

City of Portland, along with seven private landowners owning smaller properties, some partially developed. Since 1990, the Natural Area has been managed by Metro with guidance from the *Natural Resources Management Plan for Smith and Bybee Lakes* (1990 NRMP) and the Smith and Bybee Wetlands Advisory Committee.

The applicant proposes a Comprehensive Natural Resource Plan (CNRP), combined with the *Smith and Bybee Vision Plan*, to replace the 1990 NRMP as the guiding set of documents for this planning area. The CNRP regulatory review process was established through changes to the Portland Zoning Code in 2011 (see Chapter 33.809). A CNRP is similar to a conditional use master plan in that multiple property owners may collectively seek approval for land use actions expected to be implemented during the 10-year term of the proposed plan.

This land use application addresses the requirements of the Zoning Code Chapter 33.809, Comprehensive Natural Resource Plans. The Zoning Code describes the intent of a CNRP to allow for sites where multiple development, disturbance, or resource enhancement actions are anticipated over time within one or more natural resource overlay zones. An adopted resource plan may substitute for case-by-case Environmental Review. Comprehensive Natural Resource Plans may be completed at various levels of detail. Generally, the more specific the plan, the less review will be required as the future development is built. The CNRP regulations allow final approval of projects for which detail is provided sufficient to demonstrate that all of the CNRP approval criteria are met; and tentative approval of projects for which sufficient detail is not currently available.

The applicant's proposed CNRP includes a range of recreational, restoration, landfill management and infrastructure projects. There are 16 listed projects in total, which are summarized on the pages which follow, in Table 1. The applicant requests final approval for 9 of the projects and tentative approval for the remaining 7. The proposed plan boundary, shown on the attached project map, closely follows the 1990 NRMP boundary, though some minor adjustments are proposed based in part on property line adjustments and ownership changes since the adoption of the 1990 NRMP.

Other activities of note within the proposed CNRP boundary include the October 2012 explosive blasting of beaver dams from within the channel between Bybee and Smith lakes, to lower water levels in Smith Lake, as a temporary emergency measure to address the September 2012 outbreak of avian botulism. These "temporary emergency procedures" are described in application file Exhibit G.6, in which Metro commits to "...tak[ing] a more comprehensive look at the situation in the channel and will work toward a long-term, hopefully permanent, solution with BDS and our [Metro's] partners." As avian botulism has been described as a historic problem in Smith Lake (1990 NRMP, page 19, notes outbreaks of avian botulism in the 1970's and 1980's [Exhibit G.3]), the "permanent solution" to this problem should be addressed by the CNRP.

Also included in the applicant's proposal are a set of procedures for future amendments to the Smith and Bybee Wetlands CNRP, as allowed by Zoning Code Chapter 33.809.

Project	Summary	Location/ Zone	Anticipated Schedule/ Sequencing	Treatment in NRMP	Enhancement/ Mitigation	Review Thresholds
<b>Other Restoration Projects</b>						
Metro habitat restoration projects involving invasive species removal, native revegetation and monitoring. Total area over 10-year period is 388 acres.  This is ongoing work that will continue over the next 10 years and beyond, authorized under NRMP and Ezone; separate project review unnecessary.	Habitat restoration in all conservation targets; invasive species management, native plantings.	<ul style="list-style-type: none"> <li>▪ Throughout plan area</li> <li>▪ C and P - zone</li> </ul>	<ul style="list-style-type: none"> <li>▪ Years 1-5, an estimated 263 acres</li> <li>▪ Years 6-10 for the remainder.</li> </ul>	Policy 10, Action #9, ongoing since 1990.	<ul style="list-style-type: none"> <li>▪ Localized native plantings</li> <li>▪ Invasive species management</li> </ul>	Final approval. Also exempt under 33.430.080.C.7 and 33.430.080.D.1

Zoning Code Section 33.809.040 requires that a Comprehensive Natural Resource Plan be processed through a Type III procedure. Proposals in the Comprehensive Natural Resource Plan that are identified as tentatively approved, will be subject to an additional Type I procedure at a later date to ensure conformance with the plan, when details are available.

**Relevant Approval Criteria:**

In order to be approved, this proposal must comply with the approval criteria of Title 33. The relevant approval criteria are:

- **33.809.200** Approval Criteria for Comprehensive Natural Resource Plan review, including
- **33.430.250** Approval Criteria for Environmental Review

In addition Zoning Code Section 33.809.050 addresses review procedures for future amendments to the CNRP.

<b>Project's Receiving Final Approval</b>	<b>Required City Permit</b>	<b>Conditions of Approval</b>	<b>In Substantial Conformance with:</b>
Modifications			
2C St. Johns Landfill Levee Repair	BDS Construction or Zoning permit	<b>B.1, B.2, B.3, B.4, and B.5</b> , below	LU 12-167334 Exhibits A.1, C.20 and H.6 c through H.6i
2D St. Johns Landfill Landscape Restoration	<i>Only in environmental zones: BDS Zoning Permit</i>	Provide site plans that clearly demonstrate Zoning Code exemptions in 33.430.080 apply.	LU 12-167334 Exhibit A.1
6 Metro Habitat Restoration Projects	None	Work shall be limited to removing invasive species and planting native species, as listed in the <i>Portland Plant List</i>	LU 12-167334 Exhibit A.1, and A.5 (Appendix E, <i>CNRP Vision Document</i> )
Ongoing maintenance, repair, and operation of infrastructure within existing BPA and PGE easement areas	City development permits if required	Provide construction plans that clearly demonstrate Zoning Code exemptions in 33.430.080 apply.	N/A
All activities exempted from environmental regulations according to 33.430.080	City development permits if required	Provide plans that clearly demonstrate Zoning Code exemptions in 33.430.080 apply.	N/A

**The Smith & Bybee Comprehensive Natural Resource Plan approval is subject to the following conditions:**

- A. The applicant shall submit 6 copies of the final Smith & Bybee Wetlands Comprehensive Natural Resource Plan, as a single bound document, to the City no later than December 31, 2013, the amended effective date of Ordinance 184944 that repeals the 1990 *Natural Resources Management Plan for Smith and Bybee Lakes*, or prior to applying for permits for, or commencing, any of the management plan projects, whichever comes first. The final version of the Smith & Bybee Wetlands Comprehensive Natural Resource Plan shall include project descriptions and site plans, as approved in final form by the Hearings Officer, for all projects reviewed in this report, and future review procedures for tentatively approved plans and for amendments to this CNRP. The final CNRP Plan shall incorporate the following:
1. Tables 2 and 3 in this report.
  2. Conditions of approval in this report.
  3. Site plans approved in this report (Exhibits C.5 – C.7, C.10, C.18, C.20, C22 – C.31, and H.6 c through H.6 t), each including a title block with clear reference to the project number and title, as listed in Tables 2 and 3 in this report. Additionally an exhibit number shall be included on


Project's Receiving Tentative Approval	Review Procedure for Final Approval	Standards or Approval Criteria	Site Plans Required
		<p>identified resources and functional values than other practicable and significantly different alternatives;</p> <ul style="list-style-type: none"> <li>• There will be no significant detrimental impact on resources and functional values in areas designated to be left undisturbed, including adjacent water bodies;</li> <li>• The mitigation plan demonstrates that all significant detrimental impacts on resources and functional values will be compensated for, will occur within the same watershed as the proposed use, and, the applicant owns the mitigation site;</li> <li>• All applicable Zoning Code development standards</li> </ul>	<ul style="list-style-type: none"> <li>• Construction management</li> <li>• Mitigation plan</li> </ul>
<p>Permanent solution for beaver dams/avian botulism</p>	<p>Type I CN Review (if exemptions, or standards in 33.340 Environmental Zones can not be met by the proposal)</p>	<ul style="list-style-type: none"> <li>• Designs, and construction methods are less detrimental to identified resources and functional values than other practicable and significantly different alternatives;</li> <li>• There will be no significant detrimental impact on resources and functional values in areas designated to be left undisturbed, including adjacent water bodies;</li> <li>• The mitigation plan demonstrates that all significant detrimental impacts on resources and functional values will be compensated for, will occur within the same watershed as the proposed use,</li> </ul>	<ul style="list-style-type: none"> <li>• Existing conditions</li> <li>• Proposed development</li> <li>• Construction management (including balanced cut and fill calculations for 100-year floodplain)</li> <li>• Mitigation plan</li> </ul>

Project's Receiving Tentative Approval	Review Procedure for Final Approval	Standards or Approval Criteria	Site Plans Required
		and, the applicant owns the mitigation site; • All applicable Zoning Code development standards	

**Note:** In addition to the requirements of the Portland Zoning Code, all uses and development must comply with other applicable City, regional, state and federal regulations. The Oregon Department of State Lands (Exhibit E.1) has stated that project areas include jurisdictional wetlands, waterways, and designated essential salmonid habitat. An Oregon State Removal-Fill permit may be required. A U.S. Army Corps of Engineers permit may be required. All work below Ordinary High Water may be subject to timing restrictions identified by Oregon Department of Fish and Wildlife, the U.S. Fish and Wildlife Service, or the NOAA National Marine Fisheries Service, as suitable in-water work periods. It is the applicant's responsibility to contact these agencies to determine and comply with their natural resource regulations.

This decision applies to only the City's environmental regulations. Activities which the City regulates through PCC 33.430 may also be regulated by other agencies. In cases of overlapping City, Special District, Regional, State, or Federal regulations, the more stringent regulations will control. City approval does not imply approval by other agencies.

**Basis for the Decision:** BDS Staff Report in LU 12-167334 CN, Exhibits A.1 through H.19, and the hearing testimony from those listed above.

  
 Gregory J. Frank, Hearings Officer

May 30, 2013  
 Date

**Application Determined Complete:** January 25, 2013  
**Report to Hearings Officer:** March 1, 2013  
**Revised Report to Hearings Officer:** May 8, 2013  
**Decision Mailed:** May 31, 2013  
**Last Date to Appeal:** 4:30 p.m., June 14, 2013  
**Effective Date (if no appeal):** June 17, 2013 Decision may be recorded on this date.