zone site development standards.

**Approval Criteria:**

- a) The proposed development meets the goals and objectives of the Plan.
- b) There will be no significant negative impacts on the resources covered in the Management Area.

**ANALYSIS**

**Site and Vicinity:** Smith and Bybee Lakes and their associated sloughs and wetlands are remnants of formerly extensive river bottomlands located near the confluence of the Willamette and Columbia Rivers. The wildlife area is managed primarily for wildlife habitat protection and enhancement while providing passive recreation opportunities for the Portland metropolitan area. The Smith and Bybee Lakes Wildlife Area is composed of two lakes and a number of smaller ponds and sloughs. Considerable changes have occurred to these lakes that have had negative impacts on the lake's system: construction of dam and dikes, filling of wetlands and waterbodies, and introduction of exotic species of plants and animals. Currently, the wildlife area contains open water, emergent, shrub/scrub, and forested wetlands as well as upland forest. Myriad wildlife species use the site, including more than 100 bird species and a variety of mammals, reptiles and amphibians. The wildlife area is home to one of the two largest remaining populations of Western painted turtles in the state. The turtles are on the Oregon Department of Fish and Wildlife's sensitive species list.

In 1982 a 75-foot long earth berm was constructed at the northeast corner of the St. Johns Landfill where the North Slough meets Smith Lake. A concrete pipe was constructed within this berm to allow restricted flows between North Slough and Bybee Lake (Exhibit C.1). The purpose of this berm was to impound waters in the lakes from water in the slough, which was in response to an avian botulism outbreak. Wildlife agencies hoped to avoid future outbreaks and waterfowl die-off in the wildlife area by maintaining higher water levels, dispersing the birds. As a result of this structure, no major outbreaks have occurred since the late 1970s.

In the 1990s a 60-foot flapgate was installed on the North Slough side of the existing berm structure. The purpose of the gate was to allow water to slowly drain from the lakes but not enter from the slough. During this time several Combined Sewer Overflows (CSOs) discharged untreated sewage and stormwater into the slough. Therefore, the goal of this flapgate was to keep contaminated water from entering the lakes. Since this time, the City has completed a "big pipe" project that has eliminated all CSOs from the Columbia Slough.

The proposed project is located at this earth berm (Exhibits B, B.1 and C.1). The water control structure has been modified or replaced twice, but has always been used to retain water in the lakes. Since 1982, the lakes have essentially functioned as reservoirs, held at a static water level. Except during brief or rare flood events, the lakes are no longer influenced by the hydrological dynamics of the daily tidal forces and seasonal floods. This has changed the lakes from an emergent wetland system (marsh or swamp environment) to a lacustrine system (lake environment). The berm is located entirely within the Environmental Protection Overlay zone (Exhibit B.1). A gravel access road begins at the northeastern portion of the St. Johns Landfill perimeter road and continues over the berm onto the south portion of Bybee Lake (Exhibit C.1). Bare ground and non-native plants consisting of Canadian thistle and reed canarygrass dominate the berm. Western painted pond turtles have been observed to inhabit the North Slough for nesting. However, the majority of the turtle population inhabits other parts of the wildlife area.

The proposed mitigation site is located approximately one mile northeast of the site, immediately north of a large pond located between North Marine Drive and Smith and Bybee Lakes (Exhibits C.5 and C.6). The proposed mitigation site is primarily bare with a few black cottonwood, willow, Himalayan blackberry, and non-native grasses. North of the mitigation site is N Marine Drive and south of the site is a pond. This site is located within the Environmental Protection Overlay zone (Exhibit B.2).

**Zoning:** The proposed project and mitigation sites are located entirely within the OShp zone and within the Smith and Bybee Lakes NRMP area.

The Open Space (OS) base zone is intended to preserve public and private open and natural areas identified in the Comprehensive Plan. These areas serve many functions including: providing opportunities for outdoor recreation; providing contrasts to the built environment; preserving scenic qualities; protecting sensitive or fragile environmental areas; and preserving the capacity of and protecting water quality. This zone is designated with the mapping symbol "OS" on the official zoning maps. No new uses are proposed at the site, and the regulations of the Open Space base zone do not apply.

The Aircraft Landing (h) overlay zone provides safer operating conditions for aircraft in the vicinity of Portland International Airport by limiting the height of structures and vegetation. This zone is designated with the letter "h" on the official zoning maps. The proposed structures and vegetation to be planted will not exceed the height restrictions.

The Environmental Protection (p) zone provides the highest level of protection to the most important resources and functional values. These resources and functional values are identified and assigned value in the inventory and economic, social, environmental, and energy (ESEE) analysis for each specific study area. Development will be approved in the environmental protection zone only in rare and unusual circumstances. This zone is designated with the letter "p" on the official zoning maps. Environmental zones protect environmental resources and functional values that have been identified by the City as providing benefits to the public. The environmental regulations encourage flexibility and innovation in site planning and provide for development that is carefully designed to be sensitive to the site's protected resources. The environmental regulations also carry out Comprehensive Plan policies and objectives.

The environmental zone is divided into Resource Area and Transition Area. The Resource Area contains important environmental resources to be protected. The Transition Area is the outermost 25 feet of the environmental zone and is intended to buffer the resource area from impacts of surrounding development.

The Smith and Bybee Lakes NRMP (Figure 5) indicates that the 40-mile loop trail must be constructed over the water control structure. This trail is a metropolitan-wide system of recreational trails which at present connects the cities of Portland, Troutdale, Gresham, and Multnomah County. The 40-mile loop trail features many significant developed parks and natural resource areas on its route, and Smith and Bybee lakes would be another major feature.

**Environmental Resources:** The application of the environmental zones is based on detailed studies that have been carried out within eight separate areas of the City. The City's policy objectives for these study areas are described in reports that identify the resources and describe the functional values of the resource sites. Functional values are the benefits provided by resources. The values for each resource site are described in the inventory section of these reports.

This project site, which is regulated by the *Natural Resources Management Plan for Smith and Bybee Lakes* (Smith and Bybee Lakes NRMP), is also inventoried within the *Columbia Corridor Industrial/Environmental Mapping Project* (Columbia Corridor Inventory) boundaries and is within Inventory Site 55 (pages 106-107). The Columbia Corridor Inventory identifies Site 55 as relatively flat and almost entirely within the 100-year floodplain boundary. It contains extensive amounts of edge habitat (ecotone) as one of the sites most significant wildlife resources, and was rated the highest among all the sites in the project area for wildlife habitat. The report states that groundwater movement may be a significant hydrological factor, but that it is not well understood at the site. Resource values identified for Inventory Site 55 include drainageways, flood storage/desynchronization, erosion control/sediment trapping, pollution and nutrient retention and removal, fish and wildlife habitat and high recreation, visual amenity, uniqueness and educational values.

The approximately 2,100-acre study area is also described in the Smith and Bybee Lakes NRMP. The study area includes the Smith and Bybee Lakes wetlands bounded by North Portland Road, the Columbia Slough, and the Rivergate Industrial District. It also includes the Columbia Slough, the Ramsey Lake wetland mitigation area, and the St. Johns Landfill. Other resource values at this site

listed in the Smith and Bybee Lakes NRMP include extensive shrub willow swamp, upland (primarily willow) forest, open water, smartweed swamp, sedge meadows and grasslands.

The configuration of vegetation and habitat types in the Smith and Bybee Lakes wetlands is primarily determined by surface water hydrology. Historically, these wetlands were part of an extensive complex of sloughs, marshes and lakes that occupied the south shore of the Columbia River. Most of this original complex has been drained, filled or subject to other development impacts, and the Smith and Bybee Lakes complex represents the largest remnant of this habitat in the Portland area.

With regards to fish habitat, samples of fish populations resulted in identification of 17 species, including several warm-water game species. An abundance of juvenile Chinook salmon were found throughout the study area during the spring, indicating that the sloughs and lakes provide winter and spring rearing habitat for young salmon. High river levels during the late winter and early spring allow salmon to enter and leave the lakes.

Wildlife data collected for the study area identified 72 species of birds observed (with an additional 25 species expected to be present). Bald eagles have been observed over the study area, but no roosting or nesting eagles have been seen.

**Land Use History:** City records indicate that prior land use reviews include the following cases:

- LUR 91-00651 EN – Withdrawal of an application for the placement of a conveyor system to move stored dredge material to a landfill.
- LUR 92-00465 EN – Approval with conditions for reconstruction and repair of the plug and outfall of Smith and Bybee Lakes.
- LUR 93-00503 EN – Approval with conditions for a recreational trail and three observation platforms to be located on the isthmus between Smith Lake and Bybee Lake.
- LUR 96-00800 EN – Approval to allow the placement of signs along the Columbia Slough for the purpose of warning that fish are contaminated and should not be eaten.
- LUR 97-00405 EN – Approval with conditions to allow construction of a gas pipeline and compressor station.
- LUR 97-00843 EN – Approval with conditions to allow repair of an eroding embankment and to allow placement of rock and sand within the Columbia Slough at three specific locations along the perimeter of the St. Johns Landfill.
- LUR 99-00579 EN – Approval with conditions to allow repair of an eroding bank around the perimeter of the St. Johns Landfill.
- LUR 00-00779 EN - Approval with conditions for disturbance and stockpiling areas in environmental zones and construction of an underground wall along the north perimeter road of the St. Johns Landfill.

**Agency Review:** A "Notice of Proposal in Your Neighborhood" was mailed on **April 30, 2002**. The following Bureaus have responded with no issues or concerns:

- Fire Bureau
- Bureau of Transportation Engineering & Development

The Endangered Species Act Section of BES responded by expressing their support of the proposal because it will provide off-channel habitat and over wintering opportunities for salmonid species listed as threatened according to the federal Endangered Species Act. Please see Exhibit E.3 for additional details.

The Bureau of Environmental Services (BES) stated that they supported the proposal and that replacement will return a more natural hydrology to the lakes system while still allowing management of water levels for suppression of both reed canarygrass and avian botulism. The fish ladder will open the lakes to become valuable salmonid refugia. If at all possible, BES requests that the structures

allow small non-motorized boat access between North Slough and Smith and Bybee Lakes. Please see Exhibit E.4 for additional details.

The Site Development Section of OPDR responded with the following comments:

- The construction management plan is not sufficient to identify the total areas of disturbance and why spoils must be stored within the environmental zone.
- The erosion control plan is not sufficient to determine compliance with Title 10 requirements.
- This area is located in the floodplain and, therefore, the project is subject to the requirements of Chapter 24.50, Flood Hazards. Balanced cut and fill requirements must be met.

Please see Exhibit E.5 for additional details.

**Staff Comments:** Site Development met with the applicant to discuss these issues and is now satisfied with the proposal (contact Doug Morgan with Site Development for further information).

The Oregon Department of Fish and Wildlife responded with support for the proposal. Please see Exhibit E.6 for additional details.

**Neighborhood Review:** A Notice of Proposal in Your Neighborhood was mailed on **April 30, 2002**. Six written responses were received from either the Neighborhood Association, notified property owners, or other notified citizens in response to the proposal.

The Audubon Society of Portland supports this proposal and states that this is one of the most important restoration projects to be conducted in the 2,000-acre Smith and Bybee Lakes natural area. They also commented that the installation of the water control structure to raise water levels so that potentially botulism-laden dead waterfowl could more easily be removed from the lakes was a single-purpose measure that will be replaced with a more multiobjective water control management regime (please see Exhibit F.1 for more information).

Mr. Smith commented in favor of replacing the water management structure at the lakes for the following reasons (please see Exhibit F.2 for more information):

- The ability to manage the water level will move the lakes closer to natural conditions;
- The new structure will provide flexibility and the capability to enable the water level to follow a regimen that native plants and animals at the lake are accustomed to; and
- More natural water fluctuations will discourage the establishment of non-native plant species (reed canarygrass, etc.).
- Smith and Bybee Lakes provide a lot of opportunity for angling, which would continue if the water level is managed more naturally.

The Friends of Smith and Bybee Lakes commented in favor of the proposed project stating that this application marks the threshold of an important restoration work which they heartily endorse (please see Exhibit F.3 for more information).

The Wetlands Conservancy responded by encouraging the City of Portland to approve the water control structure project (please see Exhibit F.4 for more information).

Mr. Jones opposed the proposed development based on the following issues (please see Exhibit F.5 for more information):

- The proposal does not provide for construction of the long-planned and promised recreation trail, the Forty-mile Loop.
- The Smith and Bybee Lakes NRMP has never received the obligatory review by LCDC and is insufficient in law to serve as an exception to the Portland City Code.
- The negative effects of the landfill will influence the lakes and the health of North Portland citizens and will make the lakes a Water Quality Limited (WQL) water.
- This is the only development Metro considers or will consider.
- A hearing is desired with more public notice.

Staff Response: In order to meet Smith and Bybee Lakes NRMP Objectives 6, 7, 8, and 10 the applicant will be required to address construction of the portion of the 40-mile loop trail at this site as per Figure 5 of the Smith and Bybee Lakes NRMP or accomplish realignment of the trail through the appropriate procedure (refer to Approval Condition B).

This NRMP was a legislative process that was adopted by the Portland Planning Commission on May 8, 1990 and adopted by the Portland city Council on November 9, 1990. Therefore, this NRMP is legal and either supplements or supercedes Chapter 33.430 (refer to Section 33.430.030 – Relationship to Other Environmental Regulations).

Please see Objective 3, below for an explanation about water quality in the lakes.

The process for a Type II procedure is outlined in Chapter 33.730 (Quasi-Judicial Procedures). Please refer to this section for an explanation of hearing and public notice proceedings.

The St. John's Neighborhood Association opposed the proposal based on the following issues (please see Exhibit F.6 for more information):

- The model airplane clubs (5) of Portland would like to have a landing field and parking lot obligated to them before this project goes ahead.
- The Oregon Bass and Pan fish Club was promised a plan to enhance the Spiny Ray Fishery that existed before this present dam was built.
- They request a hearing to bring all affected people into what the Management of Smith and Bybee Lakes have proposed.

Staff Response: This proposal is not located on the St. Johns Landfill and is not associated with the closure of the landfill. Therefore, development of a landing field and parking lot are not a part of this review.

Enhancement of the Spiny Ray Fishery is not a requirement of the Smith and Bybee Lakes NRMP and is not applicable to this review.

The process for a Type II procedure is outlined in Chapter 33.730 (Quasi-Judicial Procedures). Please refer to this section for an explanation of hearing and public notice proceedings.

#### **ZONING CODE APPROVAL CRITERIA**

The project site is located within the Environmental Protection Overlay zone, as well as the boundaries of the *Natural Resources Management Plan for Smith and Bybee Lakes*. Section 33.430.030 of the Portland Zoning Code identifies the *Natural Resources Management Plan for Smith and Bybee Lakes* as having regulations that may supersede or supplement the environmental regulations of Chapter 33.430.

The proposed enhancement project is in conformance with Environmental Project ENV 2 (Flood Gate in the Existing Water Control Structure) of the Smith and Bybee Lakes NRMP. Therefore, this portion of the proposal must be reviewed as "Development in Conformance with the Plan" and must meet the approval criteria listed on page 67 of the *Natural Resources Management Plan for Smith and Bybee Lakes*.

Items appearing in bold type, below, are the approval criteria from the NRMP. The applicant has provided the findings, which accompany the criteria.

#### **a) The proposed development meets the goals and objectives of the Plan.**

**Findings:** Page 9 of the *Natural Resources Management Plan for Smith and Bybee Lakes* states the Plan's goal and objectives,

*"The goal of the Management Plan is to protect and manage the Smith and Bybee Lakes area as an environmental and recreational resource for the Portland region. The lakes will be preserved as historical remnants of the Columbia River riparian and wetlands system. They will be maintained and enhanced, to the extent possible, in a manner that is faithful to their original natural condition. Only those recreational uses that are compatible with environmental objectives of the Management Plan will*



*be encouraged. Smith Lake and adjacent uplands will be the principal location for recreational activities. Bybee Lake will be less accessible. Its primary use will be as an environmental preserve."*

Removing the existing water control structure and replacing it with an enhanced water control structure and fish ladder will increase water level management thereby enhancing and restoring vegetative communities, allowing for fish migration, and increasing water quality. The goal of this project is to reestablish the historical conditions of the Smith and Bybee Lakes. Therefore, the proposal meets this goal.

The 13 Plan objectives are listed on pages 9 and 10 of the *Smith and Bybee Lakes NRMP*.

**1. Control water level in order to manage the lakes' environmental system.**

**Findings:** As stated above in the Site/Vicinity Section, the existing water control structure only allows the flow of water out of the lakes. Because of this, the lakes have essentially functioned as reservoirs, held at a static water level, impacting historical conditions. This impoundment has caused the lakes to change from their natural palustrine system (marsh or swamp environment) to a lacustrine system (lake environment). As a result, more than 350 acres of forested wetlands have been flooded year-round, killing the trees.

The proposed structure will consist of three, eight-foot by 10-foot precast concrete box culverts and a fourth, eight-foot by five-foot precast box culvert to be used as a fish ladder (Exhibit C.2). This proposed structure will enhance the ability to adjust and thereby control the water level within the lakes, mimicking the historical hydrology. The result is to restore the historical emergent and forested wetlands, improving the management of the lakes' environmental system.

This criterion is met.

**2. Provide for and maintain habitat diversity representative of lower Columbia River floodplain wetlands.**

**Findings:** Currently, the lakes exhibit a lacustrine system (lake environment) that precludes the establishment of the historical emergent and forested wetlands once present at the site. In this area, the historical conditions consisted of a palustrine system (marsh or swamp). Please refer to the Environmental Section above for more information about the lower Columbia River floodplain wetlands. To reestablish these conditions which are representative of lower Columbia River floodplain wetlands, the applicants propose to remove the existing water control structure and to replace it with a series of box culverts and a fish ladder (Exhibits C.2 and C.3). This will allow for the unobstructed flow of water from the North Slough into the Lakes, mimicking historical hydrology. Reverting this system will reestablish habitat diversity representative of the lower Columbia River floodplain wetlands. Therefore, this criterion is met.

**3. Maintain and enhance water quality in the lakes.**

**Findings:** As stated in the Vicinity/Site Section above, this water control structure was constructed in 1982 due to an avian botulism outbreak. This structure was intended to increase water levels in the lakes, dispersing waterfowl and reducing the potential for these outbreaks. In the 1990's a flapgate was installed in the water control structure to allow the flow of water from the lakes into the slough but prohibits flow from the slough into the lakes. The purpose of this one-way flow was to inhibit bacteria laden water in the slough from polluting the lakes. This contamination was attributed to the discharge of stormwater and sewer water during storm events from Combined Sewer Overflows (CSOs) into the slough. Since this time, the City has closed all CSOs in the slough, eliminating the need to block flow from the slough to the lakes. It has been 20 years since the water control structure was installed and more is known about the lakes. Because of this knowledge, wildlife agencies conclude that returning the lakes to historical conditions will create far more environmental benefits to the area (see Exhibit E.6).

Removing this structure will assist in flushing out the lakes, allowing for historical conditions to return, and allowing native fish back into the area. Water quality may increase due to this connection

and the lakes will return to being naturally influenced by the hydrological dynamics of the daily tidal forces and seasonal flooding. Therefore, this objective is met.

**4. Implement a monitoring program to assure early detection of potential environmental problems, and to quantify management programs.**

**Findings:** The applicant states that a monitoring program is in place, but no formal monitoring/maintenance plan has been submitted to meet this objective. Therefore, in order to meet this objective a formal annual monitoring program must be established.

The industry standard for monitoring mitigation plantings, restoration plantings, and resource enhancement plantings is to assess "success" of the project through the use of performance standards. The performance standard for survival of mitigation plantings provided in the Portland Zoning Code (33.248.090) is 100 percent survival: all plants that die must be replaced in kind. Another common performance standard is the measured spatial coverage of native species; especially in an area previously covered by invasive species, such as this site. By estimating the amount of cover occupied by native species, the success of the project can be better evaluated. Maintaining plant survival so that 80 percent of the planted area is covered in native vegetation is a sufficient standard in this case. As noted in the findings for criterion b, below, it is appropriate for ground covers on turtle nesting grounds to be maintained at 20 to 30 percent cover, to encourage nesting.

A watering schedule is required to take into consideration the variable rainfall trends we have here, in the Portland metropolitan area, from year to year. A dry year will necessitate more frequent watering to ensure plant survival. With conditions related to additional monitoring requirements, beyond those proposed in the application, this criterion can be met.

Conditions of approval necessary to assure mitigation and monitoring success are:

- One annual count during the late summer for three summers after planting to determine the rate of tree, shrub, and groundcover mortality for that year.
- A **100 percent** survival rate for woody species (trees and shrubs) must be documented at the time of each annual report, and in the final monitoring report. Trees and shrubs planted as part of the mitigation plan that do not survive must be replaced.
- All seeded areas and ground covers, outside of turtle nesting areas, planted as part of the approved mitigation plan must survive to achieve at least 80 percent coverage of the mitigation area after three years. Seeded areas in nesting areas (the north mitigation site, and within 30 feet of the Ordinary High Water Level at the water control structure) must achieve 20 to 30 percent coverage after 3 years.
- Photographs of the mitigation area must be taken during the annual visits and a site plan must show where and what direction these photos will be taken.
- A water schedule must be submitted for trees, shrubs, and groundcovers for the first two summers after planting.
- Explain what means of identification on plantings will be used for the final Site Development permit inspection.
- Provide the contact name, number, and address of the responsibly party for the monitoring and maintenance of the site.

In order to ensure early detection of potential problems due to future plant mortality, the applicant proposes to conduct monitoring and maintenance of the required mitigation plantings for a minimum of three years.

With a condition requiring the applicant to submit a formal monitoring and maintenance plan with the elements above, this objective can be met.

**5. Provide access to Smith and Bybee Lakes, which supports appropriate types and levels of recreation.**

**Findings:** According to the Smith and Bybee Lakes NRMP (Figure 5), this site is not identified as a water access point to the lakes. The proposed project is designated in the Smith and Bybee Lakes

NRMP as an environmental project for fish and wildlife, not for recreation. Most recreational activity is concentrated on the north side of the lakes, where parking and other public facilities are provided to support recreation. The proposal will not prohibit recreational access to the lakes. This objective is met.

6. **Encourage appropriate types and levels of recreational activities, which are compatible with environmental objectives.**
7. **Incorporate Smith and Bybee Lakes into the Metropolitan Wildlife System Project, Metro's Regional Natural Areas Program, and the 40-Mile Loop recreation trail system.**
8. **Develop upland areas in a manner which is compatible with the preservation of the wetlands and use of the lakes for passive recreation.**

**Finding:** According to the Smith and Bybee Lakes NRMP (Figure 5), a hard surface trail (40-mile loop trail) is aligned over the water control structure. However, the Smith and Bybee Lakes Management Committee, Metro, Portland Parks and Recreation, and others have been meeting over the past few months in an attempt to reach agreement on a suitable realignment of the trail, within less environmentally sensitive areas. The final alignment has not yet been agreed upon. This land use review has been on hold for the past 8 months while discussions of the alignment progress. In the interest of completion of the land use review for this water control structure, the applicant will be required to ensure that the final design of the water control structure is capable of accommodating the trail, and accomplish one of the following within 3 years of this Decision, in order to meet these objectives (6 through 8):

- Document that a Site Development permit has been obtained by the applicant, for final inspection of the constructed trail, within the approved limits of disturbance for the water control structure, shown on Exhibit C .3, and as depicted on Figure 5 of the Smith and Bybee Lakes NRMP; or
- Document that a Minor Amendment of the Smith and Bybee Lakes NRMP, has been approved by OPDR LUR at the request of the applicant, demonstrating a revised alignment of the trail, but maintaining 40-mile loop trail connectivity as required by the NRMP. This plan amendment shall have been accompanied by a proposal to construct a proportional segment of the trail within the proposed new alignment, by a specified date; or
- Document that a legislative process has been completed by the applicant, eliminating the trail designation in the area of the water control structure, from the Smith and Bybee Lakes NRMP.

With these conditions, these objectives can be met.

9. **Provide opportunities for wetland and environmental system research and education.**

**Finding:** The purpose of the project is to meet ENV 2 of the Smith and Bybee Lakes NRMP. Replacing the existing water control structure with a fish ladder and structure that allows for the flow of water to be influenced by the hydrological dynamics of the daily tidal forces and seasonal flooding will greatly benefit and change the dynamics of the lakes back to historical conditions. This change will be observed by people visiting the lakes creating educational and research opportunities. This objective is met.

10. **Develop appropriate funding strategies to implement environmental and recreation improvement projects.**

**Finding:** This project is a result of funding strategies implemented to complete an environmental improvement project listed in the *Smith and Bybee Lakes NRMP*. However, in order to meet this objective, any recreation improvement projects identified on Figure 5 that are located at the applicant's site must be completed. In this case, a segment of the 40-mile loop trail is identified to be constructed over the water control structure. Therefore, funding strategies must be implemented for construction of this trail segment to meet this objective. This can be addressed by requiring the applicant to either

construct this portion of the 40-mile loop trail, or accomplish either a revised alignment of the trail or removal of the alignment from the Smith and Bybee Lakes NRMP, within three years of the final date of this decision.

Therefore, this objective can be met with the conditions described above in findings for Objectives 6 through 8.

**11. Provide opportunities for compensation to private land owners for public use of their property.**

**Finding:** The proposal does not occur on private property. This objective does not apply.

**12. Provide an organizational structure to manage all lakes areas property as a single management unit to ensure consistent implementation of the Management Area.**

**13. Integrate management of the lakes with management of the St. Johns Landfill property when landfilling activities are terminated.**

**Finding:** The proposal is to implement a portion of the *Smith and Bybee Lakes NRMP*. This proposal will not affect the management of the lakes or the landfill. Therefore, these objectives do not apply.

**b) There will be no significant negative impacts on the resources covered in the Management Area.**

**Findings:** The Management Area includes 1,928 acres of the Smith and Bybee Lakes Wildlife Area. This area is managed primarily for wildlife habitat protection and enhancement. Please refer to Site/Vicinity and the Environmental Resources Section, above for a description of the resources and functional values located in the Management Area.

Removal of the berm and flapgate will improve water circulation and allow for changes in water levels due to natural processes. Issues have been raised about this change in flow and water level and if it will result in more contaminants from the North Slough (via leachate from St. Johns Landfill) to be transferred into the lakes, possibly causing water quality deterioration. In accordance with permits and policies related to St. Johns Landfill and the wildlife area, Metro's Regional Environmental Management Department (REM) routinely monitors surface water and sediments in the lakes and Columbia Slough (including the North Slough), and groundwater around the perimeter of the landfill. Monitoring data collected over the past several years indicate that contaminant levels in the lakes are not significantly different than those in the slough; this includes both water column and sediment samples. A 1994 screening level risk assessment of the wildlife area indicated that human and ecological risks posed by lake contaminants were not significantly different than those posed by contaminants found in the slough. In addition, REM has modeled groundwater and surface water flow in the vicinity of the landfill. Data from these ongoing efforts allow Metro to detect significant changes in water quality, and where required, to implement the management options necessary to address those changes. Therefore, it is anticipated that the proposed project will not increase the amount of contaminants released into the lakes.

The only potential negative effect due to construction of the project is the loss of nesting habitat for Western painted turtles. The Oregon Department of Fish and Wildlife (ODFW) lists this species as sensitive-critical. The applicant proposes to minimize and mitigate for these impacts by implementing the following:

- Placing a barrier to prevent nesting in areas that will be excavated;
- Improving the native plant composition in areas adjacent to the construction site; and
- Improving nesting habitat at a key nesting site located in the wildlife management area of the lakes.

Improving native plant composition includes reseeding all disturbed areas with native grasses and forbs that are adapted to local site conditions (Exhibit C.4). Currently, non-native plants dominate these areas. Four species (*Agrostis exarata*, *Deschampsia elongata*, *Juncus acuminatus*, *Koeleria*

*macrantha*) proposed by the applicant for mitigation are not listed on the Portland Native Plant list at this time, but are proposed to be included in the update of the Plant List. The Bureau of Environmental Services (BES) has confirmed that these species are acceptable and desired in this area because they are better adapted for local site conditions than other species. Therefore, these species may remain in the proposed plant list.

Improving nesting habitat includes enhancing nesting substrate on the north side of the wildlife area immediately south of N. Marine Drive, where the largest component of the Western painted turtle population is located (Exhibits C.5 and C.6). Currently, this area consists of sandy soil that does not hold the chamber shape of these turtle nests, possibly inhibiting nesting success. The applicant will remove sand to a depth of 12 inches and replace it with soil that is closer to the Sauvie and Rafton silt loams that are native to the site (Exhibit C.6). This project will enhance 0.47 acre of nesting habitat. It is important that bare patches of soil persist to encourage turtle nesting in these areas, so the turtle nesting areas will be monitored to achieve only 20 to 30 percent cover by seeded ground covers.

In order to prevent significant impacts to resources during excavation activities, the applicant has submitted a Construction Management Plan (Exhibit C.3) that identifies access/egress, stockpile and staging areas, limits of disturbance, installation of erosion control measures, excavation procedures, and tree protection measures.

This project will aid in restoring and enhancing the existing wetland ecosystem. The removal and replacement of the water control structure, construction of a fish ladder, and subsequent revegetation and enhancement of turtle nesting habitat will result in positive impacts on the resources in the Management Area by restoring historical conditions of the lakes (Exhibits C.2 through C.6). This will result in restoration of an emergent wetland and provide off-channel habitat and overwintering opportunities for salmonid species listed as threatened on the federal Endangered Species Act (ESA).

To ensure that the Construction Management Plan is implemented properly and as per the City of Portland's Erosion Control Manual, the applicant will be required to obtain a Site Development Permit. Improper implementation of the Construction Management Plan would create significant impacts to the site. For example, if the cofferdam were not properly installed, large amounts of sediment would enter the water, creating increased rates in turbidity and the covering of possible downstream spawning grounds of salmon. Furthermore, increased sediments in the water column can clog the gills of fish, killing them. Another function of the Site Development Permit is to ensure that the proposed plantings are properly installed and as per the approved plans.

Therefore, with a conditions requiring a Site Development Permit for inspection of erosion control measures and mitigation plantings, this objective can be met.

#### **DEVELOPMENT STANDARDS**

Unless specifically required in the approval criteria listed above, this proposal does not have to meet the development standards in order to be approved during this review process. The plans submitted for a building or zoning permit must demonstrate that all development standards of Title 33 can be met, or have received an Adjustment review prior to the approval of a building or zoning permit.

#### **CONCLUSIONS**

The applicant proposes to replace an existing water control structure with a structure that will allow the hydrologic dynamics of daily tidal forces and seasonal floods to influence the water levels and flows from the North Slough to the Smith and Bybee Lakes. The applicant also proposes to install a fish ladder at this location to allow for the passage of salmonid species into the lakes (Exhibits C.2 through C.4).

Impacts to Western painted turtle habitat along the existing dam (which contains the water control structure) will be mitigated through the restoration of turtle nesting habitat in an area with one of the highest concentrations of Western painted turtles along N. Marine Drive (Exhibits C.5 and C.6).

The applicant has demonstrated that the applicable approval criteria from the *Natural Resources Management Plan for Smith and Bybee Lakes* have been met by the proposal, or can be met with

conditions of approval. Conditions generally pertain to addressing the trail requirement, obtaining a Site Development Permit to ensure proper installation of erosion control and mitigation plantings, and monitoring/maintenance of the site. With these conditions, this proposal should be approved.

#### ADMINISTRATIVE DECISION

**Approval** of the removal and replacement of a water control structure, installation of a fish ladder, planting of native vegetation along the berm, and the removal and replacement of soil and installation of plants to enhance turtle habitat in substantial conformance with the approved Exhibits C.2 through C.6 signed and dated January 8, 2003, subject to the following conditions:

- A. All permits:** Copies of the stamped Exhibits C.2 through C.6 from LU 02-113706 EN, shall be included as part of all plans submitted for permits (building, grading, site development, erosion, etc.). These exhibits shall be included on a sheet that is the same size as the plans submitted for the permit and shall include the following statement, ***"No field changes without additional review and approval by BDS, Land Use Review Staff."***
- B.** The applicant shall ensure that the final design of the water control structure is capable of accommodating the trail, prior to any permits being issued for the structure, and the applicant shall accomplish one of the following within 3 years of this Decision:
- Document that a Site Development permit has been obtained for final inspection of the constructed trail, within the approved limits of disturbance for the water control structure, shown on Exhibit C .3, and as depicted on Figure 5 of the Smith and Bybee Lakes NRMP; or
  - Document that a Minor Amendment of the Smith and Bybee Lakes NRMP, has been approved by BDS LUR, demonstrating a revised alignment of the trail, but maintaining 40-mile loop trail connectivity as required by the NRMP. This plan amendment shall have been accompanied by a proposal to construct a proportional segment of the trail within the proposes new alignment, by a specified date, by the applicant; or
  - Document that a legislative process, or the procedure required by the Smith & Bybee Lakes NRMP, has been completed, eliminating the trail designation in the area of the water control structure, from the Smith and Bybee Lakes NRMP.
- C.** Prior to any ground disturbing activities at the site, the applicant shall obtain the required permits from the Bureau of Development Services. These permits shall include the following:
1. A **Site Development Permit** to ensure and document proper installation of erosion control and mitigation plantings as per Exhibits C.3 through C.6. All sheets within the Site Development Permit plan set shall include the following written conditions:
    - No mechanized construction vehicles are permitted outside of the approved "Limits of Construction Disturbance" delineated by the temporary erosion control fence. All planting work, invasive vegetation removal, and other work to be done outside the Limits of Construction Disturbance, shall be conducted using hand held equipment.
    - Mitigation plantings shall be installed within ***six months*** after issuance of the Site Development Permit. If this six month period falls outside of the planting season, the applicant may have until December 31 of the following year to plant.
    - The Site Development permit shall not be finaled until mitigation plantings are completed and inspected.
    - No field changes are permitted without additional review and written approval by the Bureau of Development Services, Land Use Review Planners.
- D.** Written annual **monitoring reports** shall be submitted to the Land Use Review Division of the Bureau of Development Services (1900 SW Fourth Avenue, Suite 5000, Portland, OR, 97201, Attention: **Environmental Planner: LU 02-113706 EN**).
- The first report shall be submitted within 12 months of the final inspection of mitigation plantings as required above in Condition C. Reports shall be submitted annually for three years.

Reports shall be prepared by a professional biologist or a certified landscape architect. The reports shall include the following information:

- One annual count during the late summer for three summers after planting to determine the rate of tree, shrub, and groundcover mortality for that year.
  - A **100 percent** survival rate for woody species (trees and shrubs) must be documented at the time of each annual report, and in the final monitoring report. Trees and shrubs planted as part of the mitigation plan that do not survive must be replaced.
  - All seeded areas and ground covers, outside of turtle nesting areas, planted as part of the approved mitigation plan must survive to achieve at least 80 percent coverage of the mitigation area after three years. Seeded areas in nesting areas (the north mitigation site, and within 30 feet of the Ordinary High Water Level at the water control structure) must achieve 20 to 30 percent coverage after 3 years.
  - Photographs of the mitigation area must be taken during the annual visits and a site plan must show where and what direction these photos will be taken.
  - A water schedule must be submitted for trees, shrubs, and groundcovers for the first two summers after planting.
  - Explain what means of identification on plantings will be used for the final Site Development permit inspection.
  - The contact name, number, and address of the responsible party for the monitoring and maintenance of the site.
  - *Approved monitoring and maintenance reports will be retained in case file (LU 02-113706 EN).*
- E. Within one month after the third monitoring report is submitted, the applicant shall obtain a Site Development Permit for the purpose of inspecting the required mitigation plantings. Documentation for final success of mitigation shall include the following:
- The planting plan approved under this review;
  - A planting plan showing the approximate location of surviving plant communities; indicating 100 percent survival of woody plants and 80 percent cover of seeded areas outside of turtle nesting areas, and 20 to 30 percent cover of seeded areas in nesting areas (the north mitigation site, and within 30 feet of the Ordinary High Water Level at the water control structure).
  - The system used to provide for field plant identification.
- The planting plan submitted for this condition shall be in substantial conformance with Exhibits C.4 and C.5. Any plant substitutions must have been pre-approved in writing by the Bureau of Development Services Land Use Review Planners (attach letter(s) allowing substitution to submitted plans).
- F. Failure to comply with any of these conditions may result in the City's reconsideration of this land use approval pursuant to PCC 33.700.040 and/or seek to enforce compliance with these conditions in any manner authorized by law.

Staff Planner: Jessica Wilcox & Stacey Wenger

Decision rendered by: Susan Feldman January 8, 2003

Decision filed January 9, 2003

Decision mailed January 10, 2003

This application was determined to be complete on April 25, 2002, however, the applicant requested the review be placed on hold until January 6, 2003.

**Note:** some of the information contained in this report was provided by the applicant. As required by Section 33.800.060 of the Portland Zoning Code, the burden of proof is on the applicant to show that the approval criteria are met. The Bureau of Development Services has independently reviewed the information submitted by the applicant and has included this information only where the Bureau of Development Services has determined the information satisfactorily demonstrates

compliance with the applicable approval criteria. This report is the decision of the Bureau of Development Services with input from other City and public agencies.

**Appealing this decision.** This decision may be appealed to the Hearings Officer, which will hold a public hearing. Appeals must be filed **by 4:30 PM on January 24, 2003** at 1900 SW Fourth Ave. Appeals can be filed on the first floor in the Development Services Center until 3 p.m. After 3 p.m., appeals must be submitted to the receptionist at the front desk on the fourth floor. **An appeal fee of \$250 will be charged.** The appeal fee will be refunded if the appellant prevails. Recognized neighborhood associations and low-income individuals appealing a decision for their personal residence may qualify for an appeal fee waiver. Assistance in filing the appeal and information on fee waivers is available from BDS in the Development Services Center. Fee waivers for low-income individuals must be approved prior to filing your appeal; please allow 3 working days for fee waiver approval. Fee waivers for neighborhood associations require a vote of the authorized body of your association. Please see the appeal form for additional information.

The file and all evidence on this case are available for your review by appointment only. Please contact the receptionist at 503-823-7967 to schedule an appointment. I can provide some information over the phone. Copies of all information in the file can be obtained for a fee equal to the cost of services. Additional information about the City of Portland, city bureaus, and a digital copy of the Portland Zoning Code is available on the internet at [www.ci.portland.or.us](http://www.ci.portland.or.us).

**Attending the hearing.** If this decision is appealed, a hearing will be scheduled, and you will be notified of the date and time of the hearing. The decision of the Hearings Officer is final; any further appeal must be made to the Oregon Land Use Board of Appeals (LUBA) within 21 days of the date of mailing the decision, pursuant to ORS 197.620 and 197.830. Contact LUBA at 550 Capitol St. NE, Salem, Oregon 97310 or phone 1-503-373-1265 for further information.

Failure to raise an issue by the close of the record at or following the final hearing on this case, in person or by letter, may preclude an appeal to the Land Use Board of Appeals (LUBA) on that issue. Also, if you do not raise an issue with enough specificity to give the Hearings Officer an opportunity to respond to it, that also may preclude an appeal to LUBA on that issue.

**Recording the final decision.** Before you proceed with your project, you are required to record the final Land Use Review decision with the Multnomah County Recorder. A building or zoning permit will be issued only after the final decision is recorded. The final decision may be recorded on or after **January 25, 2003 – the day following the last day to appeal.**

The applicant, builder, or a representative may record the final decision as follows:

- **By Mail:** Send the two recording sheets (sent in separate mailing) and the final Land Use Review decision with a check made payable to the Multnomah County Recorder to: Multnomah County Recorder, P.O. Box 5007, Portland OR 97208. The recording fee is identified on the recording sheet. Please include a self-addressed, stamped envelope.
- **In Person:** Bring the two recording sheets (sent in separate mailing) and the final Land Use Review decision with a check made payable to the Multnomah County Recorder to the County Recorder's office located at 501 SE Hawthorne Boulevard, #158, Portland OR 97214. The recording fee is identified on the recording sheet.

For further information on recording, please call the County Recorder at 503-988-3034.

**Expiration of this approval.** This decision expires three years from the date the final decision is rendered unless:

- A building permit has been issued, or
- The approved activity has begun, or
- In situations involving only the creation of lots, the land division has been recorded.



**Applying for your permits.** A building permit, occupancy permit, or development permit must be obtained before carrying out this project. At the time they apply for a permit, permittees must demonstrate compliance with:

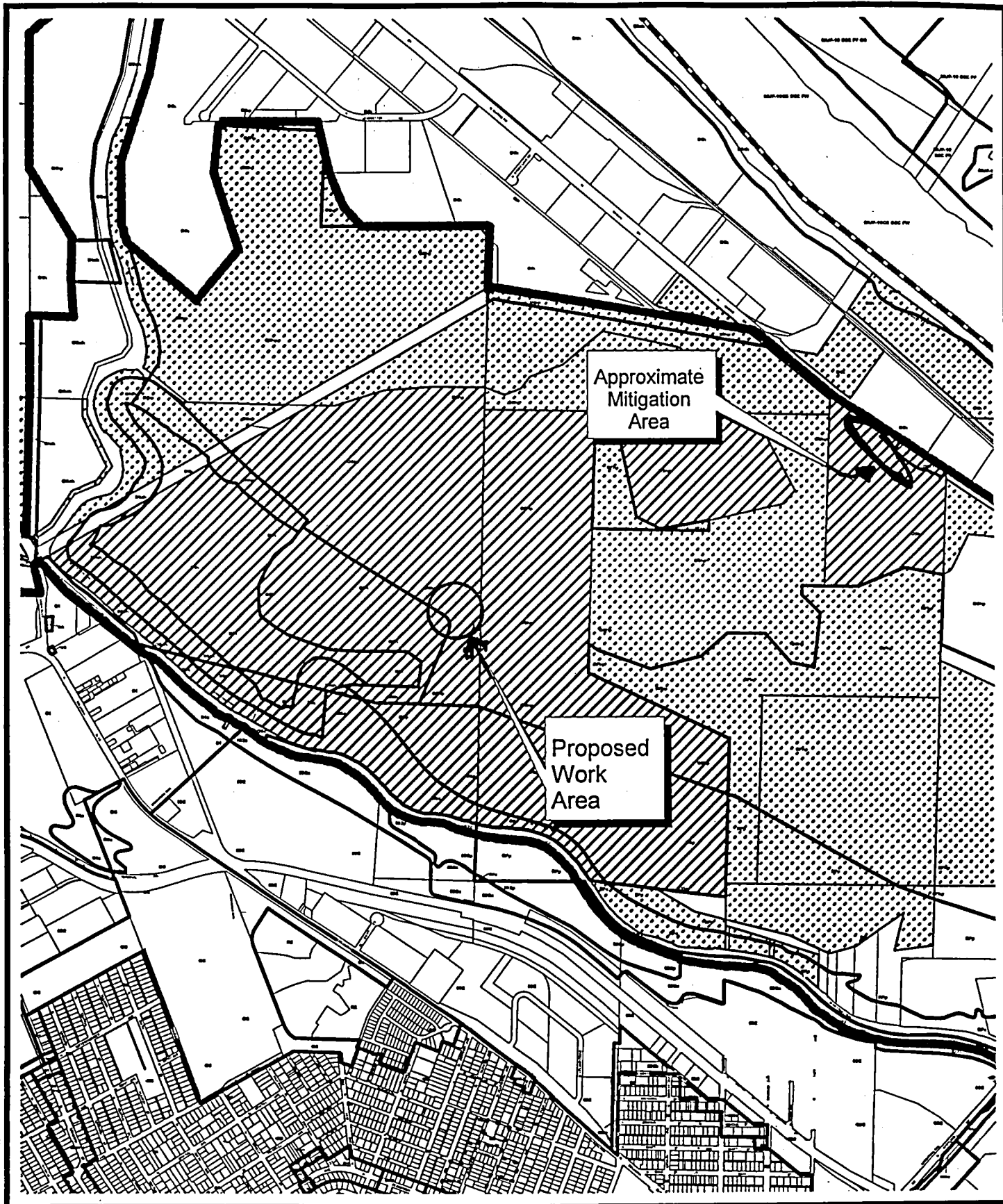
- All conditions imposed here.
- All applicable development standards, unless specifically exempted as part of this land use review.
- All requirements of the building code.
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations of the City.

#### **EXHIBITS**

**NOT ATTACHED UNLESS INDICATED**

- A. Applicant's Statement
- B. Zoning Map (attached)
  - 1. Inset of proposed work area
  - 2. Inset of proposed mitigation area
- C. Plans/Drawings:
  - 1. Existing Conditions Site Plan
  - 2. Proposed Development Plan (Attached)
  - 3. Construction Management Plan (Attached)
  - 4. Mitigation Plan at berm (Attached)
  - 5. Mitigation Plan for turtle enhancement (Attached)
  - 6. Surveyed Elevations at Mitigation Site (Attached)
- D. Notification information:
  - 1. Mailing list
  - 2. Mailed notice
- E. Agency Responses:
  - 1. Fire Bureau
  - 2. Bureau of Transportation Engineering and Development Review
  - 3. Endangered Species Action Section of BES
  - 4. Bureau of Environmental Services
  - 5. Site Development Section of OPDR
  - 6. Oregon Department of Fish and Wildlife
- F. Correspondence:
  - 1. Audubon Society of Portland
  - 2. Allan Smith
  - 3. Friends of Smith and Bybee Lakes
  - 4. The Wetlands Conservancy
  - 5. William Michael Jones
  - 6. St. John's Neighborhood Association
- G. Other:
  - 1. Original LU Application
  - 3. Site History Research
  - 4. 120-day Waiver
  - 5. Incomplete Letter

**The Bureau of Development Services is committed to providing equal access to information and hearings. If you need special accommodations, please call 503-823-7967 (TTY 503-823-6868).**



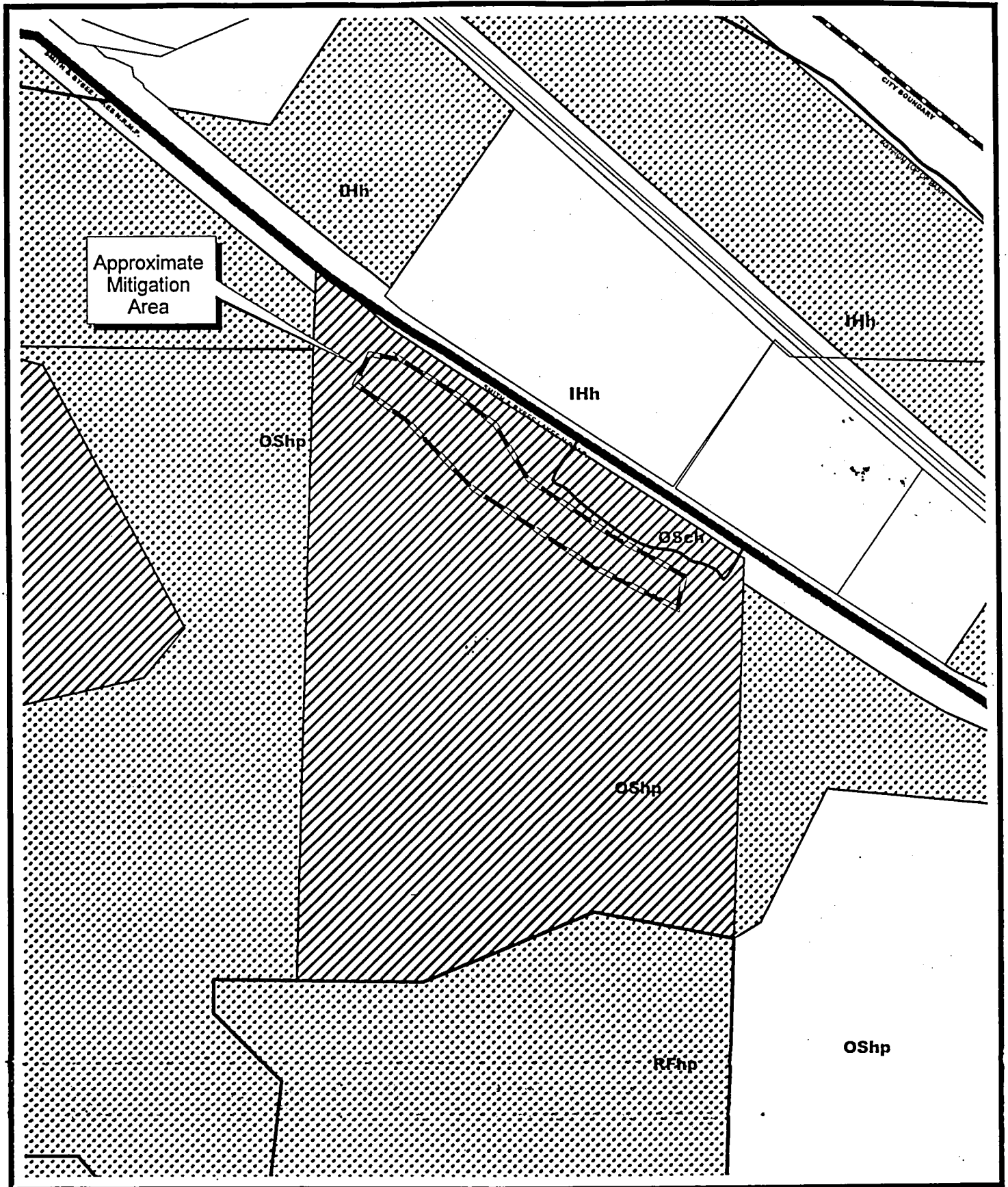
**ZONING**

	Site
	Property also owned

File No.	LU 02-113706 EN
1/4 Section	1924, 1923, 1824, 1823, 1822, 1821, 1725 1724, 1723, 1722, 1721, 1624, 1623, 1622
Scale	1 inch = 1500 feet
State-Id	2N1W36 -00200+
Exhibit	B (Jun 19, 2002)







**ZONING**

 Site

 Property also owned

File No. LU 02-113706 EN

1/4 Section 1924, 1923, 1824, 1823, 1822, 1821, 1725  
1724, 1723, 1722, 1721, 1624, 1623, 1622

Scale 1 inch = 400 feet

State-Id 2N1W36 -00200+

Exhibit B, Z (Jun 19, 2002)



# SMITH AND BYBEE LAKES WILDLIFE AREA EXISTING CONDITIONS SITE PLAN (Rev. 2), April 22, 2002

## NOTES:

1. Project site is entirely within the EP zone;
2. Project site is entirely within the 100-year floodplain.
3. Contour interval is 5'.
4. Distance to nearest non-Metro property line is > 1000'.
5. No trees will be disturbed by this project. There are no trees or shrubs in the project area.
6. There are no known easements or on-site utilities.

<b>*Approved*</b>	
City of Portland	
Bureau of Development Services	
Permit #	<u>LU 02-113706 EN</u>
Planner	<u>Sharon Miller</u>
Date	<u>January 8, 2003</u>
• Approval for Environmental Review only. Not a building permit.	
Additional zoning requirements may apply.	

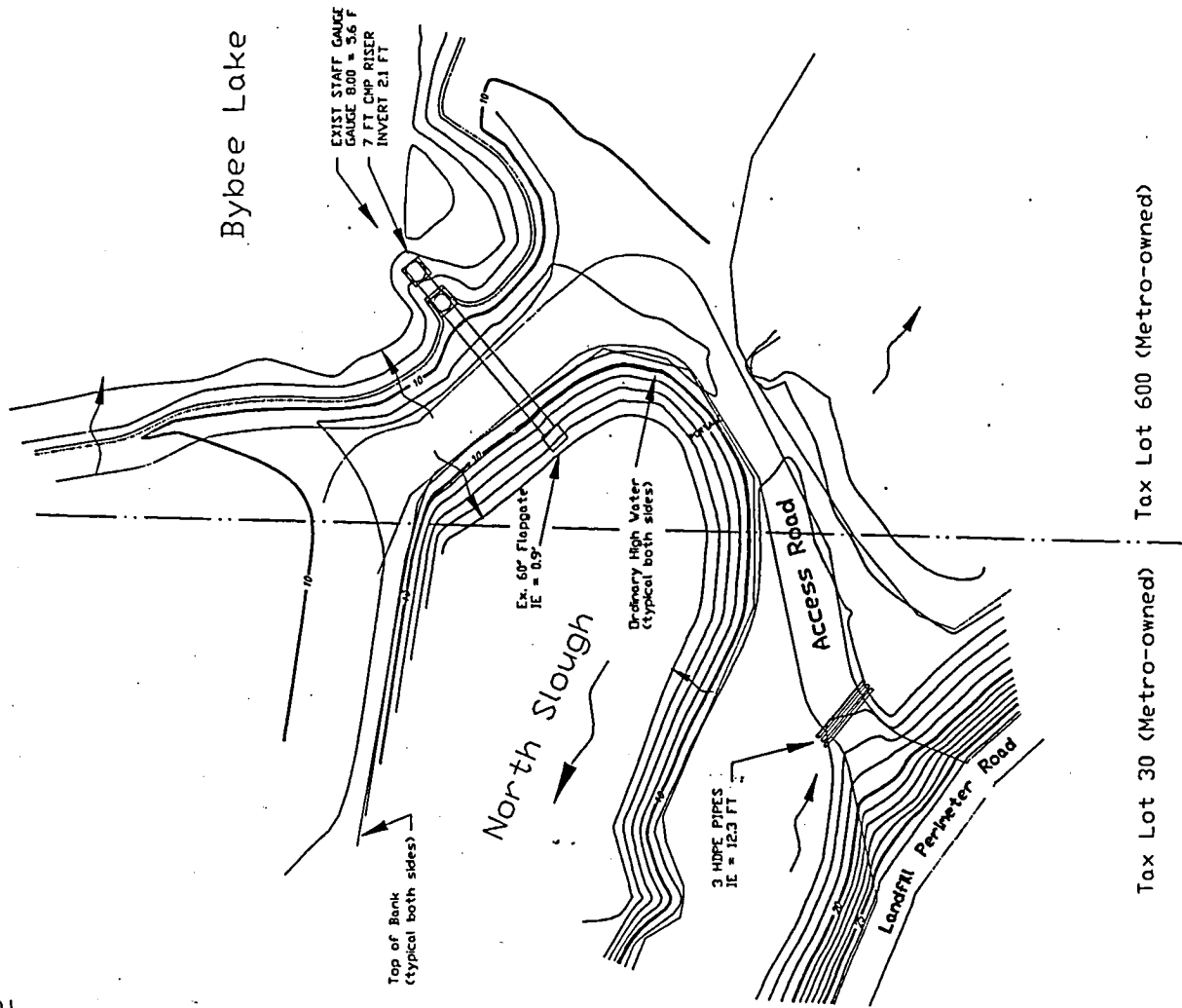


10 5 0 10 20 30 40 50 60 70 80 90 100

SCALE: 1" = 50'

HORIZ SPC OR N NAD83  
VERT NGVD29

LU # 02-113706 EN  
EXHIBIT C.1

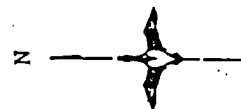


# MITH AND BYBEE LAKES WILDLIFE AREA PROPOSED DEVELOPMENT PLAN, MARCH 15, 2002

## NOTES:

1. Project site is entirely within the EP zone.
2. Project site is entirely within the 100-year floodplain.
3. Contour interval is 2'.
4. Distance to nearest non-Metro property line is > 1000'.
5. No trees will be disturbed by this project. There are no trees or shrubs in the project area.
6. There are no known easements or on-site utilities.
7. The Water Control Structure box culverts shall each be fitted with an assembly for placing wooden stop logs, for water level control. The maximum board elevation will be 11.0'.
8. The Fish Passage Structure box culvert shall each be fitted with a series of for placing notched wooden stop logs to form a series of descending pools. The maximum board elevation will be 11.0'.

**\*Approved\***  
 City of Portland  
 Bureau of Development Services  
 Permit # LU 02-113706 EN  
 Planner Gregory Wong  
 Date January 8, 2003  
 • Approval for Environmental Review only.  
 Not a building permit.  
 Additional zoning requirements may apply.

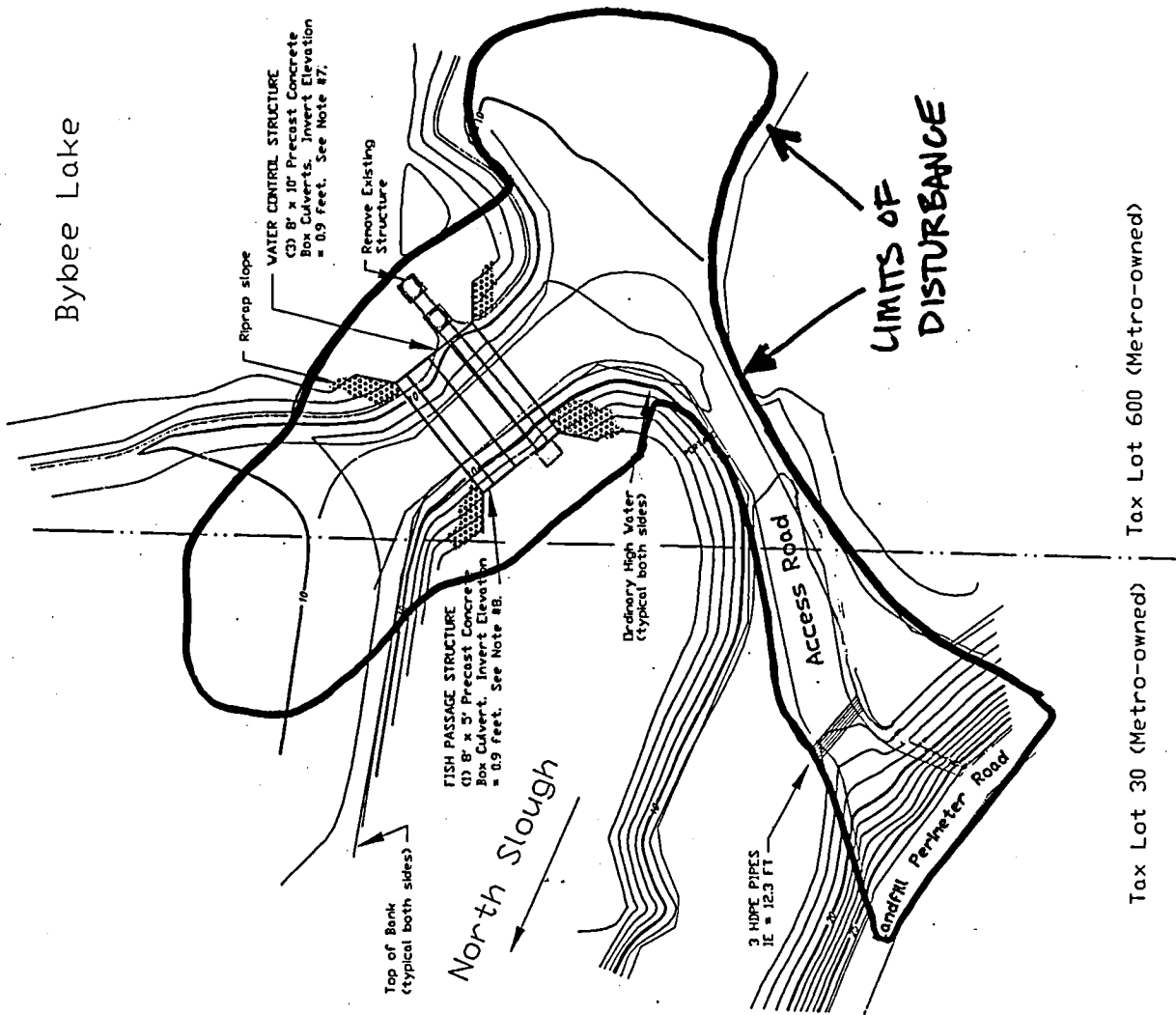


0 20 30 40 50 60 70 80 90 100

1" = 50'

JRZ SPC DR N NAD83  
 ERT NGVD29

LU # 02-113706 EN  
 EXHIBIT C.2



# SMITH AND BYBEE LAKES WILDLIFE AREA CONSTRUCTION MANAGEMENT PLAN, MARCH 15, 2002

## NOTES:

### Disturbance Area:

1. Staging area (load/off-load equipment) will be off-site, on the adjoining landfill perimeter road.
2. Grading limits are delineated by erosion control fencing, as shown.
3. Limits of disturbance coincide with erosion control fencing, and will be staked and flagged during construction staking.

### Excavation Procedures:

4. Excavation area is limited to the structural footprint, plus sideslopes for construction safety and access.
5. The limited quantity of topsoil will not be segregated from other spoils and not separately stockpiled.
6. Excavated materials not used to backfill the new structure will be used to restore the access road, or disposed of off-site.
7. Areas outside the access road, erosion fencing, and cofferdams will not be disturbed.

### Erosion Control:

8. Erosion control will be comprised of staked sediment fencing, embedded 6", where shown in the site plan.
9. Water control will consist of cofferdamming against inflow from either North Slough or Bybee Lake. Dewatering pumps will discharge to Bybee Lake.

### Tree Protection Measures:

10. No trees will be within the delineated work area.

### Site Management:

11. All debris will be legally disposed of off-site.
12. No hazardous materials will be used for this project.
13. The Contractor shall provide portable facilities for human waste and litter.

10 20 30 40 50 60 70 80 90 100

SCALE:

HORZ SPC OR N NAD83  
VERT NGVD29

LU # 02-113706 EN  
EXHIBIT C.3

Approved

City of Portland - Bureau of Development Services

LU # 02-113706 EN

Planner *Shirley J. Wilson* Date *January 3, 2003*

\* Approval for Environmental Review only. Not a building permit.

Additional zoning requirements may apply. See Lake

UNDISTURBED AREA

UNDISTURBED AREA

North spoils area  
Area = 460 sq. yds.  
Volume = 460 cu yd @ 3' average depth  
Riprap slope

WATER CONTROL STRUCTURE  
CD 8" x 10' Precast Concrete  
Box Culverts, Invert Elevation  
= 63 feet. See Note #7.

Limits of Excavation  
Max. depth = 1' (2' below ex. pipe)  
Approx. 1100 cu yd

COFFERDAM

Top of Bank  
(typical both sides)

North Slough

FISH PASSAGE STRUCTURE  
CD 8" x 20' Precast Concrete  
Box Culvert, Invert Elevation  
= 63 feet. See Note #8.

COFFERDAM

Ordinary High Water  
(typical both sides)

UNDISTURBED AREA

3 HOPE PIPES  
12" = 12.5 FT

Access Road

UNDISTURBED AREA

Erosion Control Fencing

LIMITS OF DISTURBANCE

NOTE: THE 40-MILE LONG TRAIL MUST BE CONSTRUCTED WITHIN THIS LIMIT OF DISTURBANCE WITHIN 3 YEARS OF THIS LAND USE DECISION (REFER TO CONDITION OF APPROVAL B OF LU 02-113706)

Tax Lot 30 (Metro-owned)

OF LU 02-113706

# MITH AND BYBEE LAKES WILDLIFE AREA MITIGATION PLAN, APRIL 22, 2002

\*Approved\*

City of Portland - Bureau of Development Services

LU # 02-113706 EN

Planner Steve Mulligan Date January 8, 2003

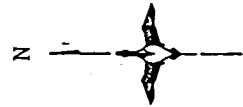
\* Approval for Environmental Review only. Not a building permit.  
Additional zoning requirements may apply.

Hatching indicates area of disturbance to be seeded.

## COMMON NAME

Seed mix  
(10 pounds)

<i>Alopecurus</i> sp.	foxtail
<i>Agrostis exarata</i>	hair bent grass
<i>Aster subspicatus</i>	Douglas's Aster
<i>Bromus carinatus</i>	California brome-grass
<i>Bromus sitchensis</i>	Alaska brome
<i>Carex stipata</i>	saw beak sedge
<i>Carex vulpinoidea</i>	fox sedge
<i>Deschampsia elongata</i>	slender hairgrass
<i>Deschampsia cespitosa</i>	tufted hairgrass
<i>Elymus glaucus</i>	blue wildrye
<i>Festuca occidentalis</i>	western fescue-grass
<i>Hordeum brachyatherum</i>	meadow barley
<i>Juncus acuminatus</i>	tapered rush
<i>Koeleria macrantha</i>	prairie bluegrass
<i>Prunella vulgaris</i>	head-all

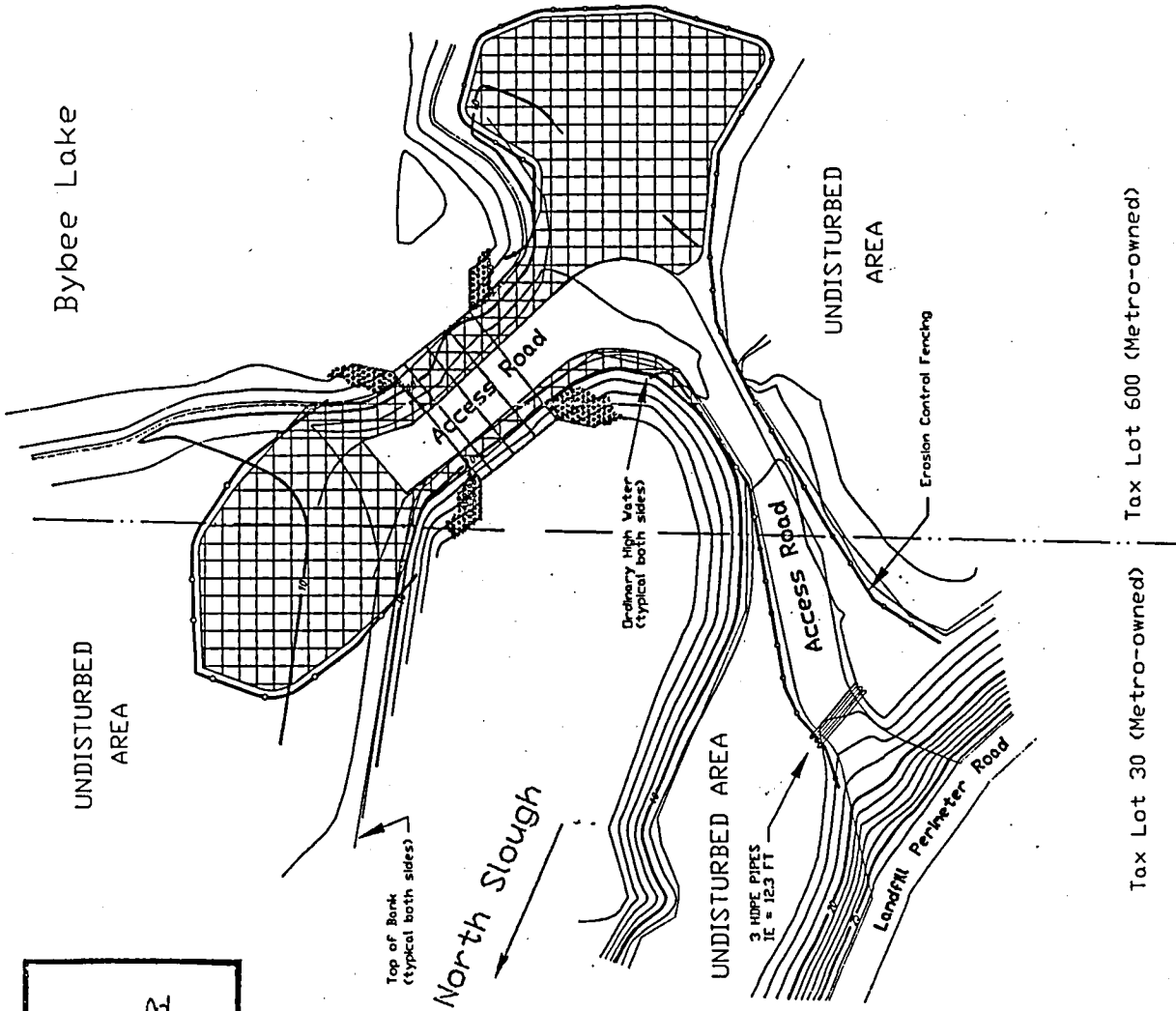


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SCALE: 1" = 50'

HORZ SPC OR N NAD83  
VERT NGVD29

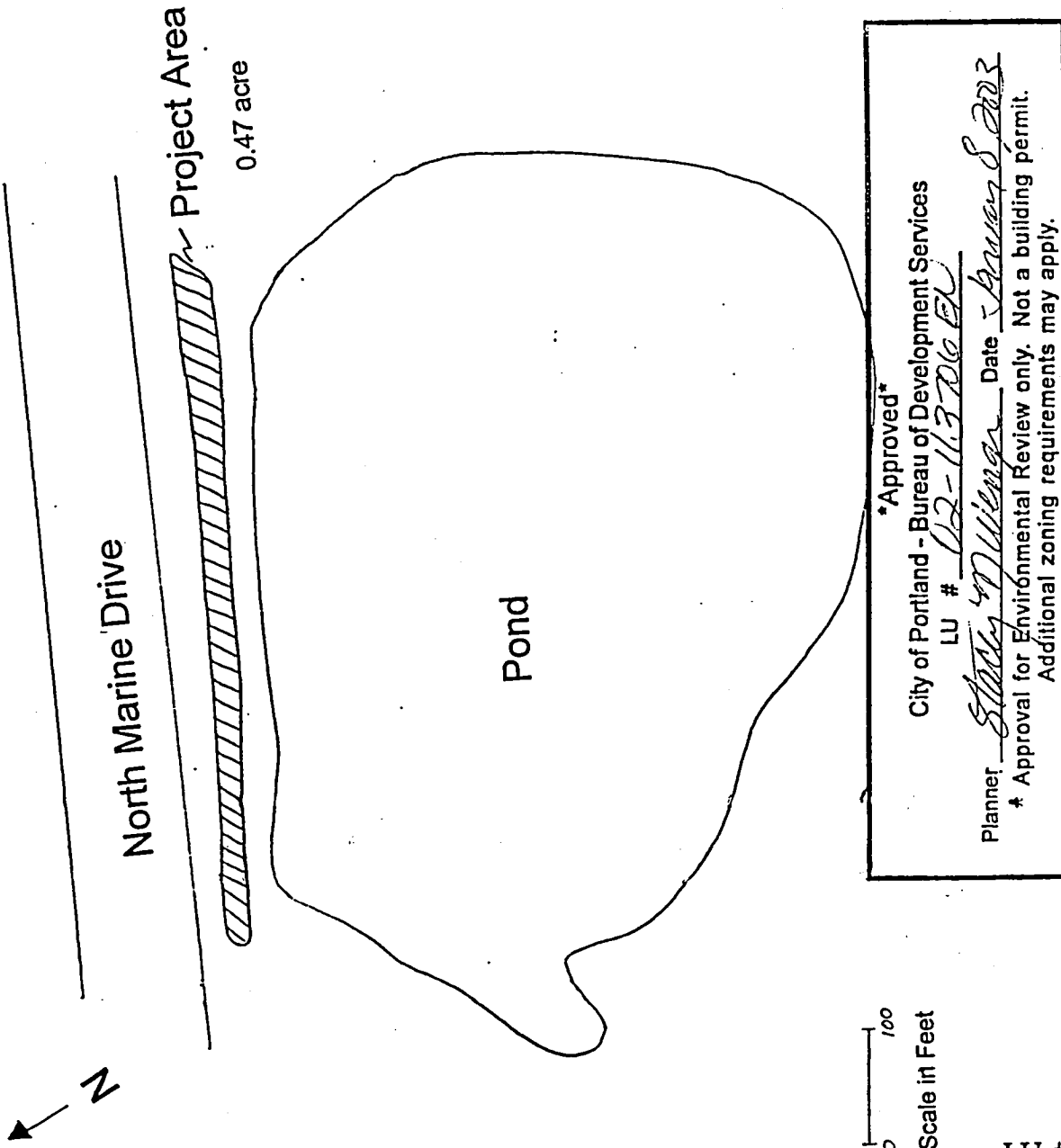
LU # 02-113706 EN  
EXHIBIT C.4





# Mitigation or Remediation Plan

March 20, 2002



## Seed mix

(13 pounds)

*Alopecurus* sp.

*Agrostis exarata*

*Aster subspicatus*

*Bromus carinatus*

*Bromus stichensis*

*Carex stipata*

*Carex vulpinoidea*

*Deschampsia elongata*

*Deschampsia cespitosa*

*Elymus glaucus*

*Festuca occidentalis*

*Hordeum brachyantherum*

*Juncus acuminatus*

*Koeleria macrantha*

*Prunella vulgaris*

## Woody plant list

(< 50 plants placed at random)

*Cornus sericea*

*Crataegus douglasii*

*Malus fusca*

*Mahonia* sp.

*Oemleria cerasiformis*

*Physocarpus capitatus*

*Ribes sanguineum*

*Rosa pisocarpa*

*Salix* sp.

*Sambucus racemosa*

*Symphoricarpos albus*

1. Site is part of a 49-acre parcel owned by the Port of Portland.
2. Project area is located entirely within the Smith and Bybee Lakes Wildlife Area.
3. Project area is entirely within the EP zone.

LU # 02-113706 EN  
EXHIBIT C.5

\*Approved\*

City of Portland - Bureau of Development Services

LU # 02-113706E

Planner Shirley M. Long Date January 5, 2003

\* Approval for Environmental Review only. Not a building permit.

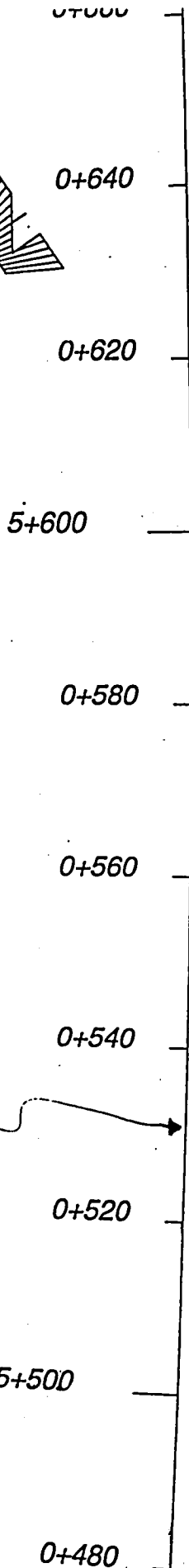
Additional zoning requirements may apply.

## Surveyed Elevations at Mitigation Site

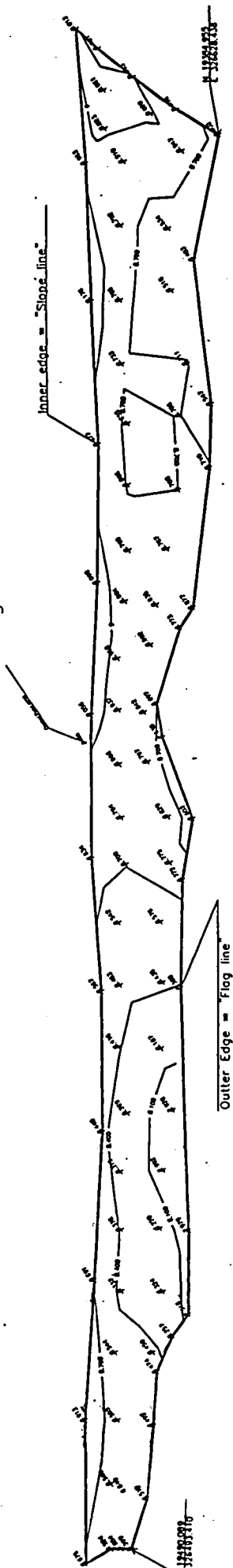
(No changes to elevations are planned)



North Marine Drive Center Line



Right Gutter



Contour Interval = 30 cm  
Elevations are in meters (Portland datum)

LU # 02-113706E  
EXHIBIT C.6