

A G E N D A

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METRO

MEETING: METRO COUNCIL REGULAR MEETING
DATE: February 29, 1996
DAY: Thursday
TIME: 2:00 p.m.
PLACE: Council Chamber

<u>Approx. Time</u> *		<u>Presenter</u>
2:00 PM	CALL TO ORDER AND ROLL CALL	
(5 min.)	1. INTRODUCTIONS	
(5 min.)	2. CITIZEN COMMUNICATIONS	
(5 min.)	3. EXECUTIVE OFFICER COMMUNICATIONS	
	4. CONSENT AGENDA	
2:15 PM (5 min.)	4.1 Consideration of Minutes for the February 15, 1996 Metro Council Meeting.	
	5. ORDINANCES - FIRST READINGS	
2:20 PM (5 min.)	5.1 Ordinance No. 96-636 , Amending the FY 1995-96 Budget and Appropriations Schedule for the Purpose of Adjusting the Planning Fund Budget to Reflect Unanticipated Program Increases in the Growth Management Services Department, Authorizing Additional FTE; and Declaring an Emergency.	
2:25 PM (5 min.)	5.2 Ordinance No. 95-635 , Relating to Contract Policies Amending Metro Code Chapter 2.04.	
	6. ORDINANCES - SECOND READINGS	
2:30 PM (5 min.)	6.1 Ordinance No. 96-634 , For the Purpose of Granting a Franchise to Waste Recovery, Inc. for the Purpose of Operating a Solid Waste Processing Facility and Amending Code Section 7.01.050	McCaig
2:35 PM (5 min.)	6.2 Ordinance No. 96-632 , Amending the FY 1995-96 Budget and Appropriations Schedule for the Purpose of Adopting the FY 1995-96 Supplemental Budget, and Declaring an Emergency.	Monroe

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* All times listed on the agenda are approximate; items may not be considered in the exact order listed.

Approx.
Time *

Presenter

7. RESOLUTIONS

2:40 PM 7.1 **Resolution No. 96-2288**, For the Purpose of Initiation a New Functional Plan
(5 min.) Ordinance to Implement 2040 Growth Concept McLain

2:45 PM 7.2 **Resolution No. 96-2284**, For the Purpose of Approving the Contract that will
(5 min.) Execute the U. S. Environmental Protection Agency (EPA) Grant to Metro for
the Clackamas River Watershed Technical Project Morissette

2:50 PM 7.3 **Resolution No. 96-2260**, For the Purpose of Recommending to the Environmental
(5 min.) Quality Commission (EQC) the Transportation Control Measures (TCM's),
Contingencies, and Emissions Budgets to be Included in the Portland Region's
Ozone and Carbon Monoxide Maintenance Plans. Monroe

8. OTHER ACTION ITEMS

2:55 PM 8.1 **ISTEA Reauthorization** - Portland, Oregon Regional Position Paper. (Action
(15 min.) Requested: Motion to accept paper as written) Monroe

3:10 PM **9. COUNCILOR COMMUNICATIONS**
(10 min.)

3:20 PM **ADJOURN**

* All times listed on the agenda are approximate; items may not be considered in the exact order listed.

AGENDA ITEM: 5.1
Meeting Date: February 29, 1996

FIRST READING

Ordinance No. 96-636, Amending the FY 1995-96 Budget and Appropriations Schedule for the Purpose of Adjusting the Planning Fund Budget to Reflect Unanticipated Program Increases in the Growth Management Services Department, Authorizing Additional FTE; and Declaring an Emergency.

STAFF REPORT

IN CONSIDERATION OF ORDINANCE NO. 96-636 AMENDING THE FY 1995-96 BUDGET AND APPROPRIATIONS SCHEDULE FOR THE PURPOSE OF ADJUSTING THE PLANNING FUND BUDGET TO REFLECT UNANTICIPATED PROGRAM INCREASES IN THE GROWTH MANAGEMENT DEPARTMENT, AUTHORIZING ADDITIONAL FTE; AND DECLARING AN EMERGENCY

Date: February 14, 1996

Presented by: John Fregonese

FACTUAL BACKGROUND AND ANALYSIS

During the current 1995-96 fiscal year, the Growth Management Services Department has experienced an increase in workload which was not anticipated at the time the FY 1995-96 budget was prepared. The Council has designated additional acres as urban reserve study areas and has requested additional information concerning the capacity of the UGB to absorb growth. In addition, requests for information from our regional partners and from the public have increased more rapidly than expected. Past history indicates that as the department completes and releases current work products -- the housing need analysis, buildable lands inventory, and functional plan tasks -- requests for information dramatically increase from local governments, interest groups, and the public. For these reasons, the department is requesting changes to the FY 1995-96 budget. The personnel requests included in this action were coordinated with the preparation of the FY 1996-97 budget. The actions for FY 1995-96 were delayed until this time to allow for a longer term analysis and perspective of department staffing needs and the resulting financial impacts. The final staffing proposal presented in this ordinance provides for the maximum use and efficiency of existing staff, and recognizes the project orientation of the department.

Public Involvement

Due to greater demand from the public for publications and information regarding growth management issues, particularly urban reserve study areas, we propose adding an office assistant to assist in handling the increased work load. Currently, the Growth Management Services Department has only 3.0 FTE support staff -- 2.0 FTE Administrative Secretary and 1.0 FTE Program Assistant for 33 department staff. Since September 1995, the department has used a temporary employment agency to fill this need. However, it is less expensive to hire a staff person. The office assistant is an entry level position and will answer the phone, direct callers to appropriate staff, fill requests for information, distribute mail, and prepare mailings. The position will be full time in the Growth Management Services Department for the last quarter of FY 1995-96 (.25 FTE). In the FY 1996-97 budget proposal, the office assistant will be shared with the Metro Policy Advisory Committee Support Section of the Office of Citizen Involvement. The department is requesting that \$6,482 be moved from contingency to personal services to fund this position for FY 1995-96.

In April, the department will be implementing a public involvement plan for Phase 1 of the Regional Framework Plan (early implementation) and urban reserve study areas. In addition, Growth Management staff will be working with Transportation Department staff on public outreach for the regional transportation plan. To assist in implementing these public involvement efforts, the department is requesting to add an associate public involvement specialist (.25 FTE, full time position to be hired for three months of current fiscal year). This is a limited duration position to June 30, 1997. The department is requesting that \$11,184 be moved from contingency to personal services to fund this position during FY 1995-96.

2040 Implementation

The Community Development Division of the department is responsible for assisting local governments in 2040 implementation. Many local jurisdictions are currently undergoing periodic review of their comprehensive plans. It is important that Metro be a participant in this process. The department is requesting to hire an Associate Regional Planner immediately to assist with local government implementation of the 2040 growth concept during periodic review. The department is requesting moving \$11,184 from contingency to personal services to fund this position during FY 1995-96.

Additional Research

On February 8, 1996, the Metro Council designated approximately 5,000 acres as Urban Reserve Study Areas which have not previously been studied. These additional areas include land in the Stafford triangle, northwest Portland, Oregon City and Hillsboro. The department proposes to move \$10,000 from contingency to materials and services to pay for a study to determine the feasibility and cost of extending basic urban services -- water, sanitary sewers, and storm drainage -- to these newly added study areas. The department has an existing contract with KCM, the firm that conducted the earlier feasibility study of urban reserve study areas. The contract can be amended to include this additional work.

The Growth Management Services Department has entered into a contract with ECONorthwest for market and regulatory research using funds in the department's FY 1995-96 budget. The Port of Portland and the Portland Development Commission would like to join in this project. Each agency would supply \$10,000 in revenue to Metro for research on vacant and redevelopable land for industrial expansion. Metro would benefit from this additional research. Intergovernmental agreements will be entered into with each of the agencies and an amendment to the existing contract to change the scope of work will be made. The department is requesting authority to receive these funds totaling \$20,000 and receive an additional \$20,000 in miscellaneous professional services expenditure authority.

Recently Metro received an Environmental Protection Agency (EPA) grant to coordinate a technical project in the Clackamas River watershed to assess data available from different sources in the watershed, produce maps from available data, identify a rapid assessment methodology for use in sub-basins, and identify current citizen activities and technical needs

of local citizens. In October, 1995, department staff made an informational presentation to the Metro Council's Growth Management Committee regarding this award. The Executive Officer made a presentation to the full Metro Council about the grant, its work plan and contract with EPA on December 14, 1995. Resolution No. 96-2284 for the purpose of approving several contracts under the EPA grant will be heard by the Council's Growth Management Committee the week of February 19, 1996.

The work program for the EPA grant includes a temporary position. The temporary position will terminate in FY 1996-97 when the grant funds are exhausted. The FY 1995-96 budget anticipated up to \$200,000 of grant funds for the Regional Water Quality Program. The entire amount was budgeted as contractual services under materials and services. This action requests the transfer of \$14,452 from materials and services to personal services to fund this temporary position for the last five months of this fiscal year.

RLIS Workstation - Capital Outlay

Because of an increased workload due to passage of the open spaces bond measure, an additional RLIS workstation and printer, and ArcView licensing fees were necessary in the Data Resource Center to produce information and maps for target areas identified in the bond measure. The equipment and fees were initially paid by the Open Spaces Program with bond proceeds. However, subsequent discussions with bond and legal counsel determined that capital equipment costs may only be charged to bond proceeds in proportion to the use of the equipment towards the bond program. Since the equipment will be used by the Data Resource Center and will have a useful life past the bond program's need, it was determined the Data Resource Center should be charged for the full cost of the purchase of this equipment and license fees. The Open Spaces Program will be allocated and charged its share of the costs associated with the equipment based on the program's use, similar to other Metro departments. The Growth Management Services department proposes to move \$52,975 from Contingency to Capital Outlay to pay for this workstation, printer and associated license fees.

Other Staff

Due to an error in compiling the FY 1995-96 budget, an existing assistant regional planner position was omitted from the budget. This request would reinstate the position. A current employee occupies this position. Because of vacancies during the current fiscal year, the department has sufficient funds in its personal services budget to pay for this position. The department is only requesting the reinstatement of the position FTE authority.

BUDGET SUMMARY

Resources:

	<u>Amount</u>
Portland Development Commission	\$10,000
Port of Portland	<u>10,000</u>
Total Additional Resources	\$20,000

Expenditures:

	<u>FTE</u>	<u>Amount</u>
Personal Services		
Office Assistant (full time, last quarter of fiscal year)	.25	\$4,986
Associate Regional Planner (full time, last quarter)	.25	8,603
Associate Public Involvement Spec. (limited duration)	.25	8,603
Assistant Regional Planner (reinstate FTE only)	1.00	0
Temporary Associate Mgmt Analyst (grant funded)	.42	13,020
Fringe		8,090
Materials & Services		
Misc. Professional Services, Urban Reserve Study		10,000
Misc. Professional Services, ECONorthwest		20,000
Misc. Professional Services, Water Quality		(14,452)
Capital Outlay		
RLIS Workstation, printer and license fees		52,975
Contingency		<u>(91,825)</u>
Total Additional Expenditures		\$20,000

EXECUTIVE OFFICER'S RECOMMENDATION:

The Executive Officer recommends adoption of Ordinance 96-636.

BEFORE THE METRO COUNCIL

AN ORDINANCE AMENDING THE FY 1995-96)	ORDINANCE NO. 96-636
BUDGET AND APPROPRIATIONS)	
SCHEDULE FOR THE PURPOSE OF)	Introduced by Mike Burton
ADJUSTING THE PLANNING FUND BUDGET)	Executive Officer
TO REFLECT UNANTICIPATED PROGRAM)	
INCREASES IN THE GROWTH)	
MANAGEMENT DEPARTMENT,)	
AUTHORIZING ADDITIONAL FTE; AND)	
DECLARING AN EMERGENCY)	

WHEREAS, The Metro Council has reviewed and considered the need to transfer appropriations with the FY 1995-96 Budget; and

WHEREAS, Oregon Budget Law ORS 294.326(2) allows the recognition and expenditure of certain grant funds in the year of receipt of said funds; and

WHEREAS, The need for a transfer of appropriation has been justified; and

WHEREAS, Adequate funds exist for other identified needs; now, therefore,

THE METRO COUNCIL ORDAINS AS FOLLOWS;

1. That the FY 1995-96 Budget and Schedule of Appropriations are hereby amended as shown in the column titled "Revision" of Exhibits A and B to this Ordinance for the purposes of modifying the Planning Fund budget to recognize \$20,000 in new grants, transfer \$91,825 from contingency to various expenditure categories, and authorize additional positions.

2. This Ordinance being necessary for the immediate preservation of the public health, safety or welfare of the Metro area in order to meet obligations and comply with Oregon Budget Law, an emergency is declared to exist, and this Ordinance takes effect upon passage.

ADOPTED by the Metro Council this ____ day of _____, 1996.

Jon Kvistad, Presiding Officer

ATTEST:

Approved as to Form:

Recording Secretary

Daniel B. Cooper, General Counsel

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2/16/96 9:34 AM

**Exhibit A
Ordinance No. 96-636**

FISCAL YEAR 1995-96		CURRENT BUDGET		REVISION		PROPOSED BUDGET	
ACCT #	DESCRIPTION	FTE	AMOUNT	FTE	AMOUNT	FTE	AMOUNT
Planning Fund							
<u>Resources</u>							
305000	Fund Balance		33,420		0		33,420
331110	Federal Grants-Operating-Categorical-Direct				0		
	FY 95 103 e(4) (OR-26-9006)		5,436,491		0		5,436,491
	FY 94 FTA S/N AA/DEIS (OR-29-9021)		500,000		0		500,000
	FY 94 FTA S/N AA/DEIS (OR-29-9022)		1,600,000		0		1,600,000
	FEMA (OEM)		542,500		0		542,500
331120	Federal Grants-Operating-Categorical Indirect				0		
	FY 96 Congestion Pricing - FHWA		157,694		0		157,694
	FY 96 Congestion Pricing - ODOT		15,375		0		15,375
	FY 96 PL/ODOT		767,885		0		767,885
	FY 96 Sec 8 - ODOT		208,415		0		208,415
	FY 96 STP		779,000		0		779,000
	FY 96 STP/ODOT Mtc		26,897		0		26,897
	FY 96 Metro STP Dues Replacement		100,600		0		100,600
	FY 93 FHWA (Trans/Land Use Model)		50,000		0		50,000
	FY 93 STP		478,450		0		478,450
	FY 96 Other Federal Grants		542,000		0		542,000
	FHWA 1000 Friends Grant		50,000		0		50,000
334110	State Grants-Operating-Categorical-Direct				0		
	FY 96 ODOT Supplemental		534,000		0		534,000
	FY 96 DEQ Grants		105,000		0		105,000
334120	State Grants-Operating-Categorical-Indirect				0		
	ODOT S/N Lottery		2,235,658		0		2,235,658
334210	State Grants-Operating-Non-Categorical-Direct				0		
	C-TRAN S/N AA/DEIS/PE (WSDOT)		3,757,710		0		3,757,710
337110	Local Grants-Operating-Categorical-Direct				0		
	FY 96 Congestion Pricing - Port match		5,914		0		5,914
	FY 96 Congestion Pricing - local match		5,519		0		5,519
	FY 96 TM		684,000		0		684,000
	FY 95 Tri-Met - Westside LRT		70,000		0		70,000
	FY 96 Tri-Met TSAP		40,000		0		40,000
	PDOT Contract		120,300		0		120,300
	Port of Portland		0		10,000		10,000
	Portland Development Commission		0		10,000		10,000
339200	Contract Services		131,500		0		131,500
	DRC Subscriptions		100,000		0		100,000
	Travel Forecasting Sales		5,000		0		5,000
	Misc. DRC Sales - Maps & Data		50,000		0		50,000
	Various Jurisdictions - Technical Asst.		73,000		0		73,000
341310	UGB Fees		1,400		0		1,400
341500	Documents & Publications		18,000		0		18,000
341600	Conferences & Workshops		20,000		0		20,000
365100	Donations and Bequests		50,000		0		50,000
391010	Trans. Resources from Gen'l Fund-Excise Tax		3,427,684		0		3,427,684
391160	Trans. Resources from Reg. Parks/Expo Fund		14,900		0		14,900
391530	Trans. Resources from S.W. Revenue Fund		355,063		0		355,063
TOTAL RESOURCES			23,093,375		20,000		23,113,375

**Exhibit A
Ordinance No. 96-636**

FISCAL YEAR 1995-96		CURRENT BUDGET		REVISION		PROPOSED BUDGET	
ACCT #	DESCRIPTION	FTE	AMOUNT	FTE	AMOUNT	FTE	AMOUNT
Planning Fund							
<u>Personal Services</u>							
511221	SALARIES-REGULAR EMPLOYEES (full time)						
	Senior Director	1.00	89,143		0	1.00	89,143
	Assistant Director	2.00	154,433		0	2.00	154,433
	Senior Manager	1.00	75,177		0	1.00	75,177
	Manager	4.00	268,694		0	4.00	268,694
	Senior Program Supervisor	7.00	395,238		0	7.00	395,238
	Program Supervisor	1.50	77,873		0	1.50	77,873
	Assoc. Management Analyst	3.00	147,565		0	3.00	147,565
	Senior Public Affairs Specialist	1.00	54,992		0	1.00	54,992
	Senior Regional Planner	5.00	252,372		0	5.00	252,372
	Senior Accountant	1.00	49,873		0	1.00	49,873
	Senior Management Analyst	3.00	166,665		0	3.00	166,665
	Senior Trans. Planner	12.00	606,277		0	12.00	606,277
	Assoc Public Affairs Specialist	4.50	187,111	0.25	8,603	4.75	195,714
	DP Operations Analyst	1.00	49,483		0	1.00	49,483
	Assoc. Trans. Planner	9.00	391,045		0	9.00	391,045
	Assoc. Regional Planner	4.00	166,608	0.25	8,603	4.25	175,211
	Asst. Trans. Planner	6.00	206,994		0	6.00	206,994
	Asst. Regional Planner	9.00	314,234	1.00	0	10.00	314,234
511221	WAGES-REGULAR EMPLOYEES (full time)						
	Administrative Secretary	3.00	100,444		0	3.00	100,444
	Secretary	3.00	86,766		0	3.00	86,766
	Office Assistant		0	0.25	4,986	0.25	4,986
	Program Assistant 1	1.00	26,324		0	1.00	26,324
511231	WAGES - TEMPORARY EMPLOYEES (Full-time)						
	Temporary Assistance	1.90	38,140	0.42	13,020	2.32	51,160
511400	OVERTIME		1,200		0		1,200
512000	FRINGE		1,152,462		8,090		1,160,552
Total Personal Services		83.90	5,059,113	2.17	43,302	86.07	5,102,415
<u>Materials & Services</u>							
521100	Office Supplies		49,644		0		49,644
521110	Computer Software		70,300		0		70,300
521111	Computer Supplies		9,000		0		9,000
521240	Graphics/Reprographic Supplies		39,200		0		39,200
521260	Printing Supplies		2,000		0		2,000
521310	Subscriptions		5,539		0		5,539
521320	Dues		8,946		0		8,946
524110	Accounting & Auditing Services		5,000		0		5,000
524190	Misc. Professional Services		2,717,488		15,548		2,733,036
525640	Maint. & Repairs Services-Equipment		82,800		0		82,800
525710	Equipment Rental		11,000		0		11,000
525740	Capital Leases (FY 92)		276,750		0		276,750
526200	Ads & Legal Notices		39,300		0		39,300
526310	Printing Services		278,200		0		278,200
526320	Typesetting & Reprographics Services		64,000		0		64,000
526410	Telephone		19,500		0		19,500
526420	Postage		161,689		0		161,689
526440	Delivery Services		11,300		0		11,300
526510	Mileage Reimbursement		51,760		0		51,760
526700	Temporary Help Services		2,900		0		2,900
526800	Training, Tuition, Conferences		28,800		0		28,800
528100	License, Permits, Payments to Other Agencies		52,620		0		52,620
529500	Meetings		11,333,261		0		11,333,261
529800	Miscellaneous		34,211		0		34,211
			750		0		750
Total Materials & Services			15,355,958		15,548		15,371,506

**Exhibit A
Ordinance No. 96-636**

FISCAL YEAR 1995-96		CURRENT BUDGET		REVISION		PROPOSED BUDGET	
ACCT #	DESCRIPTION	FTE	AMOUNT	FTE	AMOUNT	FTE	AMOUNT
Planning Fund							
<u>Capital Outlay</u>							
571500	Purchases-Office Furniture & Equipment		83,300		52,975		136,275
Total Capital Outlay			83,300		52,975		136,275
<u>Interfund Transfers</u>							
581513	Trans. Indirect Costs to Bldg. Fund-Regional Center		422,451		0		422,451
581610	Trans. Indirect Costs to Support Svcs. Fund		1,435,684		0		1,435,684
581615	Trans. Indirect Costs to Risk Mgmt. Fund-Gen1		11,255		0		11,255
581615	Trans. Indirect Costs to Risk Mgmt. Fund-Workers' Comp		14,197		0		14,197
Total Interfund Transfers			1,883,587		0		1,883,587
<u>Contingency and Unappropriated Balance</u>							
599999	Contingency		711,417		(91,825)		619,592
Total Contingency and Unappropriated Balance			711,417		(91,825)		619,592
TOTAL REQUIREMENTS		83.90	23,093,375	2.17	20,000	86.07	23,113,375

Exhibit B
Ordinance No. 96-636
FY 1995-96 SCHEDULE OF APPROPRIATIONS

	Current Appropriation	Revision	Proposed Appropriation
PLANNING FUND			
Personal Services	5,059,113	43,302	5,102,415
Materials & Services	15,355,958	15,548	15,371,506
Capital Outlay	83,300	52,975	136,275
Interfund Transfers	1,883,587	0	1,883,587
Contingency	711,417	(91,825)	619,592
Total Fund Requirements	\$23,093,375	\$20,000	\$23,113,375

All Other Appropriations Remain As Previously Adopted

AGENDA ITEM: 5.2
Meeting Date: February 29, 1996

FIRST READING

**Ordinance No. 95-635, Relating to Contract Policies Amending Metro Code
Chapter 2.04.**

STAFF REPORT

IN CONSIDERATION OF ORDINANCE NO. 96-635 RELATING TO CONTRACT POLICIES AMENDING METRO CODE CHAPTER 2.04.

Date: February 14, 1996

Presented by: Scott Moss and Dan Cooper

PROPOSED ACTION

To perform a comprehensive revision of Metro Code Chapter 2.04. This chapter establishes the policy of the Council for Metro's contracting efforts.

FACTUAL BACKGROUND AND ANALYSIS

Metro Code Chapter 2.04 was written 15 years ago and has undergone several amendments over the years. The Metro Council, Executive Officer and General Counsel recognized the need to perform a comprehensive revision of this code to assure that Council's policies are enacted and allowing the Executive Officer to provide efficient procedures to carry out those policies.

The following objectives are promoted by the proposed code change:

- Assure integrity by maintaining the public trust and by carrying out the policy established by the Metro Council
- Provide efficiency by allowing contracting to occur in a timely manner and provide the right quality and quantity to Metro's operating departments.
- Promote competition by simplifying contracting procedures and being friendlier to small business, which assures the maximum overall value for each dollar spent.

The proposed revision does not change the MBE/WBE/DBE sections of the contract code.

Attached is a summary of code changes.

STAFF REPORT
Ordinance No.. 96-635
Page Two

BUDGET IMPACT

There is no budget impact.

EXECUTIVE OFFICER RECOMMENDATION

The Executive Officer recommends approval of Ordinance 96-635.

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SUMMARY OF CONTRACT CODE CHANGES

1. During the budget process Council reviews, approves, and funds contracts over \$25,000. If a proposed contract has not been approved in the budget process, it shall be forwarded to the Council Presiding Officer to determine if Council review is required.
2. The new code establishes Metro's contracting policy and allows the Executive Officer to establish internal processing procedures. (A few procedures that relate to policy will remain intact.)
3. Eliminates the "A" and "B" contracting policy. Establishes "significant impact" contracts. After budget, Council approves RFBs/RFPs and contracts if they are "significant impact" and are multi-year, defined as:
 - contracts over 36 months for operation of all or part of a Metro facility or concessions.
 - public improvement contracts or personal services contracts over \$250,000.
 - A contract decreasing revenues or increasing expenditures by more than 5% of the fund.
 - Personal services contracts for regional planning over \$100,000.
 - Personal services contracts for studies on services allowed under the charter and not currently exercised over \$25,000.

Contracts acquiring or transferring property or other governmental functions continues to require Council approval.

4. All proposed contracts over \$25,000 must be approved by Council in the annual budget process. If the contract was not included in the budget process, a 10-day notice will be forwarded to the Presiding Officer. If it is a significant impact contract, it must be approved by resolution. If it is not a significant impact contract, a description of the contract and appropriation unit will be provided to the Council.
5. Clearly distinguishes between personal services and public contracts.
6. Increases performance and labor & materials bonds to \$25,000. Encourages small businesses to compete for small Metro projects.
7. Revenue contracts for concessions and parking can be done with an RFP. Previously required Council approval to do a proposal rather than bid.

SUMMARY OF CONTRACT CODE CHANGES

Page Two

8. Public contracts quote threshold has increased to \$2,500 from \$500. Although departments must continue to obtain quotes from a WBE and MBE for any purchase over \$500 (reduces the three quote requirement to two).
9. Personal Services contracts can be amended to double contract if under \$25,000. If over \$25,000, the contract can only be amended to an additional \$25,000 by the Executive Officer. After this threshold, amendments must be approved by Council. This changes the current policy that unlimited amendments under \$10,000 can be done without Council approval.
10. In Public contracts, the scope of work cannot be amended to include activities not related to the original scope of work without Council approval.
11. A quarterly status report of all contracts listed in budget will be provided to Council. Monthly reports showing newly entered contracts and amendments will continue.
12. Current "A" contracts are considered "significant impact" contracts.
13. An appeal process has been added to cover disqualifications of bidders.
14. Emergency clause to allow for personal services and public contracts.
15. Allows for repair of items not to be competitively bid if unable to determine price.
16. Grants to non-profit and others (recycling stream restoration, etc.) are to follow competitive RFP process.

BEFORE THE METRO COUNCIL

RELATING TO CONTRACT POLICIES) Ordinance No. 96-635
AMENDING METRO CODE CHAPTER 2.04)
) Introduced by
) Executive Officer Mike Burton
) and Councilor Susan McLain

THE METRO COUNCIL ORDAINS AS FOLLOWS:

Section 1. The Metro Council finds:

(a) Chapter 2.04, Metro Contract Procedures, establishes policies and procedures for Metro regarding public contracts, personal services contracts, and intergovernmental agreements.

(b) This Code chapter has been amended from time to time over the last 15 years, but has not been comprehensively revised.

(c) As a result of the effect of multiple amendments, the Code chapter is in need of comprehensive revision in order to allow for more effective policies and procedures.

Section 2. Metro Code Chapter 2.04 is retitled as Chapter 2.04, Contract Policies.

Section 3. Existing sections 2.04.010 to 2.040.090 are hereby repealed and the following Metro Code sections 2.04.010 to 2.04.070 are hereby adopted:

CHAPTER 2.04

METRO CONTRACT POLICIES

SECTIONS	TITLE
2.04.010	Definitions
	<u>Contracts in General</u>
2.04.020	Authority to Execute Contracts, Budget Limitations
2.04.022	Federal Law and Rules
2.04.024	Metropolitan Exposition-Recreation Commission
2.04.026	Council Approval of Contracts

- 2.04.028 Council Information Reports
- 2.04.030 Regulations
- 2.04.032 Prohibition Against Doing Business With Certain Former Metro Officials

Personal Services Contracts

- 2.04.040 Personal Services Contracts -- General
- 2.04.042 Personal Services Contracts -- Up to \$25,000
- 2.04.044 Personal Services Contracts -- More than \$25,000
- 2.04.046 Personal Services Contracts -- Amendments
- 2.04.048 Notice of Award and Appeals of Personal Services Contracts

Contract Review Board

- 2.04.050 Public Contract Review Board
- 2.04.052 Public Contracts -- General
- 2.04.054 Competitive Bidding Exemptions
- 2.04.056 Public Contracts Under \$25,000
- 2.04.058 Public Contracts Amendments
- 2.04.060 Food Products
- 2.04.062 Sole Source
- 2.04.064 Sale of Surplus Property
- 2.04.070 Notice of Award and Appeals

2.04.010 Definitions

For the purposes of this chapter unless the context requires otherwise the following terms shall have the meanings indicated:

- (a) "Auditor" means the Metro auditor provided for in Section 18 of the 1992 Metro Charter.
- (b) "Competitive bidding" means an advertised solicitation of sealed bids.
- (c) "Contract Review Board or Board" means the Metro Contract Review Board created pursuant to section 2.04.050 of this chapter.
- (d) "Council Presiding Officer" means the council presiding officer provided for in Section 16 of the 1992 Metro Charter.
- (e) "Emergency" means the occurrence of a specific event or events that could not have been reasonably foreseen and prevented, and which requires the taking of prompt action to

remedy the condition and thereby avoid further physical damage or harm to individuals or the occurrence of avoidable costs.

(f) "Emergency contract" means a contract whose purpose is limited to remedying an emergency situation.

(g) "Executive Officer" means the Metro executive officer provided for in Section 17 of the 1992 Metro Charter.

(h) "Intergovernmental agreement" means a written agreement with any other unit or units of federal, state or local government providing for the acquisition of goods or services by Metro, for the provision of goods or services by Metro or for the payment or receipt of funds in order to promote or carry out a common purpose.

(i) "Notice of award" means written communication to a responsive, responsible bidder or proposer stating that their bid or proposal has been conditionally determined to be the lowest, responsive, responsible bid or most responsive proposal and that the district intends to enter into a contract upon completion by the bidder/proposer of all required conditions.

(j) "Personal services contract" means any contract by which Metro acquires a professional, artistic, creative, consulting, educational, or management service. Contracts which are predominately for the purpose of obtaining a product, labor or materials, or the services of a construction trade are not a personal services contract.

(k) "Procurement Officer" means the person designated by the executive officer to carry out the functions required of such person by this chapter.

(l) "Public agency" means any agency of the federal government, state of Oregon, or any political subdivision thereof, authorized by law to enter into public contracts and any public body created by intergovernmental agreement.

(m) "Public contract" means any purchase, lease or sale by Metro of personal property, public improvement or services, including those transacted by purchase order, other than agreements which are for personal services.

(n) "Public improvement" means projects for construction, reconstruction or major renovation on real property by or for a public agency. "Public improvement" does not include emergency work, minor alteration, ordinary repair or maintenance in order to preserve a public improvement.

(o) "Request for Proposals or RFP" means the issuance of a request for offers that will be evaluated based on factors that are not limited to price alone.

(p) "Sole source contract" means a contract for which it can be documented there is only one qualified provider of the required service or material.

2.04.020 Authority to Award and Execute Contracts, Budget Limitations

Pursuant to the 1992 Metro Charter, the executive officer and auditor have the authority to award and execute contracts that are necessary to carry out their administrative responsibilities. These two officers may delegate authority to award and execute contracts on their behalf by doing so in writing. The council presiding officer is delegated authority to award and execute contracts on behalf of the council. Unless the council expressly approves a contract containing a requirement to the contrary, no contract may obligate Metro to the payment of funds not appropriated for that purpose by the council.

2.04.022 Federal Law and Rules

Notwithstanding any provision of this chapter, the applicable federal laws, rules and regulations shall govern in any case where federal funds are involved and the federal laws, rules and regulations conflict with any of the provisions of this chapter or require additional conditions in public or personal services contracts not authorized by this chapter.

2.04.024 Metropolitan Exposition-Recreation Commission

The Metropolitan Exposition-Recreation Commission has authority to enter into contracts pursuant to Metro Code section 6.01.04(j). Notwithstanding any provision of this chapter to the contrary, the commission may without the prior approval of the executive officer enter into contracts in any amount in accordance with contracting rules adopted by the commission pursuant to the authority contained in section 6.01.040(j). However, the contract review board created pursuant to section 2.04.050 shall be the contract review board for the commission.

2.04.026 Council Approval of Contracts

(a) Notwithstanding any other provisions of this chapter, executive officer or auditor must obtain authorization by the council prior to execution of the following types of contracts:

- (1) Any contract which commits the district to the expenditure of appropriations not otherwise provided for in the current fiscal year budget at the time the contract is executed and which has a significant impact on Metro. The following types of contracts shall be considered to have significant impacts unless the council finds that under the circumstances a contract will not have a significant impact:

- (A) Any public contract for a term greater than 36 months for private operation of all or of a major part of a Metro facility or concessions at a Metro facility.
 - (B) Any public improvement contract in an amount over \$250,000.
 - (C) Any public contract which will potentially result in a material (more than 5 percent of the related fund) loss of revenues or increase in expenditures in more than one year in any Metro fund.
 - (D) Any contract for personal services for a term greater than 36 months and in an amount greater than \$250,000.
 - (E) Any contract for personal services related to Metro's exercise of its regional planning functions pursuant to Section 5 of the 1992 Metro Charter in an amount greater than \$100,000.
 - (F) Any contract for personal services related to the study by Metro of exercising authority, pursuant to Section 7 of the 1992 Metro Charter, over additional functions in an amount over \$25,000.
- (2) Any agreement entered into pursuant to ORS chapter 190 by which Metro acquires or transfers any interest in real property, assumes any function or duty of another governmental body, or transfers any function or duty of Metro to another governmental unit; or
 - (3) Any contract for the purchase, sale, lease or transfer of real property owned by Metro. However, the executive officer may execute options to purchase real property.

(b) Prior to adoption of the annual budget, the executive officer shall submit a list of proposed contracts over \$25,000 to be entered into during the next fiscal year. The council shall designate in the annual budget ordinance which contracts have a significant impact on Metro.

Thereafter, if the executive officer proposes to enter into a contract in an amount greater than \$25,000 that the council has not considered during the annual budget process the Executive Officer shall inform the council presiding officer in writing and shall recommend whether the contract should be classified as a significant impact contract. The presiding officer shall determine on behalf of the council whether the proposed contract is a significant impact contract within 10 days of receipt of the notice from the executive officer. If the contract is determined by the presiding officer to have a significant impact on Metro execution by the executive officer shall be subject to council authorization. If the presiding officer determines the contract will not have a significant impact on Metro, the executive officer shall transmit a

description of the purpose of the contract, the appropriation to which contract payments will be charged, and a summary of the scope of work to be performed to the council or a council committee as deemed appropriate by the presiding officer.

(c) All contracts which require council authorization pursuant to subsection (a)(1) above and which are subject to competitive bidding or request for proposals procedures shall require council authorization of the request for bids or request for proposals prior to release of bidding or proposal documents to vendors. At the time of council authorization of the competitive bid or request for proposal documents, the council may waive the requirement of council authorization of the contract.

2.04.028 Council Information Reports

The executive officer shall provide a quarterly report to the council showing the status of all contracts listed in the adopted budget. The report will also include the status of all contracts over \$25,000 proposed during the year and not listed in the adopted budget.

The executive officer shall provide a monthly report to council showing all contracts awarded and amended during the proceeding month.

2.04.030 Regulations

The executive officer may establish by executive order additional regulations consistent with this chapter.

2.04.032 Prohibition Against Doing Business With Certain Former Metro Officials

(a) Except as provided for in subsection (d) below, Metro may not do business with any Metro official while the official is in office or within one year after the Metro official ceases to be a Metro official if the official had authority to exercise official responsibility in the matter. Any contract entered into in violation of this provision is void.

(b) Metro officials shall be deemed to have authority to exercise official responsibility as follows:

Elected officials have authority to exercise official responsibility over any Metro matter. Appointed commissioners have authority over any matter over which the relevant commission has jurisdiction. Department directors have authority over any matter related to the department they administer.

(c) Definitions: For the purpose of this section undefined terms used herein shall be construed as defined in ORS chapter 244; the following terms shall have the following meaning:

- (1) "Business" means any corporation, partnership, proprietorship, firm, enterprise, franchise, association, organization, self-employed individual and any other legal entity operated for economic gain but excluding any income-producing not-for-profit corporation that is tax exempt under section 501(c) of the Internal Revenue Code with which a public official is associated in a nonremunerative capacity.
- (2) "Business with which the Metro official is associated" means any business of which the person or the person's relative is a director, officer, owner or employee, or agent or any corporation in which the person or the person's relative owns or has owned stock worth \$1,000 or more at any point in the preceding calendar year.
- (3) "Department director" means any person employed by Metro in a position on a permanent basis which is subject to appointment by the executive officer and confirmation by the Metro council.
- (4) "Doing business" means entering into a direct contractual relationship with a business with which the Metro official is associated.
- (5) "Elected official" means any person elected or appointed as a member of the Metro council, the executive officer, or the auditor.
- (6) "Metro" means all of Metro including any department or branch of Metro including any Metro commission.
- (7) "Metro commissioner" means any person appointed to a position on a commission created pursuant to an ordinance adopted by the Metro council whose appointment is subject to confirmation by the Metro council.
- (8) "Metro official" means any department director, elected official or Metro commissioner.

(d) Upon the request of the executive officer or a Metro commission, the council may waive the effect of the prohibition contained in subsection (a) upon making written findings that:

- (1) It is in the best interests of Metro to do business with the Metro official.
- (2) The Metro official took no action while in office that directly related to the preparation of the terms and conditions in the contract documents that may give an appearance of impropriety or favoritism.

- (3) Other factors exist which are explicitly found by the council to benefit Metro that outweigh the policy considerations of ensuring that no appearance of favoritism exists in the award of Metro contracts.

(e) This section applies only to Metro officials who first take office or are re-elected or re-appointed to an office after September 7, 1995. This section shall not be construed to permit any activity that is otherwise prohibited by any other statute, rule, ordinance, or other law.

2.04.040 Personal Services Contracts -- General

(a) Disadvantaged Business Program. All contracting for personal services is subject to the Metro Disadvantaged Business Enterprise Program, Metro Womens Business Program, and the Metro Minority Business Program provisions of this chapter.

(b) Substantive Requirements. All Metro personal services contracts shall contain all provisions required by ORS chapter 279 and shall be construed to be consistent with all relevant provisions of ORS chapter 279.

2.04.042 Personal Services Contracts Up to \$25,000

(a) For personal services contracts of less than \$2,500, multiple proposals need not be obtained, but are encouraged.

(b) Personal services contracts of \$2,500 or more but not more than \$25,000 shall be subject to the following process:

Proposals shall be solicited from at least three potential contractors who are capable and qualified to perform the requested work. Prior to selecting any contractor for a personal services contract greater than \$10,000 but not more than \$25,000, the procurement officer shall publish notice of the intent to solicit competitive proposals, and include a summary of the nature of the proposed contract, the estimated cost of the contract, and the name of a contact person. No contract selection may be made until at least five days after such publication and after consideration of all proposals received.

2.04.044 Personal Services Contracts of More than \$25,000

Personal services contracts of \$25,000 shall be subject to the following process:

(a) A request for proposals shall be prepared and advertised at least once. Notice shall also be mailed to interested contractors known to Metro.

(b) All request for proposals shall at a minimum contain a description of the project and a brief summary of the project history, contain a detailed proposed scope of work or other specifications setting forth expected performance by the contractor, include a description of the

criteria that will be utilized to evaluate proposals and a broad range of the estimated cost for the project.

(c) Evaluations of proposals and the determination of the most qualified proposer shall be made.

2.04.046 Personal Services Contract Amendments

(a) Personal services contracts of an initial amount of \$25,000 or less may be amended to increase the amount of the contract to no more than twice the original contract amount. This limit is cumulative and includes any and all contract amendments or extensions. Any contract amendment(s) in excess of this ceiling requires approval by the council. The council shall determine whether it is appropriate to amend the contract despite the policy that favors competitive procurement of personal services.

(b) Contracts with an initial amount of greater than \$25,000 may be amended provided that any amendment that increases the total amount payable to an amount more than \$25,000 greater than the initial contract amount shall be subject to approval by the council. The council shall determine whether it is appropriate to amend the contract despite the policy that favors competitive procurement of personal services.

2.04.048 Notice of Award and Appeals of Personal Services Contracts

Notice of award and any appeal thereof shall be subject to the rules and procedures established in section 2.04.070 except that the final determination of any appeal shall be made by the council and not the contract review board.

2.04.050 Public Contract Review Board

(a) Creation of the Public Contract Review Board. Pursuant to ORS 279.055 the Metro council is designated and created as the Metro Contract Review Board.

(b) Powers of Board. The Metro contract review board shall have all the powers provided to a contract review board by ORS chapter 279.

(c) Contract Review Board Meetings

(1) The meetings of the contract review board shall normally, but need not, be conducted at the same time as, and as a part of, the regular meetings of the Metro council.

- (2) The rules of procedure adopted by the council for its proceedings shall also govern proceedings of the contract review board unless they conflict with rules adopted by the board.

2.04.052 Public Contracts -- General

(a) **State Law Requirements, Procedures.** The procedures for competitive bidding of all Metro public contracts and for the issuance of competitive Request for Proposals when authorized as an exception to competitive bid requirements shall comply with all requirements that are generally applicable to local governments. The executive officer may establish by executive order detailed procedural requirements consistent with this chapter and state law. In so doing, the executive officer may adopt in whole or in part the model rules of procedure established by the Oregon Attorney General pursuant to ORS 279.049.

(b) **Substantive Requirements.** All Metro public contracts shall contain all provisions required by ORS chapter 279 and shall be construed to be consistent with all provisions of ORS chapter 279.

(c) **Rejection of Bids.** The executive officer may reject any bid or proposal not in compliance with all prescribed procedures and requirements and may, for good cause, reject any or all bids or proposals upon finding that it is in the public interest to do so.

(d) **Bonds.** Unless the board shall otherwise provide, bonds and bid security requirements are as follows:

- (1) Bid security not exceeding 10 percent of the amount bid for the contract is required unless the contract is for \$25,000 or less.
- (2) For public improvements, a labor and materials bond and a performance bond, both in an amount equal to 100 percent of the contract price are required for contracts over \$25,000.
- (3) Bid security, labor and material bond and performance bond may be required even though the contract is of a class not identified above, if the executive officer determines it is in the public interest.

(e) **Disadvantaged Business Program.** All public contracts are subject to the Metro Disadvantaged Business Enterprise Program, Metro Womens Business Program, and the Metro Minority Business Program provisions of this chapter.

2.04.054 Competitive Bidding Exemptions

Subject to the policies and provisions of ORS 279.005 and 279.007, and the Metro Code, all Metro and Metropolitan Exposition-Recreation Commission public contracts shall be based upon competitive bids except:

(a) State Law. Classes of public contracts specifically exempted from competitive bidding requirements by state law.

(b) Board Rule. The following classes of public contracts are exempt from the competitive bidding process based on the legislative finding by the board that the exemption will not encourage favoritism or substantially diminish competition for public contracts and that such exemptions will result in substantial cost savings:

- (1) All contracts estimated to be not more than \$25,000 provided that the procedures required by section 2.04.056 are followed.
- (2) Purchase and sale of zoo animals, zoo gift shop retail inventory and resale items, and any sales of food or concession items at Metro facilities.
- (3) Contracts for management and operation of food, parking or similar concession services at Metro facilities provided that procedures substantially similar to the procedures required for formal Request for Proposals used by Metro for personal services contracts are followed.
- (4) Emergency contracts provided that written findings are made that document the factual circumstances creating the emergency and establishing why the emergency contract will remedy the emergency. An emergency contract must be awarded within 60 days of the declaration of the emergency unless the board grants an extension.
- (5) Purchase of food items for resale at the zoo provided the provisions of section 2.04.060 are followed.
- (6) Contracts for warranties in which the supplier of the goods or services covered by the warranty has designated a sole provider for the warranty service.
- (7) Contracts for computer hardware and software provided that procedures substantially similar to the procedures required for formal Request for Proposals used by Metro for personal services contracts are followed.
- (8) Contracts under which Metro is to receive revenue by providing a service.

- (9) Contracts for the lease or use of the Oregon Convention Center or other facilities operated by the Metro Exposition-Recreation Commission.
- (10) Contracts for purchases by the Metro Exposition-Recreation Commission in an amount less than \$31,000 provided that any rules adopted by the commission which provide for substitute selection procedures are followed; or
- (11) Contracts for equipment repair or overhaul, but only when the service and/or parts required are unknown before the work begins and the cost cannot be determined without extensive preliminary dismantling or testing.
- (12) Contracts in the nature of grants to further a Metro purpose provided a competitive request for proposal process is followed.

(c) Board Resolution. Specific contracts, not within the classes exempted in subsection (a) and (b) above, may be exempted by the board by resolution subject to the requirements of ORS 279.015(2) and ORS 279.015(5). The board shall, where appropriate, direct the use of alternate contracting and purchasing practices that take account of market realities and modern innovative contracting and purchasing methods, which are consistent with the public policy of encouraging competition.

2.04.056 Public Contracts Under \$25,000

(a) Under \$2,500. Competitive bids are not required for public contracts less than \$2,500. Metro should, where feasible, obtain competitive quotes.

(b) Between \$2,500 and \$10,000. Unless otherwise exempt from competitive bidding under section 2.04.054, when the amount of the contract is \$2,500 or more, but less than \$10,000, Metro must obtain a minimum of three competitive quotes. Metro shall keep a written record of the source and amount of the quotes received. If three quotes are not available, a lesser number will suffice provided that a written record is made of the effort to obtain the quotes.

(c) Between \$10,000 and \$25,000. Unless otherwise exempt from competitive bidding under section 2.04.054, when the amount of the contract is \$10,000 or more, but not more than \$25,000, Metro must obtain a minimum of three competitive quotes. Metro shall keep a written record of the source and amount of the quotes received. If three quotes are not available, a lesser number will suffice provided that a written record is made of the effort to obtain the quotes. In addition, the contracting department shall notify the procurement officer of the nature of the proposed contract, the estimated cost of the contract, and the name of the contact person. The procurement officer shall publish notice of the intent to solicit competitive quotes, including a summary of the information supplied by the contracting department regarding the

nature of the proposed contract. No contract selection may be made until at least five days after such publication and after consideration of all quotes received.

(d) Contracts under \$25,000 should be awarded on the basis of the least cost alternative available that is capable of performing the work required.

2.04.058 Public Contract Amendments

(a) The executive officer may execute amendments to public contracts which were not designated as contracts having a significant impact on Metro, provided that any one of the following conditions are met:

- (1) The original contract was let by a formal competitive procurement process, the amendment is for the purpose of authorizing additional work for which unit prices or alternates were provided that established the cost for the additional work and the original contract governs the terms and conditions of the additional work; or
- (2) The amendment is a change order that resolves a bona fide dispute with the contractor regarding the terms and conditions of a contract for a public improvement and the amendment does not materially add to or delete from the original scope of work included in the original contract; or
- (3) The amount of the aggregate cost increase resulting from all amendments does not exceed 20 percent of the initial contract if the face amount is less than or equal to \$100,000 or 10 percent if the face amount is greater than \$100,000; amendments made under subsection (1) or (2) are not included in computing the aggregate amount under this subsection; or
- (4) The Metro contract review board has authorized the extension of the contract amendment.

(b) No contract which was designated as a contract having a significant impact on Metro may be amended without the express approval of the council evidenced by a duly adopted resolution or ordinance; except as follows:

- (1) The executive officer may approve any amendment that is a change order than resolves a bona fide dispute with the contractor regarding the terms and conditions of a contract for a public improvement if the amendment does not materially add to or delete from the original scope of work included in the original contract. Provided, however, the executive officer must obtain council approval for any such change order that results in a total aggregate increase of more than 5 percent of the original contract

amount. If the council approves a change order pursuant to this subsection it may also in the same action authorize additional change orders to resolve future disputes in an amount not to exceed that established by the council.

- (2) The executive officer may approve any contract amendment to a contract for a public improvement that does not increase the contract amount more than \$25,000 if the amount of the aggregate cost resulting from all amendments authorized pursuant to this subsection does not exceed 5 percent of the initial contract. In computing the dollar amount of any amendment for the purpose of this subsection, only the amount of additional work or extra cost shall be considered and may not be offset by the amount of any deletions.
- (3) The executive officer may approve a change order for additional work if the original contract was let by a formal competitive procurement, the amendment is for the purpose of authorizing additional work for which unit prices or bid alternates were provided that established the cost for the additional work and the original contract governs the terms and conditions of the additional work.
- (4) The executive officer may approve a change order to a public improvement contract in order to meet an emergency.

(c) No public contract may be amended to include additional work or improvements that are not directly related to the scope of work that was described in the competitive process utilized to award the contract.

(d) For the purpose of this section any contract which was subject to specific council authorization of its execution prior to the effective date of this ordinance shall be considered to be a contract that has a significant impact on Metro.

2.04.060 Food Products

(a) All food items and food service contracts will be procured through competitive bidding, except as provided in sections (b) through (e) below.

(b) Competitive bids or quotes are not required when food items other than those routinely stocked by a Metro department are needed for requested catering services.

(c) Competitive bids or quotes are not required for fully or partially prepared food items which require:

- (1) The use of a specific recipe provided and/or developed in conjunction with a Metro department; or
- (2) The use of a proprietary recipe or formula which is the property of a vendor.

(d) Purchases of groceries, meat, poultry, and produce may be limited to vendors who have been prequalified. The executive officer shall establish prequalification procedures that ensure competition and fairness.

2.04.062 Sole Source

If there is only one qualified provider of the service required, the initiating department need not solicit and document proposals. The initiating department must document that there is only one qualified provider of the service required. Sole source contracts may not exceed \$2,500 unless the board shall have specifically exempted the contract from the public bidding or applicable alternative procurement procedure.

2.04.064 Sale of Surplus Property

Contracts for sale of surplus property may be executed without competitive oral or sealed bids only when the executive officer determines in writing that the number, value and nature of the items to be sold make it probable that the cost of conducting a sale by bid will be such that a liquidation sale will result in substantially greater net revenue to Metro.

2.04.070 Notice of Award and Appeals

(a) At least five days prior to the execution of any public contract over \$25,000 for which a competitive bid or proposal process is required, Metro shall provide a notice of award to the contractor selected and to all contractors who submitted unsuccessful bids or proposals.

(b) Bid/Request for Proposals Appeal Procedures. The following procedure applies to aggrieved bidders and proposers who wish to appeal an award of a public contract or a personal services contract above \$25,000. The appeal process for bids is the same as for a request for proposals. In the case of a request for proposals, disagreement with the judgment exercised in scoring by evaluators is not a basis for appeal.

- (1) All appeals shall be made in writing and shall be delivered to the procurement officer at Metro's main office within five working days of the postmarked date on the notice of award. The written appeal must describe the specific citation of law, rule, regulation, or procedure upon which the appeal is based.

- (2) The procurement officer shall forthwith notify the appropriate department director and the executive officer of the appeal. Within 10 working days of the receipt of the notice of appeal, the executive officer shall send a notice of rejection of the appeal or a notice of acceptance of the appeal, as applicable, to the appellant. The appellant may appeal the executive officer's decision to reject the appeal in writing to the board within five working days from the postmarked date on the notice of rejection.
- (3) The board will review the grounds for appeal, all pertinent information, and the executive officer's recommendation, and make a decision. The decision of the board is final.
- (4) No contract which is the subject of a pending appeal may be executed unless the board shall have given its approval at the request of the executive officer. The executive officer may request the board to determine a matter without waiting for the expiration of the time periods provided for herein.
- (5) In the event council authorization of execution of the contract is required under section 2.04.026 of this Code the appeal shall be heard before the council considers authorization of the contract.

(c) Appeals from Disqualifications

- (1) The board shall hear all appeals from any person who is disqualified by Metro as a bidder. The basis for the appeal shall be limited to the following grounds:
 - (A) Disqualification of bidder pursuant to ORS 279.037.
 - (B) Denial of prequalification to bid pursuant to ORS 279.039 and 279.041.
- (2) Any person who wishes to appeal disqualification as a bidder shall, within three business days after receipt of notice of disqualification, notify in writing the general counsel that the person appeals the disqualification. The general counsel shall promptly notify the board of the appeal by providing notice to the presiding officer.
- (3) Promptly upon receipt of notice of appeal, the presiding officer shall notify the appellant and the general counsel of the time and place of the appeal proceeding.

- (4) The board shall conduct the appeal proceeding and decide the appeal within 10 days after receiving notification of the appeal from the general counsel. The board shall set forth in writing the reasons for the decision.
- (5) Appeal Proceeding.

 - (A) The presiding officer shall preside over the appeal proceeding. The general order shall be as follows:

 - (i) Presentation by Metro of documentation and testimony supporting the disqualification.
 - (ii) Presentation by the appellant of documentation and testimony opposing the disqualification.
 - (B) Members of the board shall have the right to ask both Metro and the appellant questions and to review documentation referred to and presented by the parties.
 - (C) Formal court rules of evidence shall not apply.
 - (D) The board shall consider de novo the notice of disqualification, and record of investigation made by Metro and any evidence provided by Metro and the appellant prior to or at the appeal proceeding. There shall be no continuance or reopening of the appeal proceeding to offer additional evidence unless the appellant can demonstrate to the presiding officer that the additional evidence was not known to the appellant at the time of the proceeding or that with reasonable diligence the appellant would not have discovered the evidence prior to the appeal proceeding.
 - (E) A tape recording will be made of the appeal proceeding which shall be made available to the appellant upon payment of costs to Metro of making the tape.
 - (F) The board shall render a decision which shall be reviewed only upon petition in the Circuit Court of Multnomah County. The petition must be filed within 15 days after the date of the decision.
- (6) Metro may reconsider its determination with regard to the disqualification at any time prior to the appeal proceeding.

(d) Appeals of contract awards and decisions of the auditor shall be made directly to the contract review board.

Section 4. The definition of Executive Department contained in Metro Code sections 2.04.110(h); 2.04.210(h); and 2.04.310(g) is amended to read:

"Executive Department" means the State of Oregon's Executive Department or such state agency, department or entity to which has been delegated the responsibility to certify a Minority Business Enterprise, Women Business Enterprise, or a Disadvantaged Business Enterprise and to engage in related activities.

Section 5. Transition Provisions:

(a) Any contract initiated prior to the effective date of this ordinance and executed after the effective date of this ordinance shall be valid if the procedures utilized were in substantial compliance with this ordinance.

(b) Any public contract or personal services contract executed prior to the effective date of this ordinance that was subject to Council approval pursuant to former Metro Code section 2.04.033 or any similar previous Code requirement shall be considered to be a contract having a significant impact on Metro for the purpose of Metro Code section 2.04.058.

ADOPTED by the Metro Council this ____ day of _____, 1996.

Jon Kvistad, Presiding Officer

ATTEST:

Approved as to Form:

Recording Secretary

Daniel B. Cooper, General Counsel

jep
r-01252a

AGENDA ITEM: 6.1
Meeting Date: February 29, 1996

SECOND READING

**Ordinance No. 96-634, For the Purpose of Granting a Franchise to Waste
Recovery, Inc. for the Purpose of Operating a Solid Waste Processing Facility
and Amending Code Section 7.01.050**

Staff Report
EXECUTIVE SUMMARY

ORDINANCE NO. 96-634
FRANCHISE TO WASTE RECOVERY, INC.

PURPOSE

Metro staff and Waste Recovery Incorporated (WRI) negotiated the franchise agreement that is the subject of this staff report. Metro's basic objective is to encourage recovery of waste tires by the private sector. This supports recycling and waste recovery goals and minimizes the risk that public capital will be required to ensure proper management of the waste tire stream. WRI seeks a business environment in which it can compete effectively with environmentally less desirable tire disposal options, and which provides a measure of cost-certainty for the future.

SUMMARY

The waste tire stream and its management have unique attributes. These include: (a) a landfill ban; (b) a collection system that operates independently from the system for mixed solid waste; (c) a source-separated waste stream; (d) generation of significant residuals—even from state-of-the-art technology; and (e) extremely price-sensitive markets for disposal/recovery services and for recycled tire products.

The private sector recovers a significant portion of the waste tires generated in the Metro area. This helps to fulfill a solid waste management function that would otherwise require public planning efforts and perhaps public capital.

The agreement described in this staff report is a model for Metro's relationship with tire processors generally. It helps to create an environment where recyclers can compete with disposal operations, while effectively managing a waste stream that is banned from landfills. This agreement provides economic incentives which encourage recycling, reduce disposal in landfills, and help maintain and enhance local recycling capacity.

FACTUAL BACKGROUND AND ANALYSIS

Both Metro and the State of Oregon have worked extensively over the past 20 years to develop effective methods for managing waste tires.

According to the state solid waste management hierarchy, recovery is preferable to other waste tire management options such as stockpiling, landfilling or illegal dumping.

Collection of used tires traditionally has been outside the commercial solid waste system. As a result, Metro fees and excise taxes have not historically been collected on any tires regardless of their disposition.

Waste Recovery, Inc. has applied to Metro for a franchise to operate a tire processing facility at 8501 N. Borthwick in Portland. This is a unique franchise application since Waste Recovery is not required by Metro Code to obtain a franchise. WRI has been processing tires on this site since 1982. WRI proposes to continue its current activities which include recovering materials from waste tires via a mechanical process, and marketing the resulting chip products for a variety of uses.

Waste Recovery proposes that the facility be open to its own vehicles and other commercial haulers. The facility would receive material 16 hours per day, 7 days per week. Other commercial haulers would be limited to 8.5 hours per day, five days per week. Estimated vehicles per day is 32 Waste Recovery, Inc. vehicles and 20 other commercial vehicles.

WRI obtains waste tires from: (a) specialized firms permitted by DEQ to haul tires, (b) individual drop-offs, and (c) collection routes using trucks owned by WRI.

Tire processing generates approximately 20 percent waste residual that requires landfilling. Under current Metro code, a tire processor may dispose of its residual at a designated Metro facility, or at a non-designated facility if a non-system license is granted. Imposition of full Metro fees on WRI would either: a.) make this company unprofitable; or b.) force a pass-through of the fee which would drive tires to less desirable disposal options such as landfilling, stockpiling, or illegal dumping.

WRI's process residual has historically been disposed at an out-of-area landfill that is licensed by DEQ to accept such wastes.

Under Metro Code, the Executive Officer shall formulate recommendations regarding whether: a.) the applicant is qualified; b.) the proposed franchise complies with the district's solid waste management plan; c.) the proposed franchise is needed considering the location and number of existing and planned disposal sites, transfer stations, processing facilities, and resource recovery facilities and their remaining capacities; d.) the applicant has complied or can comply with all other applicable regulatory requirements. Staff finds the applicant meets all of these requirements.

CONDITIONS OF THE FRANCHISE

The essence of the proposed franchise agreement is that Metro will forego collection of certain fees for a period of time to allow WRI to invest these fees in residual-reducing technology. If successful, this technology will diminish the amount of process residual to a point where disposal charges are not an issue. The foregone fees would normally accrue to Metro for waste reduction and other activities. This agreement allows these fees to be invested directly in recycling and waste reduction.

WRI has committed to measurable benchmarks and oversight which allow Metro to determine that re-directed fees are invested as intended. It should be emphasized that the principles and the agreement described here would be considered for any private waste tire processor operating in the Metro area.

The implementing mechanism for this agreement is the proposed franchise. Although WRI is not required to be franchised, there are no restrictions on entering into *voluntary* franchises under Metro Code. Staff recommends this path in order to avoid developing an entirely new vehicle for implementing this agreement. However, because of the voluntary nature of the franchise, a number of provisions in Metro Code are not relevant. Accordingly, a number of variances from Metro Code have been requested.

FRANCHISE VARIANCES

WRI has requested variances from sections of the Metro Code relating to: surety bonding, rate setting, administrative procedures, Metro user fees, restriction of haulers using franchised facilities, and Metro's ability to divert waste. It also is requesting exemption from the Metro excise tax.

The principal reason behind the variance requests is that waste tire processors in general, and WRI in particular, cannot effectively operate under the current regulatory scheme.

WRI is searching for a new site on which to relocate its North Borthwick facility to allow room for expansion. WRI strongly favors remaining in the Metro region. However, it also has stated that user fees, excise taxes and added administrative expenses and requirements such as additional bonding costs would be serious impediments to remaining here. Staff accepts these reasons for the requested variances.

RECOMMENDATION TO AMEND METRO CODE SECTION 7.01.050

Staff recommends that an additional exemption be added to Section 7.01.050 to the effect that: Subject to the terms of the franchise agreement, tire processors that are franchised by Metro and that accomplish material recovery and recycling as a primary operation shall not be liable for Metro excise tax on disposal of residual materials that arise as a direct consequence of processing tires for material recovery or recycling.

Metro Code contains several exemptions to excise taxes but these do not extend to process residual that is landfilled. Exemption from the excise tax is recommended for several reasons, including (but not limited to) the following: 1.) the voluntary nature of this agreement which has been developed to ensure foregone fees are invested as intended; 2.) the financial impact on WRI would likely lead to a loss of regional tire recovery capacity, requiring public planning efforts and perhaps public capital to replace lost capacity; 3.) WRI is the only scrap tire processor serving the Pacific Northwest; and 4.) exemption from the excise tax will not affect Metro's revenue since Metro has not received excise tax revenue from WRI in the past.

BUDGET IMPACT

This franchise will increase user fee receipts by the FOUR THOUSAND DOLLAR (\$4,000) per year. It will not affect excise tax receipts since Metro has not received excise tax revenue from WRI. This franchise will have no direct costs to Metro.

STAFF RECOMMENDATIONS

Based on the foregoing analysis, it is the opinion of staff that Waste Recovery, Inc. be granted a non-exclusive franchise in accord with the provisions of the draft franchise shown as Exhibit A of Ordinance No. 96-634.

EXECUTIVE OFFICER RECOMMENDATION

The Executive Officer recommends approval of Ordinance No. 96-634

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STAFF REPORT

IN CONSIDERATION OF ORDINANCE NO. 96-634 FOR THE PURPOSE OF GRANTING A FRANCHISE TO WASTE RECOVERY, INC. FOR THE PURPOSE OF OPERATING A SOLID WASTE PROCESSING FACILITY AND AMENDING CODE SECTION 7.01.050 REGARDING EXCISE TAX EXEMPTIONS

Date: February 1, 1996

Presented by: Bern Shanks
Roosevelt Carter

PURPOSE

Metro staff and Waste Recovery, Inc. (WRI) negotiated the franchise agreement that is the subject of this staff report. Metro's basic objective is to encourage recovery of waste tires by the private sector. This supports recycling and waste recovery goals and minimizes the risk that public capital will be required to ensure proper management of the waste tire stream. WRI seeks a business environment in which it can compete effectively with environmentally less desirable tire disposal options, and which provides a measure of cost-certainty for the future.

SUMMARY

The waste tire stream and its management have unique attributes. These include: (a) a landfill ban; (b) a collection system that operates independently from the system for mixed solid waste; (c) a source-separated waste stream; (d) generation of significant residuals—even from state-of-the-art technology; and (e) extremely price-sensitive markets for disposal/recovery services and for recycled tire products. At present, the private sector recovers a significant portion of the waste tires generated in the Metro area. This helps to fulfill a solid waste management function that would otherwise require public planning efforts and perhaps public capital. Because landfilling tires is banned, Metro would have to develop alternative disposal options if private-sector options did not exist. Accordingly, it is in Metro's interest to foster an environment that encourages private-sector solutions and, in particular, solutions that fulfill waste recovery and recycling goals over and above landfilling.

The agreement described in this staff report is a model for Metro's relationship with tire processors generally. It helps to create an environment where recyclers can compete with disposal operations, while effectively managing a waste stream that is banned from landfills. This agreement provides economic incentives which encourage recycling, reduce disposal in landfills, and help maintain and enhance local recycling capacity.

FACTUAL BACKGROUND AND ANALYSIS

WRI has applied to Metro for a franchise to operate its existing tire processing facility in the City of Portland. This is a unique franchise application since Waste Recovery is not required by Metro Code to obtain a franchise. However, there are a number of compelling reasons to consider their application. To fully understand these reasons, it is necessary to review the history and

status of waste tire management options in the Metro area, as well as the specific circumstance of WRI. This staff report does this through four sections: 1) Background of the waste tire system in the Metro Area; 2) Background of Waste Recovery, Inc. 3) The need for the franchise; 4) Conditions of the franchise.

1. Background of the waste tire system in the Metro Area

Both Metro and the State of Oregon have worked extensively over the past 20 years to develop effective methods for managing waste tires. At the state level, efforts have included a fee on new tires that funded a tire cleanup program (now sunsetted), and development of a regulatory program. Among the most powerful regulatory actions is a ban on landfill disposal of whole tires (ORS 459.710).

The state ban on disposal of whole tires is also mirrored in Metro Code (5.01.210). Through its transfer station inspection program, Metro has ensured that tires are not landfilled. Metro has worked to reduce illegal dumping of tires through its enforcement program and assistance to organizations such as SOLV. Through grants and staff time, Metro also has fostered the development of industries that process used tires.

According to the state solid waste management hierarchy, recovery is preferable to other waste tire management options such as stockpiling, landfilling (shredded tires in state or whole tires out of state) or illegal dumping. The presence of firm(s) to process tires into marketable products helps to fulfill a solid waste management function that would otherwise require public planning efforts and perhaps expenditure of public capital. Because landfilling of whole tires is banned, Metro would have to develop tire disposal options if a private processor did not serve this region. Accordingly, the continued existence of private-sector option(s) for tire processing is in Metro's financial and regulatory interest.

Collection of used tires has traditionally been outside the commercial solid waste system. It was not until Metro instituted an enforcement arm that it became aware of the extent of the tire processing, stockpiling and disposal system. As a result, Metro fees and excise taxes have not historically been collected on any tires regardless of their disposition.

Current tire processing technology generates a significant quantity of waste residual (approximately 20 percent of incoming material by weight) that requires landfilling. Under current Metro code, a tire processor may dispose of its residual at a designated Metro facility, or at a non-designated facility if a non-system license is granted. The imposition of full Metro fees would have a significant impact on the ability of any private waste tire processor to compete with disposal alternatives. A tire processor has two basic options for handling Metro fees: pass them along in its gate rate, or absorb them. Neither is feasible. The Metro Regional User Fee (\$17.50 per ton) and excise tax (7½ percent of disposal costs), would add between 4¢ and 18¢ per tire to WRI's gate rate—depending on how much of the tire is recovered. Even the low amount is sufficient to shift the flow of waste tires to environmentally less desirable options such as stockpiling. (Note: stockpiled tires would be subject to Metro fees, but their remote or out-of-state locations make collecting fees difficult). Attempts to pass fees on would reduce feedstock to processors, thereby reducing material recovery. Likewise, the second option—absorbing

Metro fees—is not practical. The tire processing industry operates on thin profits. Tire recyclers must compete head-to-head with less desirable disposal or stockpiling operations which have lower investment and operation costs.

2. Background on Waste Recovery, Inc.

Waste Recovery, Inc. has applied to Metro for a franchise to operate a tire processing facility at Portland, Oregon. The site location is 8501 N. Borthwick in Portland. This site is located one block north of Columbia Blvd. on property adjacent to Wastech, Inc.'s franchise facility. WRI has been processing tires on this site (zoned HI heavy industrial) since 1982. WRI proposes to continue its current activities which include recovering materials from waste tires via a multi-stage mechanical process, and marketing the resulting chip products for a variety of uses including fuel, feedstock for making rubber mats, and civil engineering fill material.

WRI obtains waste tires from: (a) specialized firms permitted by DEQ to haul tires, (b) individual drop-offs, and (c) collection routes using trucks owned by WRI. Disposal of residue from WRI's process shall be at a designated facility under the Metro Code, or under authority of a non-system license issued by Metro.

Waste Recovery proposes that the facility be open to its own vehicles and other commercial haulers. The facility would receive material 16 hours per day, 7 days per week. Other commercial haulers would be limited to 8.5 hours per day, five days per week. Estimated vehicles per day is 32 Waste Recovery, Inc. vehicles and 20 other commercial vehicles.

3. Need for the Franchise

Metro Code Section 5.01.070 states in part that the Executive Officer shall formulate recommendations regarding whether:

- a) the applicant is qualified
- b) the proposed franchise complies with the district's solid waste management plan
- c) the proposed franchise is needed considering the location and number of existing and planned disposal sites, transfer stations, processing facilities, and resource recovery facilities and their remaining capacities
- d) the applicant has complied or can comply with all other applicable regulatory requirements.

3.a Waste Recovery is qualified.

The presence of Waste Recovery, Inc.—a stable, large-scale tire processor that provides accessible and cost competitive processing of tires—has contributed significantly to the effectiveness of Oregon's waste tire management system. WRI has been operating continuously since 1982, during which time other tire processors have come and gone. More than 37 million tires have passed through the facility during this time. WRI currently processes over three-quarters of the waste tires generated annually within the Metro region, plus four times this amount from other areas of the Pacific Northwest. (The balance of tires generated in the Metro

region are presumed to be stockpiled, shredded and landfilled, or illegally dumped by other parties.)

3.b Waste Recovery complies with the district's solid waste management plan

Given the conditions imposed by this franchise, this facility would fully comply with the goals, objectives and policies of the Regional Solid Waste Management Plan (RSWMP) adopted by Metro Council in 1995. One goal listed in the RSWMP is to support an environment that fosters development and growth of reuse, recycling, and recovery enterprises. [pg. 5-7] WRI's facility recovers materials that otherwise would go unprocessed, become stockpiled or ultimately be landfilled. The facility is privately owned and operated and requires no public investment in plant or equipment.

3.c Waste Recovery is needed

Markets for used tires operate on a regional scale. In this area, the market is the Pacific Northwest (Oregon, Washington, and parts of Idaho). It is the only significant recycler of whole tires serving the Pacific Northwest. As a result of uncoordinated state policies in the Northwest, this market contains low-cost alternatives to recycling (e.g., stockpiling). Moreover, tire derived fuel (WRI's primary product) is a relatively low value-added product. In this industry environment, suppliers' loyalties tend to be low, profit margins thin, and incentives for unscrupulous or illegal behavior (e.g., abandoning stockpiles or illegal dumping) strong.

3.d Waste Recovery complies with applicable regulatory requirements

The applicant requires the following permits :

1. National Pollution Discharge Elimination System (NPDES) (permit No. 1200-L issued 9/24/91; expires 9/30/96.)
2. Oregon Department of Environmental Quality (tire carrier and storage site permit issued 5/05/95; expires 1/1/2000).
3. City of Portland Land Use compatibility statement (renewed 1/26/95)
4. Metro franchise(voluntary).

4. Conditions of the franchise

Overview

As a processor of source-separated material, WRI is not required to obtain a Metro franchise. However, process residual that is disposed is subject to the Metro Regional User Fee and excise tax. Thus, unlike other processors of source-separated material, WRI incurs significant disposal costs and is liable for Metro fees under current Metro Code. WRI had interpreted its status as a processor of source-separated solid waste as exempting it from Metro fee requirements. When informed by the Solid Waste Director in 1994 that it had to get a non-system license to dispose its residual outside the Metro area, WRI complied.

WRI's process residual has historically been disposed at an out-of-area landfill that is licensed by DEQ to accept such wastes.

Annual charges to WRI's Portland plant for Metro's Regional User Fee and excise tax alone would exceed the total 1994 profits of WRI—a publicly-traded firm with four locations nationally. Full imposition of Metro fees would push this marginally profitable enterprise into the red.

The essence of the proposed franchise agreement is that Metro will forego collection of certain fees for a period of time, and to allow WRI to invest these fees in residual-reducing technology. If successful, this technology will diminish the amount of process residual to a point where disposal charges are not an issue. The foregone fees would normally accrue to Metro for waste reduction and other activities. This agreement allows these fees to be invested directly in recycling and waste reduction.

WRI has committed to measurable benchmarks and oversight which allow Metro to determine that re-directed fees are invested as intended. It should be emphasized that the principles and the agreement described here would be considered for any private waste tire processor operating in the Metro area.

Detailed Description of Agreement

WRI will remit to Metro a fixed user fee of \$4,000 per year for three years from initiation of the franchise, or until it abandons its residual-reducing experiments, whichever comes first. The residual-reducing technology is expected to be operational in approximately three years. If successful, WRI's disposal costs—including Metro fees—will be significantly minimized. If implementation is delayed or if the technology does not work as planned, *and* if certain implementation benchmarks have been met, then WRI can obtain up to three more years of operation under the fixed charge of \$4,000 per year.

The agreement grants oversight to Metro to ensure that foregone fees are being invested as intended. WRI will make regular reports to Metro on incoming waste tires and materials that are recovered. WRI is committed to report on progress toward design, procurement, installation, and testing of its residue reduction technology and development of markets for its finished products. In particular, if WRI meets three key benchmarks during the first three years of the agreement, but implementation is delayed or the technology does not work as planned, it may extend its period of fixed payments to Metro one year for each of the benchmarks. The three benchmarks are: (1) ordering of wire recovery equipment; (2) installation of wire recovery equipment; and, (3) initial operation of wire recovery equipment.

A modified schedule for the Regional User Fee (see Exhibit A, Franchise Agreement) takes effect after the period during which WRI would pay the \$4,000 flat fee to Metro. This schedule is intended to apply to any tire processing facility (in the sense of Metro Code 5.01.010[o]) in the Metro area. The schedule ties the user fee to the recovery rate. For example, if no recovery is accomplished (*e.g.*, if tires are simply split and landfilled), then 100 percent of the prevailing Regional User Fee would be due on outgoing material. At 80 percent recovery, 10 percent of the

user fee would be due; and so forth. The fees apply to all tires processed by an in-region tire processor, independent of the origin of the tires.

The implementing mechanism for this agreement is the proposed franchise. Although WRI is not required to be franchised, there are no restrictions on entering into *voluntary* franchises under Metro Code. Staff recommends this path in order to avoid developing an entirely new vehicle for implementing this agreement. However, because of the voluntary nature of the franchise, a number of provisions in Metro Code are not relevant. Accordingly, a number of variances from Metro Code have been requested.

FRANCHISE VARIANCES

WRI has requested variances from several sections of the Metro Code. It also is requesting exemption status from the Metro excise tax. The excise tax issue will be discussed in this report following analysis of the requested variances because the excise tax exemption is recommended as a change to Metro Code Chapter 7.01, rather than a variance.

The number and nature of the requested variances are due in part to the unusual circumstance of this voluntary franchise. It is in Metro's financial, regulatory, and planning interests to retain this recycling and recovery facility. The Code sections and nature of the variance requests are as follow:

1. Section 5.01.060(b)(1) and Section 5.01.070(e)(2) relating to surety bonds
2. Section 5.01.170 relating to rate setting
3. Section 5.01.130(a)(1)(2),(b)(1-8),(c),(d),(e). relating to Metro administrative procedures for:
 - weighing incoming material
 - record keeping and reporting;
 - excise taxes
 - payment schedules
4. Section 5.01.150(a),(b),&(c).relating to Metro's user fee
5. Section 5.01.120(1).relating to restriction of haulers using franchised facility
6. Section 5.01.070(f)(1)(2)&(g).relating to Metro's ability to divert waste

The Metro Council may grant a variance to provisions of the Code under Section 5.01.110 in the interest of protecting the public health and welfare if the purpose and intent of the requirement (e.g., setting rates) can be achieved without strict compliance, and that strict compliance:

"(1) Is inappropriate because of conditions beyond the control of the persons(s) requesting the variance; or

(2) Will be extremely burdensome or highly impractical due to special physical conditions or causes; or

(3) Would result in substantial curtailment or closing down of a business plant, or operation which furthers the objectives of the District." (Emphasis supplied)

The principal reason behind the variance requests is that waste tire processors in general, and WRI in particular, cannot effectively operate under the current regulatory scheme. If WRI were subjected to the strict requirements of the Metro Code, it would likely close its local facility, and Metro's waste reduction objectives would be undermined.

WRI is searching for a new site on which to relocate its North Borthwick facility to allow room for expansion. WRI strongly favors remaining in the Metro region. However, it also has stated that user fees, excise taxes and added administrative expenses and requirements such as additional bonding costs would be serious impediments to remaining here. Staff accepts these reasons for the requested variances.

Additionally, staff find that imposition of Metro's full Regional User Fee would result in significant shifts of tires away from reuse, recycling, and recovery and to stockpiling, landfilling, and illegal dumping. Therefore, staff recommends the variance be subject to the agreed schedule in the franchise, Exhibit A.

RECOMMENDATION TO AMEND METRO CODE SECTION 7.01.050

Metro Code Section 7.01.050 established eight categories of persons and entities that are exempt from the requirements of Chapter 7.01 of the Metro Code relating to excise taxes. It is proposed that an additional exemption be added to Section 7.01.050 to the effect that: Subject to the terms of the franchise agreement, tire processors that are franchised by Metro and that accomplish material recovery and recycling as a primary operation shall not be liable for Metro excise tax on disposal of residual materials that arise as a direct consequence of processing tires for material recovery or recycling.

Section 5.01.050 (7) already exempts operators of franchised processing centers that accomplish material recovery as a primary operation. However, this exemption does not extend to residue that is landfilled. The proposed additional exemption for franchised tire processors is recommended because:

1. Exemptions for critical facilities that further waste reduction and recycling in the region should be considered on a case by case basis.
2. By making the exemption subject to the terms of the franchise agreement (rather than a general exemption in code), any termination or violation of the franchise agreement may result in disqualification of the franchisee's excise tax exemption.
3. The exemption has no budget impact because excise taxes are not currently being collected from this class of processor.

4. The processor would normally be exempt from franchising under Section 5.01.050 (7). The proposed franchise establishes an arrangement that allows WRI to invest fees, which otherwise would go to Metro for waste reduction and other related activities, in residual reducing technologies. The primary purpose of this franchise is to provide Metro oversight to ensure that foregone fees are invested as intended.
5. Imposition of the full excise tax on WRI would likely lead to a loss of regional tire recovery capacity, requiring public planning efforts and perhaps public capital to replace lost capacity. The rationale described in 4. above also applies to the excise tax (*i.e.*, the highly competitive and price-sensitive scrap tire market can shift radically with small fluctuations in facility fees).
6. The applicant is a "one-of-a-kind" facility in the Northwest. Foregone excise tax revenues would be outweighed by the significance of the applicant's contribution to the waste reduction, materials recovery and recycling in the region.

Based on the foregoing, staff recommends that Metro Code Section 7.01.050 be amended as described above.

BUDGET IMPACT

This franchise will increase user fee receipts by the FOUR THOUSAND DOLLAR (\$4,000) annual payment. It will not affect excise tax receipts since Metro has not relied on excise tax revenue from WRI. This franchise will have no direct costs to Metro. There are contingent elements to this franchise that require additional payments in the event that residue levels rise beyond those agreed to. They are specified in the Franchise Agreement, Exhibit A.

STAFF RECOMMENDATIONS

Based on the foregoing analysis, staff recommends that Waste Recovery, Inc. be granted a non-exclusive franchise in accord with the provisions of the draft franchise shown as Exhibit A of Ordinance No. 96-634.

EXECUTIVE OFFICER RECOMMENDATION

The Executive Officer recommends approval of Ordinance No. 96-634.

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BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF GRANTING A) ORDINANCE NO. 96-634
FRANCHISE TO WASTE RECOVERY, INC. TO)
OPERATE A SOLID WASTE PROCESSING) INTRODUCED BY MIKE BURTON,
FACILITY, AND AMENDING CODE) EXECUTIVE OFFICER
SECTION 7.01.050 REGARDING EXCISE)
TAX EXEMPTIONS)

WHEREAS, Waste Recovery, Inc. has applied for a non-exclusive franchise to operate a facility for processing of waste tires at Portland, Oregon; and

WHEREAS, Waste Recovery, Inc. has submitted evidence of compliance with Metro Code Section 5.01.060 requirements for franchise applications and operational plans; and

WHEREAS, The Waste Recovery, Inc. facility will provide disposal services to affiliate company haulers and to other commercial haulers and contractors; and,

WHEREAS, Metro Code Section 5.01.110 of the Metro Code provides for the ability of the Metro Council to grant variances pursuant to the criteria contained therein; and

WHEREAS, Waste Recovery, Inc. has requested a variance from Metro Bond requirements as detailed in the staff report to this Ordinance; and,

WHEREAS, Waste Recovery, Inc. has requested a variance from Metro rate setting requirements as detailed in the staff report to this Ordinance; and,

WHEREAS, Waste Recovery, Inc. has requested a variance from certain Metro Administrative procedures 5.01.130(a)(1)(2), (b)(1-8), (c), (d), and (e) as detailed in the staff report to this Ordinance; and,

WHEREAS, Waste Recovery, Inc. has requested a variance from Metro restrictions on non-franchisee owned hauling companies as detailed in the staff report to this Ordinance; and,

WHEREAS, Waste Recovery, Inc. has requested a variance from Metro's authority to divert waste away from the franchised facility as detailed in the staff report to this Ordinance; and,

WHEREAS, Waste Recovery, Inc. has requested a variance from payment of Metro user fees except as provided in the franchise agreement (Exhibit A) as detailed in the staff report to this ordinance; and,

WHEREAS, It is recommended that Waste Recovery, Inc. be exempted from payment of Metro excise taxes pursuant to the franchise agreement (Exhibit A) and the proposed amendment to Chapter 7.01 of the Metro Code as detailed in the staff report to this Ordinance; and

WHEREAS, The Ordinance was submitted to the Executive Officer for consideration and was forwarded to the Council for approval; now, therefore

THE METRO COUNCIL ORDAINS AS FOLLOWS:

Section 1

The Metro Council authorizes the Metro Executive Officer to enter into the attached Franchise Agreement with Waste Recovery, Inc. attached as (Exhibit A), within ten days of the adoption of this Ordinance.

Section 2

Waste Recovery, Inc. is granted the following variances pursuant to Metro Code Section 5.01.110:

- (a) A variance from Metro bond requirements;
- (b) A variance from Metro rate setting;

- (c) A variance from Metro administrative procedures specified in Code Sections 5.01.130(a)(1)(2), (b)(1-8), (c), (d), and (e);
- (d) A variance from Metro restrictions on use of the facility by non-franchisee owned hauling companies;
- (e) A variance from Metro's authority to divert waste away from the franchised facility;
- (f) A variance from the requirement that franchisee pay user fees except as specified in the Franchise.

Section 3. Metro Code Section 7.01.050 is amended to read:

7.01.050 Exemptions

- (a) The following persons, users and operators are exempt from the requirements of this chapter:
 - (1) Persons, users and operators whom the district is prohibited from imposing an excise tax upon under the Constitution or Laws of the United States or the Constitution or Laws of the State of Oregon.
 - (2) Persons who are users and operators of the Portland Civic Stadium or the Portland Center for the Performing Arts.
 - (3) Persons whose payments to the district or to an operator constitute a donation, gift or bequest for the receipt of which neither the district nor any operator is under any contractual obligation related thereto.
 - (4) Any persons making payment to the district for a business license pursuant to ORS 701.015.
 - (5) Any person which is a state, a state agency or a municipal corporation to the extent of any payment made directly to the district for any purpose other than solid waste disposal, use of a Metro ERC facility, or use of the Metro Washington Park Zoo.
 - (6) An operator of a franchised processing center that accomplishes material recovery and recycling as a primary operation.
 - (7) Persons making payments to the district on behalf of the Metro Washington Park Zoo for the following purposes:

- (A) Contributions, bequests, and grants received from charitable trusts, estates, nonprofit corporations, or individuals regardless of whether the district agrees to utilize the payment for a specific purpose including all payments to the Zoo Parents program;
 - (B) Corporate sponsorships or co-promotional efforts for events that are open to the general public, or for specific capital improvements, educational programs, publications, or research projects conducted at the zoo;
 - (C) Payments that entitle a person to admission to a fund-raising event benefiting the zoo that is not held on the grounds of the zoo;
 - (D) Payments that entitle a person to admission to a special fund-raising event held at the zoo where the event is sponsored and conducted by a nonprofit organization approved by the council and the primary purpose of which is to support the zoo and the proceeds of the event are contributed to the zoo;
 - (E) Notwithstanding the provisions of subsection (A) through (D) above, all payments received by the district for admission to the zoo, or which entitle individuals to receipt of food, beverages, goods, or rides on the zoo train shall be subject to tax regardless of whether payment is received from an individual or otherwise on behalf of special groups including but not limited to employee and family member picnics, corporate or family parties, or similar events.
- (8) Users and operators paying compensation to any person who is operating and lease property at the Glendoveer Golf Course pursuant to a long-term agreement entered into with Multnomah County prior to January 1, 1994.
- (9) A tire processor operating pursuant to a Metro franchise, which processes used tires into fuel and/or other products, shall be exempt from payment of excise tax on disposal of residual material produced directly as a result of such process. This exemption is only granted to the extent, and under the terms, specified in the franchise.

(b) Any person, user or operator that is exempt for the payment of an excise tax pursuant to this section shall nonetheless be liable for compliance with this chapter and the

payment of all taxes due pursuant to any activity engaged in by such person which is subject to this chapter and not specifically exempted from the requirements hereof. Any operator whose entire compensation from others for use of a district facility is exempt from the provisions of this chapter shall be deemed to be a user and not an operator.

ADOPTED by the Metro Council this _____ day of _____, 1996.

Jon Kvistad, Presiding Officer

ATTEST:

Approved as to Form:

Recording Secretary

Daniel B. Cooper, General Counsel

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METRO
EXHIBIT A

SOLID WASTE FRANCHISE
issued by
METRO
600 NE Grand Avenue
Portland, Oregon 97232-2736
(503) 797-1700

FRANCHISE NUMBER: 17

DATE ISSUED: See Section 2

AMENDMENT DATE: N/A

EXPIRATION DATE: See Section 2

ISSUED TO: WASTE RECOVERY, INC.

NAME OF FACILITY: WASTE RECOVERY, INC.

ADDRESS: 8501 N. BORTHWICK, PORTLAND, OR 97217

LEGAL DESCRIPTION: SEE ATTACHED

CITY, STATE, ZIP: Portland, OR 97217

NAME OF OPERATOR: WASTE RECOVERY, INC.

PERSON IN CHARGE: MARK W. HOPE

ADDRESS: 8501 N. BORTHWICK

CITY, STATE, ZIP: Portland, OR 97217

TELEPHONE NUMBER: (503) 283-2261

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FRANCHISE AGREEMENT

This Franchise is issued by Metro, a municipal corporation organized under ORS chapter 268, referred to herein as "Metro," to Waste Recovery, Inc. referred to herein as "Franchisee."

In recognition of the promises made by Franchisee as specified herein, Metro issues this Franchise, subject to the following terms and conditions:

1. DEFINITIONS

As used in this Franchise:

- 1.1 "Code" means the Code of Metro.
- 1.2 "DEQ" means the Department of Environmental Quality of the State of Oregon.
- 1.3 "Executive Officer" means the Executive Officer of Metro or the Executive Officer's designee.
- 1.4 "Facility" means the facility described in section 3 of this Franchise.
- 1.5 "Processed" means method(s) or system(s) of altering the form or condition of vehicle tires including but not limited to grading for retreading/reuse, shredding, milling, or pulverizing. "Processed" excludes tires received and held in inventory during the reporting period.
- 1.6 "Processing Facility" means a place or piece of equipment where or by which solid wastes are processed. This definition does not include commercial and home garbage disposal units, which are used to process food wastes and are part of the sewage system, hospital incinerations, crematoriums, paper shredders in commercial establishments, or equipment used by a recycling drop center.
- 1.7 "Recovery Rate" is 100 minus "residual rate" as defined in 1.8, expressed as a percentage.
- 1.8 "Residual Rate" is the ratio of: tons of process residual disposed to: tons of tires processed, expressed as a percentage.

2. TERM OF FRANCHISE

This Franchise is issued for a term of five years from the date signed by Metro and the Franchisee, following approval by the Metro Council.

3. LOCATION OF FACILITY

- 3.1 The franchised Facility is located at 8501 N. Borthwick, Portland, Oregon. Attached as Exhibit 1 to this agreement is the legal description of the facility property.

4. OPERATOR, AND OWNER OF FACILITY AND PROPERTY

- 4.1 The owner of the Facility is Waste Recovery, Inc. Franchisee shall notify Metro of any changes in ownership of the Facility in excess of five percent of ownership, or any change in partners if a partnership, within 10 days of the change.
- 4.2 The owner of the property underlying the Facility is Wayne Easley. If Franchisee is not the owner of the underlying property, Franchisee warrants that owner has consented to Franchisee's use of the property as described in this Franchise.
- 4.3 The operator of the Facility is Waste Recovery, Inc. Franchisee may contract with another person or entity to operate the Facility only upon ninety (90) days prior written notice to Metro and the written approval of the Executive Officer, which approval shall not be unreasonably withheld. Franchisee shall retain primary responsibility for compliance with this Franchise.

5. AUTHORIZED AND PROHIBITED SOLID WASTES

- 5.1 Franchisee is authorized to accept all such materials authorized by its DEQ authorization. The authorized materials include waste tires for storage and processing. Tires will be processed via a multi-stage mechanical process to include coarse shredding, granulization and wire liberation, and wire removal via magnetic separation. Tires will also be graded for retreading and reuse.
- 5.2 All vehicles and devices transferring or transporting solid waste via public roads shall be constructed, maintained, and operated to prevent leaking, sifting, spilling, or blowing of solid waste while in transit.
- 5.3 Consistent with DEQ directives, Franchisee shall establish and follow procedures for tire storage, disposal and/or removal. Also a fire prevention plan and emergency fire response plan shall be implemented. These procedures shall be described in writing and submitted to Metro prior to any waste being accepted.
- 5.4 Franchisee may accept loads from its own affiliated hauling companies and other non-affiliated commercial haulers and contractors.

6. MINIMUM MONITORING AND REPORTING REQUIREMENTS

- 6.1 The Franchisee shall file an operating report commencing on the first six-month anniversary date of the Franchise and every six months thereafter, summarizing the previous six month's operation of the Facility as outlined in this Franchise. A sample reporting form is shown as Exhibit 1.

Exhibit 1 -- METRO FRANCHISE FACILITY REPORTING FORM

<p style="text-align: center;">METRO FRANCHISE FACILITY REPORTING FORM For WASTE RECOVERY, INC.</p> <p>1. Reporting Period (write in year for appropriate six-month period): Jan. 1 - June 30 _____ July 1 - Dec. 31 _____</p> <p>2. Tons of tires processed¹ during reporting period _____</p> <p>3. Tons of process residue disposed during reporting period _____</p> <p>4. Wire Recovery Plan milestones accomplished during reporting period (check appropriate milestones below to certify that they have been accomplished): ____ Wire recovery equipment ordered ____ Wire recovery equipment installed ____ Initial operation and debugging of wire recovery system completed</p> <p>¹"Processed" means method(s) or system(s) of altering the form or condition of vehicle tires including but not limited to grading for retreading/reuse, shredding, milling, or pulverizing. "Processed" excludes tires received and held in inventory during the reporting period.</p>
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- 6.2 The Franchisee shall submit to Metro duplicate copies of any regulatory matters pertaining to the Facility, within 30 days of filing with regulatory agency.
- 6.3 Authorized representatives of Metro shall be permitted to inspect information from which all required reports are derived during normal working hours or at other reasonable times with 24-hour notice. Metro's right to inspect shall include the right to review, at an office of Franchisee located in the Portland metropolitan area, all books, records, maps, plans, and other like materials of the Franchisee that are directly related to the operation of the Franchisee. This will include transaction records that establish at the minimum, the following:
- a) Name and account number if credit account (or cash if a cash transaction);
 - b) Quantity of tires received and processed;

- c) Geographic origin of the tires; and,
 - d) Quantity of process residue disposed.
- 6.4 Tires received at the facility shall be reported to Metro based on industry accepted standards for weight per tire of 20 pounds per passenger tire equivalent or on information submitted by the Franchisee to Metro for approval. Unless and until modified, the standard for reporting under this franchise shall be twenty (20) pounds per passenger tire equivalent. .
- 6.5 Where a fee or charge is levied and collected on an accounts receivable basis, pre-numbered tickets shall be used in numerical sequence. The numbers of the tickets shall be accounted for daily and any voided or canceled tickets shall be retained. If transactions are electronically recorded, information shall be in a form that can be audited and shall be approved by Metro.

7. OPERATIONAL REQUIREMENTS

- 7.1 A copy of this Franchise shall be displayed where it can be readily referred to by operating personnel.
- 7.2 If a breakdown of equipment, fire, or other occurrence results in a violation of any conditions of this Franchise or of the Metro Code, the Franchisee shall:
- a) Immediately notify Metro so that an investigation can be made to evaluate the impact and the corrective actions taken and determine additional action that must be taken.
 - b) Take immediate action to correct the unauthorized condition or operation.
 - c) Prepare a report describing all operational irregularities, accidents, and incidents of non-compliance and provide a copy of such report to Metro within ten (10) days of occurrence or sooner if circumstances warrant notification to Metro.
- 7.3 If the Processing Facility is to be closed more than 120 days, Franchisee shall provide Metro with written notice, at least ninety (90) days prior to closure, of the proposed time schedule and closure procedures.
- 7.4 Franchisee shall provide a staff that is qualified to operate the Facility in compliance with this Franchise and to carry out the reporting functions required by this Franchise.

8. ANNUAL FRANCHISE FEES

Franchisee shall pay an annual franchise fee, as established under Metro Code Section 5.03.030. The fee shall be delivered to Metro within 30 days of the effective date of this Franchise and each year thereafter.

9. INSURANCE

- 9.1 Franchisee shall purchase and maintain the following types of insurance, covering Franchisee, its employees, and agents:
- a) Broad form comprehensive general liability insurance covering personal injury, property damage, and personal injury with automatic coverage for premises, operations, and product liability. The policy must be endorsed with contractual liability coverage; and
 - b) Automobile bodily injury and property damage liability insurance.
- 9.2 Insurance coverage shall be a minimum of \$500,000 per occurrence, \$100,000 per person, and \$50,000 property damage. If coverage is written with an annual aggregate limit, the aggregate limit shall not be less than \$1,000,000.
- 9.3 Metro, its elected officials, departments, employees, and agents shall be named as ADDITIONAL INSUREDS. Notice of any material change or policy cancellation shall be provided to Metro 30 days prior to the change or cancellation.
- 9.4 Franchisee, its contractors, if any, and all employers working under this Franchise are subject employers under the Oregon Workers' Compensation Law and shall comply with ORS 656.017, which requires them to provide Workers' Compensation coverage for all their subject workers. Franchisee shall provide Metro with certification of Workers' Compensation insurance including employer's liability.

10. INDEMNIFICATION

Franchisee shall indemnify and hold METRO, its agents, employees, and elected officials harmless from any and all claims, demands, damages, actions, losses and expenses, including attorney's fees, arising out of or in any way connected with Franchisee's performance under this Franchise, including patent infringement and any claims or disputes involving subcontractors.

- 10.1 SURETY BOND OR CONDITIONAL LIEN -- None is required.

11. COMPLIANCE WITH LAW

Franchisee shall fully comply with all federal, state, regional and local laws, rules, regulations, ordinances, orders and permits pertaining in any manner to this Franchise. All conditions imposed on the operation of the Facility by federal, state or local governments or agencies having jurisdiction over the Facility are part of this Franchise by reference as if specifically set forth herein. Such conditions and permits include those attached as exhibits to this Franchise, as well as any existing at the time of issuance of this Franchise and not attached, and permits or conditions issued or modified during the term of this Franchise.

12. METRO ENFORCEMENT AUTHORITY

- 12.1 The franchisee shall not be subject to Metro's authority to divert waste under Metro Code.
- 12.2 Authorized representatives of Metro shall be permitted access to the premises of the Facility at all reasonable times for the purpose of making inspections and carrying out other necessary functions related to this Franchise. Access to inspect is authorized:
 - a) During all working hours;
 - b) At other reasonable times with notice; and
 - c) At any time without notice when, in the opinion of the Metro Regional Environmental Management Department Director, such notice would defeat the purpose of the entry.
- 12.3 The power and right to regulate, in the public interest, the exercise of the privileges granted by this Franchise shall at all times be vested in Metro. Metro reserves the right to establish or amend rules, regulations or standards regarding matters within Metro's authority, and to enforce all such legal requirements against Franchisee.

13. DISPOSAL RATES AND FEES

- 13.1 Franchisee is exempt from Metro rate setting.
- 13.2 Franchisee is exempted from collecting and remitting Metro Fees on waste received at the Facility in conformance with this Agreement.
- 13.3 Franchisee is responsible for paying all costs associated with disposal of residual material generated at the Facility. User Fees shall be paid as follows:
 - a. Notwithstanding sections 13.3 b and 13.3 c below, Franchisee shall pay a User Fee based on a percentage of the prevailing Regional User Fee. Such

percentage shall be based on Franchisee's Residual Rate during the previous calendar year. The rate schedule is:

Residual Rate	Percentage of Regional User Fee	Residual Rate	Percentage of Regional User Fee
60% to 100%	100%	30%	30%
55%	95%	25%	20%
50%	90%	20%	10%
45%	80%	15%	7.5%
40%	60%	10%	5%
35%	40%	5%	2.5%

For purposes of determining the percentage of the Regional User Fee, the terms "tons of process residual" and the "tons of tires processed," as used in Definition 1.1.8 (Residual Rate) of this agreement, shall be the total of these quantities during a calendar year, from January 1 to December 31. The Residual Rate shall be calculated by Metro, based on data submitted by Franchisee to Metro in accordance with Section 6 of this agreement. Inventory adjustments may be incorporated in calculation of the Residual Rate if Franchisee submits beginning and ending inventories, and if such data meet the data standards in Section 6 of this agreement. If Franchisee elects to submit data for inventory adjustments in any particular year, then inventory adjustments shall be incorporated in calculations of Franchisee's residual rates in all years thereafter. The Residual Rate shall be the basis for determining Franchisee's user fee during the subsequent calendar year.

Franchisee's residual rate during the previous year shall be rounded up to the next highest residual rate in the fee schedule above. The indicated percentage of Regional User Fee shall be multiplied by the prevailing Regional User Fee, and this result shall be multiplied by the total tonnage of tires and tire processing residual for which Franchisee paid to dispose.

For example, under this section of the agreement, if Franchisee had achieved a 22% residual rate in the previous year, then the 22% residual rate would be rounded to 25% and the indicated percentage of Regional User Fee would be 20%, according to the schedule above. If the prevailing Regional User Fee is \$17.50 per ton, Franchisee would pay to Metro an amount equal to $.20 \times \$17.50 = \3.50 per ton for each ton of tires and tire processing residual disposed for a fee.

- b. For a period of three years beginning from the initial date of this franchise and while Franchisee implements new wire recovery technology, Franchisee shall pay to Metro a flat User Fee per year. If during this three year period the residual rate exceeds 25%, the terms and conditions of the rate schedule as defined in 13.3a shall apply.
- c. During this three year period, Franchisee shall provide Metro with evidence sufficient to determine that new wire recovery technology is being implemented. Franchisee shall notify Metro in a timely manner when each of the following milestones have been reached:
 1. Ordering of Wire Recovery Equipment
 2. Installation of Wire Recovery Equipment
 3. Initial Operation of Wire Recovery Equipment

In the event that Franchisee abandons implementation of wire recovery technology during the three year period, the flat User Fee per year shall be extended for one year for each of the milestones (13.3 c.1, 2, and 3 above) that have been achieved, for a maximum of three additional years at the flat rate.

- 13.4 Franchisee shall pay the agreed User Fee on an annual basis, the first payment to be due and payable within ten days of receipt of the signed Franchise Agreement.
- 13.5 Disposal of residue shall be at a designated facility under the Metro Code or under authority of a non-system license issued by Metro.
- 13.6 Franchisee shall establish uniform rates to be charged for all loads accepted at the Facility. Franchisee shall establish objective criteria and standards for acceptance of tires and will submit a copy to Metro within 10 days of execution of this agreement. To minimize potential customer conflicts regarding the recoverability of loads, the Franchisee shall minimize the number of rate categories and shall not change the rates during an operating day, but rates may be charged on a continuing basis as market demands may dictate. Public rates charged at the facility shall be posted on a sign near where fees are collected.

14. REVOCATION

- 14.1 This Franchise may be revoked at any time for any violation of the conditions of this Franchise or the Metro Code. This Franchise does not relieve Franchisee from responsibility for compliance with ORS chapter 459, or other applicable federal, state or local statutes, rules, regulations, codes, ordinances, or standards.
- 14.2 This Franchise Agreement is subject to suspension, modification, revocation, or nonrenewal upon finding that:

- a) The Franchisee has violated the terms of this Franchise, the Metro Code, ORS chapter 459, or the rules promulgated thereunder or any other applicable law or regulation; or
- b) The Franchisee has misrepresented material facts or information in the Franchise Application, Annual Operating Report, or other information required to be submitted to Metro; or
- c) The Franchisee has refused to provide adequate service at the Facility, after written notification and reasonable opportunity to do so; or
- d) There has been a significant change in the quantity or character of solid waste received at the Facility, the method of processing solid waste at the Facility, or available methods of processing such waste.

15. GENERAL CONDITIONS

- 15.1 Franchisee shall be responsible for ensuring that its contractors and agents operate in complete compliance with the terms and conditions of this Franchise.
- 15.2 The granting of this Franchise shall not vest any right or privilege in the Franchisee to receive specific quantities of solid waste during the term of the Franchise.
- 15.3 This Franchise may not be transferred or assigned without the prior written approval of Metro.
- 15.4 To be effective, a waiver of any term or condition of this Franchise must be in writing, signed by the Executive Officer. Waiver of a term or condition of this Franchise shall not waive nor prejudice Metro's right otherwise to require performance of the same term or condition or any other term or condition.
- 15.5 This Franchise shall be construed, applied, and enforced in accordance with the laws of the State of Oregon.
- 15.6 If any provision of the Franchise shall be invalid, illegal, or unenforceable in any respect, the validity of the remaining provisions contained in this Franchise shall not be affected.

16. NOTICES

- 16.1 All notices required to be given to the Franchisee under this Franchise shall be delivered to:

Mark W. Hope, President
Waste Recovery, Inc.

8501 N. Borthwick
Portland, OR 97217

- 16.2 All notices except Franchise Facility Reporting For (Exhibit 1) are required to be given to Metro under this Franchise shall be delivered to:

Director, Regional Environmental Management
Regional Environmental Management
Metro
600 NE Grand Avenue
Portland, OR 97232-2736

The Franchise Facility Reporting Form shall be delivered to the attention of: Solid Waste Information System (SWIS) Coordinator, at the address above.

- 16.3 Notices shall be in writing, effective when delivered, or if mailed, effective on the second day after mailed, postage prepaid, to the address for the party stated in this Franchise, or to such other address as a party may specify by notice to the other.

Mark W. Hope, President
Waste Recovery, Inc.

Mike Burton, Executive Officer
Metro

Date: _____

Date: _____

EXHIBIT 1

Legal Description

Swinton Addition, Block 5, Lots 1-36, in the City of Portland, Oregon.

PEN:clk:
S:\SHARE\NORT\FRANCHIS\WASTEREC.125
02/02/96 2:48 PM

AGENDA ITEM: 6.2
Meeting Date: February 29, 1996

SECOND READING

**Ordinance No. 96-632, Amending the FY 1995-96 Budget and Appropriations
Schedule for the Purpose of Adopting the FY 1995-96 Supplemental Budget,
and Declaring an Emergency.**

BEFORE THE METRO COUNCIL

AN ORDINANCE AMENDING THE FY)	ORDINANCE NO. 96-632
1995-96 BUDGET AND APPROPRIATIONS)	
SCHEDULE FOR THE PURPOSE OF)	Introduced by Executive Officer
ADOPTING THE FY 1995-96)	Mike Burton
SUPPLEMENTAL BUDGET, AND)	
DECLARING AN EMERGENCY)	

WHEREAS, Conditions exist which had not been ascertained at the time of the preparation of the FY 1995-96 budget, and a change in financial planning is required; and

WHEREAS, The Multnomah County Tax Supervising and Conservation Commission held its public hearing on the Supplemental Budget of Metro for the fiscal year beginning July 1, 1995, and ending on June 30, 1996; and

WHEREAS, Recommendations from the Tax Supervising and Conservation Commission have been received and acted upon, as reflected in the Supplemental Budget and Schedule of Appropriations; now, therefore,

THE METRO COUNCIL ORDAINS AS FOLLOWS:

1. That the FY 1995-96 Budget and Schedule of Appropriations are hereby amended as shown in the column titled "Revision" of Exhibits A and B to this Ordinance.

This Ordinance being necessary for the immediate preservation of the public health, safety and welfare, in order to meet obligations and comply with Oregon Budget Law, an emergency is declared to exist, and this Ordinance takes effect upon passage.

ADOPTED by the Metro Council this _____ day of _____, 1996.

Jon Kvistad, Presiding Officer

ATTEST:

Recording Secretary

EXHIBIT A
ORDINANCE NO. 96-632
FY 1995-96 SUPPLEMENTAL BUDGET

Regional Parks and Expo Fund

		FISCAL YEAR 1995-96							
		ADOPTED BUDGET		REVISED BUDGET		REQUESTED CHANGE		PROPOSED BUDGET	
ACCT #	DESCRIPTION	FTE	AMOUNT	FTE	AMOUNT	FTE	AMOUNT	FTE	AMOUNT
Resources									
<u>Resources</u>									
305000	Fund Balance - general (Intergov't Rev)		0		0		0		0
391010	Trans. of Resources from General Fund		0		0		0		0
REGIONAL PARKS & GREENSPACES									
305000	Fund Balance - Unrestricted		288,000		288,000		0		288,000
305000	Fund Balance - restricted		143,196		143,196		0		143,196
322000	Boat Ramp Use Permit		930		930		0		930
331110	Federal Grants-Operating-Direct		0		0		0		0
	National Parks Service		0		0		0		0
	U.S. Fish & Wildlife Service (Years 1 & 2)		58,428		58,428		0		58,428
	U.S. Fish & Wildlife Service (Year 3)		336,813		336,813		0		336,813
	U.S. Fish & Wildlife Service (Year 4)		374,716		374,716		0		374,716
331120	Federal Grants-Operating-Indirect		0		0		0		0
	NSF/Saturday Academy		0		0		0		0
	FHWA/CMAQ		42,500		42,500		0		42,500
331300	Federal Grants-Capital		0		0		0		0
334110	State Grants-Operating-Direct		0		0		0		0
	Oregon State Parks		0		0		0		0
	Oregon State Marine Board		0		65,000		0		65,000
337210	Local Grants-Operating-Direct		0		0		0		0
	Portland Parks		5,000		5,000		0		5,000
	Tualatin Hills Parks & Recreation District		0		0		0		0
	Lake Oswego (trails)		0		0		0		0
	Portland Parks (trails)		0		0		0		0
	Milwaukie (trails)		0		0		0		0
	Gresham		500		500		0		500
	City of Portland, IPA/EPA		4,500		4,500		0		4,500
	Local governments		0		0		0		0
	Bybee-Howell		0		0		0		0
338000	Local Gov't Shared Revenues-R.V. Registration Fees		249,394		249,394		0		249,394
338200	Local Gov't Shared Revenues		140,000		140,000		0		140,000
339200	Intergovernmental Revenue (County transfer 1/1/94)		0		0		0		0
339200	Contract Services		1,315,662		1,315,662		0		1,315,662
339300	Government Contributions		10,500		22,500		0		22,500
341700	Cemetery Services		111,395		111,395		0		111,395
341710	Cemetery Sales		60,791		60,791		0		60,791
347100	Admissions		287,250		287,250		0		287,250
347110	User Fees		0		0		0		0
347120	Reservation Fees		100,930		100,930		0		100,930
347151	Annual Passes		0		0		0		0
347152	Family Camp Fees		25,116		25,116		0		25,116
347153	Group Camp Fee		6,047		6,047		0		6,047
347220	Rental-Buildings		23,023		23,023		0		23,023
347300	Food Service		4,093		4,093		0		4,093
347810	Management Fee Income - Glendoveer income		692,028		692,028		0		692,028

EXHIBIT A
ORDINANCE NO. 96-632
FY 1995-96 SUPPLEMENTAL BUDGET

Regional Parks and Expo Fund

		FISCAL YEAR 1995-96							
		ADOPTED BUDGET		REVISED BUDGET		REQUESTED CHANGE		PROPOSED BUDGET	
ACCT #	DESCRIPTION	FTE	AMOUNT	FTE	AMOUNT	FTE	AMOUNT	FTE	AMOUNT
Resources									
347830	Contract Revenue - Glendoveer Lease		18,977		18,977		0		18,977
347840	Concessions Revenue		7,348		7,348		0		7,348
347900	Other Miscellaneous Revenue		22,834		22,834		0		22,834
347960	Boat Launch Fees		128,372		128,372		0		128,372
361100	Interest Earned		13,685		13,685		0		13,685
365100	Donations & Bequests		0		0		0		0
373500	Sale of Proprietary Assets		17,170		17,170		0		17,170
391010	Trans. of Resources from General Fund		533,709		533,709		0		533,709
391010	Trans. of Res. from Gen'l Fund (landbanking)		0		87,180		0		87,180
391010	Trans. of Res. from Gen'l Fund (earned on Parks/Expo)		213,329		213,329		0		213,329
391140	Trans. Resources from Planning Fund		0		0		0		0
393150	Trans. Direct Costs from Open Spaces Fund		64,132		64,132		0		64,132
393761	Trans. Direct Costs from Smith & Bybee Lakes Fund		50,470		50,470		0		50,470
393765	Trans. Direct Costs from Regional Parks Trust Fund		4,000		4,000		0		4,000
EXPO CENTER									
305000	Fund Balance - Unrestricted								
	• Unrestricted		272,348		272,348		355,734		628,082
	• Capital Requirements		133,000		133,000		0		133,000
	• Renewal & Replacement		700,000		700,000		0		700,000
339200	Contract & Professional Services		0		0		0		0
347220	Rental-Buildings		562,051		562,051		0		562,051
347230	Rental-Equipment		0		0		0		0
347300	Food Service		1,221,400		1,221,400		0		1,221,400
347311	Food Service-Concessions		0		0		0		0
347320	Food Service-Catering		0		0		0		0
347600	Utility Services		46,511		46,511		0		46,511
347620	Utility Services-Telephone		0		0		0		0
347700	Commission Revenue		0		0		0		0
347900	Other Miscellaneous Revenue		40,851		40,851		0		40,851
361100	Interest Earned		66,000		66,000		0		66,000
372100	Reimbursements-Labor		30,523		30,523		0		30,523
374000	Parking Fees		681,302		681,302		0		681,302
385600	Loan Proceeds		0		0		2,500,000		2,500,000
TOTAL FUND RESOURCES			9,108,824		9,273,004		2,855,734		12,128,738

**EXHIBIT A
ORDINANCE NO. 96-632
FY 1995-96 SUPPLEMENTAL BUDGET**

Regional Parks and Expo Fund

		FISCAL YEAR 1995-96							
		ADOPTED BUDGET		REVISED BUDGET		REQUESTED CHANGE		PROPOSED BUDGET	
ACCT #	DESCRIPTION	FTE	AMOUNT	FTE	AMOUNT	FTE	AMOUNT	FTE	AMOUNT
Regional Parks and Greenspaces									
	Total Personal Services	46.60	1,832,791	47.10	1,860,171	0.00	0	47.10	1,860,171
	Total Materials & Services		1,736,830		1,902,130		0		1,902,130
	Total Capital Outlay		1,174,700		1,166,200		0		1,166,200
TOTAL REGIONAL PARKS EXPENDITURES		46.60	4,744,321	47.10	4,928,501	0.00	0	47.10	4,928,501
Expo Center									
	Total Personal Services	11.83	525,266	11.83	525,266	0.00	0	11.83	525,266
	Total Materials & Services		1,233,245		1,233,245		0		1,233,245
	Capital Outlay								
571200	Purchases-Improvements		75,000		75,000		0		75,000
571300	Buildings, Exhibits & Related		80,000		80,000		0		80,000
571400	Equipment and Vehicles		31,200		31,200		0		31,200
571500	Purchases-Office Furniture & Equipment		5,250		5,250		0		5,250
574120	Architectural Services		0		0		1,000,000		1,000,000
574130	Engineering Services		0		0		1,500,000		1,500,000
	Total Capital Outlay		191,450		191,450		2,500,000		2,691,450
TOTAL EXPO CENTER EXPENDITURES		11.83	1,949,961	11.83	1,949,961	0.00	2,500,000	11.83	4,449,961
General Expenses									
	Total Interfund Transfers		640,736		640,736		0		640,736
	Contingency and Unappropriated Balance								
599999	Contingency								
	• Undesignated		333,265		313,265		355,734		668,999
	• Open Spaces Bonds		64,132		64,132		0		64,132
599990	Unappropriated Balance		0		0		0		0
	• Undesignated		636,409		636,409		0		636,409
	• Expo Center Renewal & Replacement		740,000		740,000		0		740,000
	Total Contingency and Unappropriated Balance		1,773,806		1,753,806		355,734		2,109,540
TOTAL FUND REQUIREMENTS		58.43	9,108,824	58.93	9,273,004	0.00	2,855,734	58.93	12,128,738

Exhibit B
Ordinance No. 96-632
FY 1995-96 SCHEDULE OF APPROPRIATIONS

FISCAL YEAR 1995-96

	ADOPTED BUDGET	REVISED BUDGET	REQUESTED CHANGE	PROPOSED BUDGET
REGIONAL PARKS AND EXPO FUND				
Regional Parks and Greenspaces				
Personal Services	1,832,791	1,860,171	0	1,860,171
Materials & Services	1,736,830	1,902,130	0	1,902,130
Capital Outlay	1,174,700	1,166,200	0	1,166,200
Subtotal	4,744,321	4,928,501	0	4,928,501
Expo Center				
Personal Services	525,266	525,266	0	525,266
Materials & Services	1,233,245	1,233,245	0	1,233,245
Capital Outlay	191,450	191,450	2,500,000	2,691,450
Subtotal	1,949,961	1,949,961	2,500,000	4,449,961
Interfund Transfers	640,736	640,736	0	640,736
Contingency	397,397	377,397	355,734	733,131
Unappropriated Balance	1,376,409	1,376,409	0	1,376,409
Total Fund Requirements	\$9,108,824	\$9,273,004	\$2,855,734	\$12,128,738

All Other Appropriations Remain As Previously Adopted

STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 96-2278 APPROVING THE FY 1995-96 SUPPLEMENTAL BUDGET AND TRANSMITTING THE APPROVED BUDGET TO THE TAX SUPERVISING AND CONSERVATION COMMISSION, AND ORDINANCE NO. 96-632 AMENDING THE FY 1995-96 BUDGET AND APPROPRIATIONS SCHEDULE FOR THE PURPOSE OF ADOPTING THE FY 1995-96 SUPPLEMENTAL BUDGET, AND DECLARING AN EMERGENCY

Date: January 29, 1996

Presented by: Pat LaCrosse
Heather Teed

FACTUAL BACKGROUND AND ANALYSIS

A supplemental budget is necessary due to unforeseen circumstances that require changes in our financial planning. These Council actions are presented toward adopting a supplemental budget for FY 1995-96. Ordinance No. 96-632 revises the FY 95-96 budget and appropriations schedule to recognize an additional \$2.5 million in revenue and \$355,734 in beginning fund balance at Expo Center, to be used for the current fiscal year's expenses in constructing a new building at Expo and to increase contingency. The \$2.5 million is to be raised through issuance of a privately placed bond backed by future Expo revenues. Issuance of this bond will be subject to Council approval. This Ordinance is presented at this time but is not intended to be adopted until after the Tax Supervising and Conservation Commission (TSCC) conducts a public hearing. TSCC review is required under Oregon Budget Law because total appropriations are being increased by more than ten percent of the value of the fund's adopted expenditures. Resolution No. 96-2278 approves the Supplemental Budget and transmits the approved budget to the TSCC. Specific changes to the budget under this proposal are explained below.

The Expo Center is in need of both extensive renovation to the existing facility, as well as expansion of the facility to improve business opportunities. If expansion and renovation are to take place as recommended, expansion should come first so there will be a facility for Expo's clients to use while the current facility is closed for renovation. This supplemental budget will provide appropriation authority to begin construction in this fiscal year, to meet the goal of completing the new facility with 120,000 square feet of exhibit space by March of 1997. The source of funds to begin work this year is to be a privately placed bond. Such a bond is different from more typical bonds that are issued through competitive bid or negotiated sale, in that purchase of the bond and terms for repayment are negotiated with one buyer prior to the bond's issuance. Metro is in discussions with a likely purchaser of the bond, and there is the expectation that a final agreement will be concluded within a month.

The expansion project is estimated to cost \$13 million. Funding sources for the project are as follows:

Oregon Convention Center fund balance	\$ 9.0 million
Expo Center fund balance	\$ 1.0 million
Bond proceeds	\$ 2.5 million
<u>Grant or loan from unidentified source</u>	<u>\$ 0.5 million</u>
TOTAL	\$13.0 million

The money from the OCC and Expo fund balances cannot be made available before July 1, 1996, as those funds are budgeted this fiscal year as Unappropriated Balance and cannot be expended under Oregon Budget Law. The Executive's Proposed Budget will propose the use of these funds for this project. The Convention Center funds must be approved for use on this project by Multnomah County, whose hotel/motel tax ordinance now precludes the use of the tax proceeds beyond the Convention Center. Discussions with the County on this matter are currently taking place. Finally, discussions are also under way to determine a source of the final \$500,000 if those funds are needed to complete the project.

The project schedule calls for actual construction to begin in June of 1996. Prior to that, architectural and engineering work will be done to prepare the site and draw plans for the building. MERC has authorized execution of a contract for architectural services with Yost Grube Hall, P.C., who is working on the project now. The process also calls for a general contractor to be retained early in the process, and to be included in design development work to reduce project costs and accelerate project completion. Preliminary projections anticipate expenditure or commitment of over \$1.7 million on the project by June 1, primarily on design and engineering work; MERC staff also expects to order the steel for the project this fiscal year, which may require some up-front payment in May or June.

SUMMARY OF BUDGET IMPACT

Specific line item changes and appropriation modifications are provided in Exhibits A and B to the Ordinance. The following is a summary of the changes requested in the Supplemental Budget for FY 1995-96:

<u>Resources</u>	Regional Parks & Expo Fund
• Beginning Fund Balance	\$ 355,734
• <u>Loan Proceeds</u>	<u>\$2,500,000</u>
TOTAL RESOURCES	\$2,855,734
<u>Requirements</u>	
• Capital Outlay	\$2,500,000
• <u>Contingency</u>	<u>\$ 355,734</u>
TOTAL REQUIREMENTS	\$2,855,734

EXECUTIVE OFFICER'S RECOMMENDATION

The Executive Officer recommends approval of Resolution No. 96-2278 approving the Supplemental Budget and transmitting the Approved Supplemental Budget to the Tax Supervising and Conservation Commission. In addition, following TSCC review and certification, the Executive Officer recommends adoption of Ordinance No. 96-632, adopting the FY 1995-96 Supplemental Budget, recognizing the increases in operating revenues and requirements for the Expo portion of the Regional Parks & Expo Fund to facilitate construction of a new facility at the Expo Center and to increase contingency.

AGENDA ITEM: 7.1
Meeting Date: February 29, 1996

**Resolution No. 96-2288, For the Purpose of Initiation a New Functional Plan
Ordinance to Implement 2040 Growth Concept**

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF INITIATING) RESOLUTION NO. 96-2288
A NEW FUNCTIONAL PLAN TO)
IMPLEMENT 2040 GROWTH) Introduced by Susan McLain
CONCEPT) Metro Councilor

WHEREAS, the Metro Council adopted 1995 Regional Urban Growth Goals and Objectives ("RUGGO"), including the 2040 Growth Concept Ordinance No. 95-625A on December 14, 1995; and

WHEREAS, on January 16, 1996, the Metro Council Growth Management Committee received and discussed recommendations from three advisory committees that the Metro Council adopt a functional plan of regionwide measures for early implementation of the 2040 Growth Concept; and

WHEREAS, the Metro Council's authority in ORS 268.390 to adopt functional plans which recommend and require changes in city and county comprehensive plans is the mechanism to establish uniform regionwide requirements for the region's 24 cities and 3 counties; and

WHEREAS, the functional plan process in Goal I, Objective 5 of adopted RUGGO provides that either the Metro Council may propose, or the Charter-based Metro Policy Advisory Committee ("MPAC") may recommend, preparation of a new functional plan; and

WHEREAS, MPAC has recommended adoption of a new functional plan containing early implementation of the 2040 Growth Concept; and

WHEREAS, the Joint Policy Advisory Committee on Transportation ("JPACT") has recommended general transportation approaches to early 2040 Growth Concept implementation

which Metro staff is using to prepare a Discussion Draft of additional specific implementation measures; and

WHEREAS, RUGGO Objective 5.2.2 states that matters required by the Charter to be addressed in the regional framework plan shall constitute sufficient factual reasons for development of a new functional plan; and

WHEREAS, RUGGO Objective 5.2.2 prescribes MPAC participation in the preparation of the plan and citizen involvement, including an MPAC recommendation; now, therefore,

BE IT RESOLVED,

1. That implementation of the 2040 Growth Concept has a significant impact upon the orderly and responsible development of the metropolitan area.
2. That an Urban Growth Management functional plan shall be prepared consistent with RUGGO, Goal I, for early implementation of the 2040 Growth Concept.
3. That the scope of the functional plan shall include at least the following: changing zoning maps to permit implementation of the 2040 Growth Concept overall and in mixed use areas; establishing parking standards; protecting natural resources and water quality; managing retail uses in employment areas; implementing rural reserves and green corridors; and matching local transportation plans with the 2040 Growth Concept.
4. That the new functional plan containing these measures shall begin to address regional transportation and mass transit systems, management of the urban growth boundary and protection of lands outside the boundary, housing densities, urban design, and open spaces which

are subject matters required by 1992 Metro Charter, Section 5(2)(b) to be addressed in the regional framework plan.

5. That, after preparation of the plan and seeking continued broad public and local government consensus, using citizen involvement processes established by cities, counties and Metro, the MPAC shall recommend the Urban Growth Management functional plan to the Metro Council for Metro Council action.

ADOPTED by _____ this ____ day of _____ 1996.

Jon Kvistad, Presiding Officer

Approved as to form:

Daniel B. Cooper, General Counsel

jep
1260



METRO

Date: February 7, 1996

To: Metro Council
Mike Burton, Executive Officer

From: *LS*
Larry Shaw, Senior Assistant Counsel

Subject: Initiating the Early Implementation Functional Plan

Introduction:

The Council Growth Management Committee has received MPAC, JPACT, and WRPAC recommendations that a functional plan on early implementation of the 2040 Growth Concept be adopted. This memo explains the attached draft resolution which formally initiates such a new functional plan under RUGGO and ORS 268.390. The full substance of a draft functional plan ordinance is neither needed nor helpful for this mandatory resolution step.

Functional Plan Authority:

The Metro Council has broad authority to adopt functional plans. ORS 268.390(2) allows the Council to identify "aspects of metropolitan area development" for which functional plans should be developed. Because the statutory authority is so broad, Metro adopted its own policy to give reasons for new functional plans in the functional plan process adopted in 1991 RUGGO and retained in 1995 RUGGO.

1992 Metro Charter Requirements:

In addition to identifying planning as Metro's "most important service," the Charter requires a regional framework plan. That mandatory plan must "address" nine subject areas by December 31, 1997. If the regional policies in that plan on those mandatory subjects include enforceable direction to change comprehensive plans, those policies must be adopted in a functional plan using the functional plan process.

RUGGO, Goal I, Objective 5: Functional Plan Process:

Implementing the Metro Charter, MPAC is included in the functional plan process. MPAC may, as here, recommend a new functional plan. Once the Metro Council identifies a functional plan subject area as in the draft resolution here, MPAC assists in preparation and citizen involvement of the plan. MPAC, also, makes a recommendation to the Metro Council.

Objective 5.2.2 applies the requirements of the Metro Charter to the reasons statement required by RUGGO. It states that the subject matters which the Charter requires to be addressed in the regional framework plan are sufficient "reasons" for a functional plan.

Functional Plan Scope:

The "aspects of metropolitan development" for the Urban Growth Management functional plan have been identified in MPAC's six regionwide interim measures and JPACT's recommendation to begin matching 2040 land use with transportation. These "aspects" relate to mandatory Charter subjects. Specifically, changing zoning overall and in mixed use areas and changing parking standards helps manage the UGB by more efficiently using the land inside the UGB before amending it. Protecting natural resources and water quality addresses urban design, the limits of housing densities and open spaces. Managing retail uses in employment areas addresses urban design and regional transportation systems. Implementing rural reserves and green corridors begins protection of lands outside the boundary. Matching city and county transportation plans with the 2040 Growth Concept addresses regional transportation systems and urban design.

Conclusion:

The draft resolution initiating the new functional plan as required in the RUGGO process merely identifies the subject areas for a proposed functional plan. The RUGGO reasons requirement for this resolution is met by identifying the Charter matters to be addressed by the new plan. This process resolution required by RUGGO Objective 5 is separate from the functional plan itself. Functional plans must be adopted by ordinance following an MPAC recommendation and a Metro Council public hearing.

cc: Dan Cooper
John Fregonese
Mark Turpel

jep
2155

AGENDA ITEM: 7.2
Meeting Date: February 29, 1996

**Resolution No. 96-2284, For the Purpose of Approving the Contract that will
Execute the U. S. Environmental Protection Agency (EPA) Grant to Metro for
the Clackamas River Watershed Technical Project**

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF APPROVING THE) RESOLUTION NO. 96-2284
CONTRACTS WITH OREGON GRADUATE)
INSTITUTE, WETLANDS CONSERVANCY) Introduced by Mike Burton,
AND FRIENDS OF THE CLACKAMAS) Executive Officer
RIVER THAT WILL EXECUTE THE)
U.S. ENVIRONMENTAL PROTECTION)
AGENCY (EPA) GRANT TO METRO FOR)
THE CLACKAMAS RIVER WATERSHED)
TECHNICAL PROJECT)

WHEREAS, Metro recognizes the need to understand the region's water resources and watersheds and to develop technical information and data for them; and

WHEREAS, the Clackamas River is a regionally significant source of municipal drinking water, important cold water fishery and recreation area, all of which are affected by Metro's land use decisions; and

WHEREAS, the United States Environmental Protection Agency (EPA) has identified the Clackamas River as a significant resource in the Willamette River watershed; and

WHEREAS, EPA requested that Metro submit a grant proposal in cooperation with the Oregon Graduate Institute, Wetlands Conservancy and the Friends of the Clackamas River for funding to carry out the Clackamas River Watershed Technical Project; and

WHEREAS, the EPA awarded funds to Metro, in cooperation with its grant partners, to implement the Clackamas River Watershed Technical Project to produce technical information, develop a rapid field assessment methodology and to assess citizen stewardship needs; now therefore,

BE IT RESOLVED,

1. That Metro enter into contracts with the Oregon Graduate Institute, the Wetlands Conservancy and the Friends of the Clackamas River to implement the EPA-funded

Clackamas River Watershed Technical Project to develop technical information, maps and analyses.

ADOPTED by the Metro Council this _____ day of _____, 1996.

Jon Kvistad, Presiding Officer

Approved as to Form:

Daniel B. Cooper, General Counsel

STAFF REPORT

CONSIDERATION OF RESOLUTION NO. 96-2284 FOR THE PURPOSE OF APPROVING THE CONTRACTS THAT WILL EXECUTE THE U.S. ENVIRONMENTAL PROTECTION AGENCY (EPA) GRANT TO METRO FOR THE CLACKAMAS RIVER WATERSHED TECHNICAL PROJECT

Date: February 1, 1996

Presented by Rosemary Furfey

PROPOSED ACTION

This resolution provides that the Metro Council approve the contracts with the Oregon Graduate Institute's Student Watershed Research Project, Wetlands Conservancy and Friends of the Clackamas River that will execute the U.S. Environmental Protection Agency (EPA) grant that has been awarded to Metro and these partners for development of technical information, maps, watershed analyses and citizen monitoring for the Clackamas River watershed.

FACTUAL BACKGROUND

In early 1994, Metro staff began meeting with the U.S. Environmental Protection Agency's (EPA) Willamette Basin Initiative coordinator to explore opportunities for funding watershed technical analyses and mapping in the Clackamas River watershed. The Clackamas River watershed is of interest to Metro because a significant portion of the Region 2040 growth is projected for the Clackamas River watershed, it is also a significant regional source of drinking water and it is a significant cold water fishery for the Pacific Northwest. Because of these and other factors, staff sought financial resources to carry out technical work to address the current and future natural resource issues in the watershed.

The EPA Willamette Basin Initiative has funded project in the upper and mid-Willamette basin. EPA was seeking a project in the lower basin and the Clackamas River became EPA's focus due to its important salmon fishery and federal forest management issues. Based on several regional meetings, EPA identified potential project cooperators in the Metro region and requested a project proposal for the Clackamas River watershed. The organizations EPA chose to submit a joint proposal were: Metro, the Wetlands Conservancy and the Oregon Graduate Institute's Student Watershed Research Project (SWRP). In cooperation with these agencies, Metro identified the following key stakeholders to participate in the project: Clackamas County Utility Department, U.S. Forest Service, U.S. Bureau of Land Management, Clackamas River Water District and the EPA Laboratory in Corvallis.

Metro formed a technical committee made up of these representatives to provide technical assistance in developing a grant proposal and to ensure the project was complementary to work being coordinated by other agencies. The grant proposal was submitted to EPA by Metro on May 5, 1995. The grant was awarded by EPA to Metro on September 28, 1995, for a total amount of \$ 127,000. A project work plan and detailed schedule was submitted and accepted by

EPA in October 1995.

The goals of the first year of work are:

- survey and identify technical data available from different sources in the watershed;
- identify data gaps and make recommendations for addressing data deficiencies; survey existing rapid assessment methodologies and identify a method to use in selected sub-basins in the Clackamas River watershed;
- survey and identify current stewardship activities in the watershed and identify opportunities for future stewardship and restoration activities;
- initiate and fund a student watershed monitoring team in the Clackamas River watershed; and
- produce maps and other technical data which will be available to project cooperators and the public.

Metro staff made an informational presentation to the Metro Council's Growth Management Committee after the grant was awarded by EPA. The Metro Executive Officer made a presentation to the full Metro Council about the grant, its work plan and contract with EPA on December 14, 1995. Copies of the work plan and contract with EPA were provided at that briefing.

It is essential that the Council approve the contracts (attached as Exhibit A) with the partners designated by EPA in the grant so that staff can complete the tasks outlined in the work plan approved by EPA.

EXECUTIVE OFFICER'S RECOMMENDATION

The Executive Officer recommends adoption of Resolution No. 96-2284.

AGREEMENT

THIS AGREEMENT is entered into between Metro, a metropolitan service district organized under the laws of the State of Oregon and the 1992 Metro Charter, located at 600 N.E. Grand Avenue, Portland, Oregon 97232-2736; and The Wetlands Conservancy, P.O. Box 1195, Tualatin, Oregon 97062, hereinafter referred to as PARTICIPANT.

Recitals:

WHEREAS, Metro has received a grant from the Environmental Protection Agency (EPA) for The Clackamas River Watershed Project, and under the terms of this grant a portion of said grant was set aside for participation by The Wetlands Conservancy; and

WHEREAS, Metro and PARTICIPANT desire to jointly accomplish a planning process for The Clackamas River Watershed Project which involves participation in technical research, technical meetings facilitation and public involvement; and

WHEREAS, Metro is empowered by ORS 268.350 to contract with any public agency to plan for aspects of land use and transportation having a significant impact upon the orderly and responsible development of the metropolitan area; and

WHEREAS, The participating parties include Metro and The Wetlands Conservancy; and

WHEREAS, Funding for the planning project is intended to consist of contributions from Metro and the U.S. Environmental Protection Agency (EPA). The CFDA program number and title for the federal funding is 66.SPX, Water Quality 104(b)3. Participant is considered a sub-recipient for purposes of this agreement; and

In consideration of the mutual covenants herein set forth, Metro and PARTICIPANT agree as follows:

Agreements:

1. Scope of Work

PARTICIPANT shall perform the specific tasks described in the Scope of Work identified as Exhibit "A," which is attached hereto and incorporated by reference as part of this Agreement. All services and materials shall be provided by PARTICIPANT in accordance with the Scope of Work in a competent and professional manner. The PARTICIPANT shall perform such additional work as may be necessary to correct errors in the work required under this Agreement without undue delays and without additional costs.

2. Term of Agreement

The term of the Agreement shall commence on December 1, 1995, and terminate on September 30, 1996, unless terminated earlier under the provisions of the Agreement.

3. Obligations of Metro

- a. Metro is the lead agency and project manager and will serve as liaison with the Environmental Protection Agency and other participating parties in all substantive and procedural matters relating to the project.
- b. Metro shall administer funding, including the local match component and all revenues and expenditures and ensure prompt payment of all invoices upon approval as outlined in the method of payment section of this Agreement.
- c. Metro will promptly respond to requests by PARTICIPANT for information and consultation regarding the project's Scope of Work.
- d. Metro will reimburse PARTICIPANT for expenses incurred in the performance of consultant and staff activities in accordance with the Scope of Work, budget and payment sections of this Agreement.

4. Obligations of Participant

- a. PARTICIPANT will perform those tasks identified within the Scope of Work (Exhibit A). Task descriptions in the work scope, and any applicable corresponding changes in the project scope of work and budget (identified as Exhibit A, attached hereto, and by this reference made a part hereto), only may be changed in writing jointly by Metro and PARTICIPANT. Any such modifications shall not exceed the total contract amount.
- b. PARTICIPANT will participate as required in the project's public involvement activities as outlined in the Scope of Work.
- c. PARTICIPANT will participate as outlined in the Scope of Work in the study's advisory committees.
- d. PARTICIPANT will maintain detailed and accurate records of all funds expended and all work performed with regard to this Agreement, and shall make such records

available to Metro for inspection at any reasonable time. Participant will promptly provide Metro's Accounting Division with a copy of any subsequent single audit report for this Project as required by the Single Audit Act of 1984 and thereby demonstrate full and complete compliance with all grant requirements.

e. PARTICIPANT will submit monthly invoices and progress reports describing progress and work completed. Reports will be itemized by agreed upon budget categories.

5. Compensation to PARTICIPANT

a. Total amount of this contract shall not exceed SEVENTEEN THOUSAND SIX HUNDRED FORTY AND NO/100S DOLLARS (\$17,640.00). Metro will provide the matching funds for the federal funding.

b. PARTICIPANT shall be compensated for actual work performed as specified in the Scope of Work, not to exceed the total amount of this contract. In the event that the costs for the actual work for any individual task is projected to exceed the amount budgeted for that task in the project budget, attached as Exhibit A, PARTICIPANT's Project Manager shall obtain written approval from Metro's Project Manager for the applicable budget reallocation within the total project budget prior to exceeding the amount budgeted for that task.

6. Method of Payment

a. For work completed, PARTICIPANT shall send Metro monthly invoices accompanied with the description of the work performed. The invoice shall be in a format specified by Metro. These invoices shall document services provided by PARTICIPANT itemized by task and Work Element as specified in the Scope of Work and supported by documentation for reimbursable costs. Metro will review invoices for consistency with the Scope of Work and this Agreement.

b. All costs charged to the project shall be supported by properly executed payrolls, time records, invoices, contracts or vouchers evidencing the nature and relationship to Work Elements in the Scope of Work for any such charges as further detailed herein. For direct salary costs and fringe benefits, invoice documentation must consist of time sheets listing hours worked by Work Element identified in the Scope of Work and a calculation of the applicable hourly payroll rate and fringe benefits earned based on actual time worked. Time sheets and other applicable fringe benefit information must be retained for inspection.

For direct non-salary costs, invoice documentation must consist of copies of invoices of costs, including but not limited to services performed by contractors, reproduction, computer and communication expense, postage, telephone, supplies and transportation. Major items of equipment required for the tasks identified in the Scope of Work may be purchased with Metro's advance written approval and will be included in the Agreement as direct costs. The cost of specialized items of equipment will be limited to the amount of depreciation during the period of use as ascertained at the completion of the Study. Such items of equipment must be used primarily on, and required for, work incident to this Agreement, and must be of reasonable cost.

Direct costs will also include reasonable travel expenses that are directly related to production of a specific product in the Scope of Work, including meals, lodging, transportation and incidental expenses for personnel while away from their headquarters overnight. Reimbursement for travel expenses shall be made in conformance with the established reimbursement policy of the agency claiming such expenses. Reimbursement of participant travel expenses shall be in accordance with the contract with the participant.

If PARTICIPANT uses a project allocation system, PARTICIPANT may submit project reports in lieu of time sheets and invoices, provided that the project allocation report consists of, at a minimum, the following elements: date, description (vendor name, employee name), reference number and cost.

An overhead rate may be used for portions of direct costs provided that the overhead rate is adjusted to the actual costs at least annually, and provided that no costs billed as part of the overhead rate are also billed directly. The overhead rate adjustment shall be reflected in an invoice at least annually.

PARTICIPANT's invoice shall contain a statement signed by PARTICIPANT's Project Manager certifying that the costs have been incurred in the performance of the Scope of Work.

c. Metro will compensate PARTICIPANT directly for each invoice after Metro has received reimbursement from funding sources consistent with section 5, above. Metro shall coordinate reimbursement requests and payments.

7. Project Managers

The overall coordination and direction shall be provided by Metro's Project Manager. Metro's Project Manager is Rosemary Furfey. PARTICIPANT's Project Manager is Esther Lev. Any change of Project Manager by Metro or PARTICIPANT shall be noticed in writing to the other party.

8. Notices

All notices provided for hereunder shall be in writing and sufficient if deposited in the United States mail, postage prepaid, to the parties addressed as indicated below:

Metro

Rosemary Furfey
Growth Management Services
Metro
600 NE Grand Avenue
Portland, OR 97232-2736

Participant

Esther Lev
The Wetlands Conservancy
P.O. Box 1195
Tualatin, OR 97062

9. Liability and Indemnity

PARTICIPANT shall indemnify Metro for and hold Metro harmless from all claims arising out of the negligent acts or omissions caused by PARTICIPANT or PARTICIPANT's officers, employees or agents, subject to the provisions of the Oregon Tort Claims Act and the Oregon Constitution. PARTICIPANT shall be liable to Metro for any damage to Metro's property or injury to Metro's officers, employees or agents caused by PARTICIPANT, subject to the provisions of the Oregon Tort Claims Act and the Oregon Constitution.

Metro shall indemnify PARTICIPANT for, and hold PARTICIPANT harmless from, all claims arising out of the negligent acts or omissions caused by Metro or Metro's officers, employees or agents, subject to the provisions of the Oregon Tort Claims Act and the Oregon Constitution. Metro shall be liable to PARTICIPANT for any damage to PARTICIPANT's property or injury to PARTICIPANT's officers, employees or agents caused by Metro subject to the provisions of the Oregon Tort Claims Act and the Oregon Constitution.

10. Termination for Default

PARTICIPANT shall be deemed to be in material breach if it fails to comply with any provisions of this Agreement or if its progress in performance of its obligations is so unsatisfactory that contract performance of the Scope of Work of this Agreement is seriously impaired. Prior to termination under this provision, Metro shall provide PARTICIPANT with written notice of default and allow PARTICIPANT thirty (30) days within which to cure the defect. In the event PARTICIPANT does not cure the defect within thirty (30) days, Metro may terminate all or any part of this Agreement for default. PARTICIPANT shall be paid the contract price only for services performed in accordance with the manner of performance set forth in this Agreement.

PARTICIPANT shall be liable to Metro for all reasonable costs and actual damages incurred by Metro as a result of a termination for default.

If, after notice of termination, the parties agree or a court finds that PARTICIPANT was not in default or that the default was excusable, such as a strike, fire, flood or other event that is not the fault of, or is beyond the control of PARTICIPANT, Metro may allow PARTICIPANT to continue work, or may treat the termination as a termination for convenience, in which case the rights of the parties shall be the same as if the termination had been for Metro's convenience.

11. Termination for Convenience

Metro or PARTICIPANT may terminate all or part of this contract upon determining that termination is in the public interest. Termination under this paragraph shall be effective upon delivery of written notice of termination to Metro or PARTICIPANT. Upon termination under this paragraph, PARTICIPANT shall be entitled to payment in accordance with the terms of the contract for contract work completed before termination, and to payment for all reasonable contract close-out costs. Within thirty (30) days after termination pursuant to this paragraph, PARTICIPANT shall submit itemized invoice for all unreimbursed work within the Scope of Work of this Agreement completed before termination and all close-out costs actually incurred by PARTICIPANT. Metro shall not be liable for any costs invoiced later than thirty (30) days after termination unless PARTICIPANT can show good cause beyond its control for the delay.

12. Applicable Laws

All applicable provisions of ORS chapters 187 and 279, and all other terms and conditions necessary to be inserted into public contracts in the State of Oregon, are hereby incorporated as if such provision were a part of this Agreement, including but not limited to ORS 279.015 to 279.320 and 279.555.

Specifically, it is a condition of this Agreement that participant and all employers working under this Agreement are subject employers under the Oregon Worker's Compensation Law and shall comply with ORS 656.017 which requires them to provide worker's compensation for all their subject workers.

13. Documents are Public Property

All records, reports, data, documents, systems and concepts, whether in the form of writings, figures, graphs or models which are prepared or developed in connection with

this project shall become public property. All work products provided by Metro pursuant to this Agreement shall be made available to PARTICIPANT, and all work products provided by PARTICIPANT pursuant to this Agreement shall be made available to Metro.

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Comprehensive records and documentation relating to the Scope of Work shall be maintained by Metro, PARTICIPANT and all of their contractors.

Each party shall establish and maintain books, records, documents and other evidence of accounting procedures and practices, sufficient to properly reflect all direct and indirect costs of whatever nature claimed to have been incurred and anticipated to be incurred for the performance of this Agreement. To facilitate the administration of the project, separate accounts shall be established and maintained within Metro's existing accounting system or set up independently. Such accounts are referred to herein collectively as the "Project Account." PARTICIPANT shall charge to a Project Account all eligible costs of the project. Costs in excess of the latest approved budget, not performed in accordance with the Scope of Work or attributable to actions which have not received the required approval of Metro, shall not be considered eligible costs.

15. Audits, Inspections and Retention of Records

Metro, the U.S. Environmental Protection Agency and any of their representatives, shall have full access to and the right to examine, during normal business hours and as often as they deem necessary, all of PARTICIPANT's and Metro's records with respect to all matters covered by this Agreement. Such representatives shall be permitted to audit, examine and make excerpts or transcripts from such records, and to make audits of all contracts, invoices, materials, payrolls and other matters covered by this Agreement. All documents, papers, time sheets, accounting records and other materials pertaining to costs incurred in connection with the project shall be retained by PARTICIPANT and Metro and all of their contractors for three years from the date of completion of the project, or expiration of the grant agreement, whichever is later, to facilitate any audits or inspection.

A final determination of the allowability of costs charged to the project may be made on the basis of an audit or other review. Metro shall notify PARTICIPANT of any disallowed amounts stating the reasons therefor. Any funds paid to PARTICIPANT in excess of the amount to which PARTICIPANT is finally determined to be entitled under the terms of this Agreement constitute a debt to Metro, and shall be returned by PARTICIPANT to Metro.

16. Independent Contractor

PARTICIPANT shall be deemed an independent contractor for all purposes, and the employees of PARTICIPANT or any of its contractors, subcontractors and the employees thereof, shall not in any manner be deemed to be the employees of Metro. As such, the employees of PARTICIPANT, its contractors and subcontractors shall not be subject to any withholding for tax, social security or other purposes by Metro, nor shall such contractor, subcontractor or employee be entitled to sick leave, pension benefits, vacation, medical benefits, life insurance, workers or unemployment compensation of the like from Metro.

17. Compliance With Laws and Regulations

Metro and PARTICIPANT shall adhere to all applicable federal, state and local laws, regulations and policies including, but not limited to those included in "Exhibit B, Federal Requirements," and those related to Workers' Compensation, those of the Contract Work Hours and Safety Standards Act, and those relating to equal employment opportunity, nondiscrimination, and affirmative action including, but not limited to, those regulations implementing Executive Order No. 11246 of the President of the United States and Section 402 of the Vietnam Readjustment Act of 1973. Metro and PARTICIPANT shall adhere to all safety standards and regulations established by Metro for work performed on its premises or under its auspices. The regulatory authority is 40CFR, Part 31.

18. Subcontract Inclusions

PARTICIPANT shall include language substantially similar to the language contained in Exhibit B, Federal Requirements of this Agreement in all subcontracts entered into pursuant to this Agreement.

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Neither Metro nor PARTICIPANT shall assign any of their respective rights acquired hereunder without obtaining prior written approval from the other party. Any attempted assignment of this Agreement without the written consent of both parties shall be void. Neither PARTICIPANT nor Metro by this Agreement incurs any liability to third persons for payment of any compensation provided herein to Metro or PARTICIPANT except as provided under the terms of this Agreement.

21. Quality of Work

PARTICIPANT agrees that all work shall be completed in a manner consistent with standards prevailing in the industry for similar work. In this regard, PARTICIPANT will make every effort to understand Metro's intent with respect to the quality of work expected for this project, and to undertake its work accordingly. Time of performance will be a critical factor in the success of this effort. PARTICIPANT shall make every effort to comply with the Scope of Work during its performance of activities under this Agreement's time lines.

22. Reports

Publication of all reports shall give credit to the funding parties. The following statement will be included in each report

Preparation of this report has been funded in part by the U.S. Environmental Protection Agency. The opinions, findings and conclusions expressed in this report are those of the authors and are not necessarily those of the U.S. Environmental Protection Agency and Metro.

23. Labor and Material

PARTICIPANT shall provide and pay for all labor, materials, equipment, tools, water, heat, utilities, transportation, and other facilities and services necessary for the proper execution and completion of all tasks identified in the Scope of Work, all at no cost to Metro other than the compensation provided in this Agreement.

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The failure to enforce any provision of this Agreement shall not constitute a waiver by Metro of that or any other provision.

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Either party may request changes in these provisions. Such changes which are mutually agreed upon shall be incorporated as written amendments to this Agreement. No variation or alteration of the terms of this Agreement shall be valid unless made in writing and signed by authorized representatives of the parties hereto.

27. Severability

If any covenant or provision in this Agreement shall be adjudged void, such adjudication shall not affect the validity, obligation or performance of any other covenant or provision which in itself is valid, if such remainder would then continue to conform with the terms and requirements of applicable law and the intent of this contract.

IN WITNESS THEREOF, the parties have executed this Agreement on the day and year first written above.

METRO

THE WETLANDS CONSERVANCY

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

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03/25/95

EXHIBIT A

SCOPE OF WORK

TASKS OF THE WETLANDS CONSERVANCY
THE CLACKAMAS RIVER WATERSHED PROJECT

- Task 1.2 The Wetland Conservancy (TWC) staff will work with Metro staff to write job description and participate in application screening and to interview potential candidates.
16 hrs. Cost: \$ 640 November-December 1995
Product: Staff person hired and working on project
- Task 1.3 TWC staff will write scope of work and make all necessary partnership agreements with Metro.
5 hrs. Cost: \$ 200 November 1995
Product: Scope of work acceptable to all project partners
- Task 1.4 TWC staff will work with Metro staff to develop a survey form to be sent to all groups and agencies that may have technical information on the Clackamas River watershed
8 hrs. Cost: \$ 320 December 1995
Product: Data survey
- Task 1.6 TWC staff will work with Metro staff to design and facilitate meeting with Technical Advisory Committee to share results of surveys and interviews
10 hrs. Cost: \$ 400 January 1996
Product: Workshop
- Task 2.1 TWC staff will visit EPA Lab in Corvallis and review any rapid assessment protocols they have in their reference library. Researchers at Oregon State University will be interviewed about various methodologies as well as telephone interviews with other sources around the United States.
22 hrs. Cost: \$ 80 April 1996
Product: Matrix summarizing data and interviews
- Task 2.2 TWC staff will work with Metro staff to design and facilitate workshops with technical committee to define long-term objectives for the Clackamas watershed.
30 hrs. Cost: \$ 1,200 April 1996
Product: Written summary of long-term objectives

- Task 2.4 Based on review of watershed assessment methodologies, TWC will make a recommendation for protocol most suitable for the Clackamas watershed.
8 hrs. Cost: \$ 320 May 1996
Product: Written recommendation of methodology
- Task 2.5 Plan and facilitate meeting with Technical Advisory Committee to approve a rapid assessment methodology and choose several sub-basins within the Clackamas watershed to test the methodology.
8 hrs. Cost: \$ 320 May 1996
Product: Methodology and selection of sites
- Task 3.1 TWC staff will help to identify technical assistance needs of friends and citizen groups interested in doing restoration within the Clackamas watershed.
15 hrs. Cost: \$ 600 May to July 1996
Product: A list of groups and technical assistance needs
- Task 3.2 TWC staff will meet with staff and citizens involved in the McKenzie River Watershed Council and Private Landowner Project on the mid-Willamette Valley. In addition, a minimum of two exchanges between citizens of all three groups will be arranged.
100 hrs. Cost: \$ 4,000 May to August 1996
Product: A minimum of two citizen exchanges
- Task 3.3 Conduct outreach to private landowners in several of the sub-basins. Identify interests and needs of private landowners that are compatible with restoration and protection of the bio-diversity of the Clackamas River watershed.
40 hrs. Cost: \$ 1,600 July to August 1996
Product: A list of interested landowners and potential projects
- Task 3.5 Based on information collected from citizen groups, public property owners and private landowners develop criteria for a small grants restoration program.
10 hrs. Cost: \$ 400 August 1996
Product: Criteria for small grants program
- Task 4.1 Work with Metro staff and all other partners to evaluate the success of this effort. Based on results from the evaluation, develop a draft year two work plan. Meet with technical committee to discuss evaluation and draft year two work plan.
96 hrs. Cost: \$ 3,840 July to August 1996
Product: Written evaluation, draft year two work plan and budget

Task 5.1 On-going project coordination among partners. This will consist of a minimum
of one meeting per month.
96 hrs. Cost: \$ 2,920 November 1995 to August 1996
Product: Monthly meeting report

Total Hours: 441 @ \$40/Hr.

Total Budget: \$ 17,640

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EXHIBIT B

FEDERAL REGULATIONS
EPA GRANT

CLACKAMAS RIVER WATERSHED

1. The recipient agrees that it will comply with the provisions of OMB Circular A-12 governing the audit of State and local government and Indian tribe federal assistance recipients for fiscal years that begin after December 31, 1984.
2. The Financial Status Report (FSR), Standard Form 269, for this award shall be submitted to the Grants Administration Section, MD-140, within 90 days after the end of the budget period. If the period is longer than one year, or if the agreement is revised to extend the budget period beyond one year, the recipient must submit an annual FSR within 90 days after the end of each anniversary of the agreement.
3. No portion of this award may be used for lobbying or propaganda purposes as prohibited by 18 U.S.C. Section 1913 or Section 607(a) of Public Law 96-74.
4. The cost principles of OMB Circular A-87 are applicable to this award. When indirect costs are included within the assistance budget, the recipient must be in compliance with A-87 and EPA regulations regarding allowable project costs. Actual indirect costs charged to this Assistance Agreement may not exceed the final approved rates as negotiated annually between the recipient and the appropriate cognizant Federal agency. A copy of the negotiated rate must be submitted to Region 10 Grants Administration Section and will become part of the Grants file.
5. Pursuant to EPA Order 1000.25, dated January 24, 1990, the recipient agrees to use recycled paper for all reports which are prepared as a part of this agreement and delivered to the Agency. This requirement does not apply to Standard Forms. These forms are printed on recycled paper as available through the General Services Administration.
6. Effective October 1, 1994, the recipient agrees to ensure that all conference, meeting, convention, or training space funded in whole or in part with Federal funds, complies with the Hotel and Motel Fire Safety Act of 1990.
7. **Small and Disadvantaged Business Utilization Requirements**

In accordance with EPA's policy on the utilization of socially and economically disadvantaged individuals and disadvantaged business enterprises (DBE) in procurement under assistance programs, the recipient agrees to:

- a. Ensure to the fullest extent possible that at least 8% of Federal funds for prime contracts or subcontracts for supplies, construction, equipment or services are made available to organizations owned or controlled by socially and economically disadvantaged individuals.
- b. Include in its bid documents a requirement that prime contractors and subcontractors meet the same 8% requirement as noted in the above paragraph.
- c. Follow the six affirmative steps stated in 40 CFR 33.240 or 40 CFR 31.36(e), as appropriate.
- d. Follow Standard Form (SF) 334 ("MBE/WBE Utilization Under Federal Grants, Cooperative Agreements, and Other Federal Financial Assistance") reporting requirements.
 1. The recipient agrees to submit SF-334 beginning with the Federal fiscal quarter the recipient awards its first contract and continuing until all contracts and subcontracts have been reported.
 2. These reports must be submitted quarterly to EPA, Region 10, Grants Administration Section MD-140, 1200 Sixth Ave., Seattle, WA 98101.
 3. The SF-334s are due no later than 30 days after each reporting quarter. Reporting quarters are: (1) Oct. thru Dec., (2) Jan. thru Mar., (3) Apr. thru Jun., and (4) Jul. thru Sept.

8. **Small Business in Rural Areas (SBRAs)**

If a contract is awarded under this assistance agreement, the recipient agrees and is required to utilize the following affirmative steps to the maximum extent practicable:

- a. Place SBRAs on solicitation lists;
- b. Make sure that SBRAs are solicited whenever there are potential sources;
- c. Divide total requirements, when economically feasible, into small tasks or quantities to permit maximum participation by SBRAs;
- d. Establish delivery schedules, where the requirements of work will permit, which would encourage participation by SBRAs;

- e. Use the services of the Small Business Administration and the Minority Business Development Agency of the U.S. Department of Commerce, as appropriate; and
- f. Require the contractor to comply with the affirmative steps outlined above if subcontracts are awarded.

There is no formal reporting requirement for SBRAs at this time; it is recommended that the recipient keep records of SBRA participation.

AGREEMENT

THIS AGREEMENT is entered into between Metro, a metropolitan service district organized under the laws of the State of Oregon and the 1992 Metro Charter, located at 600 N.E. Grand Avenue, Portland, Oregon 97232-2736; and The Oregon Graduate Institute, Student Watershed Research Project (SWRP), P. O. Box 91000, Portland, Oregon 97291-1000, hereinafter referred to as PARTICIPANT.

Recitals:

WHEREAS, Metro has received a grant from the Environmental Protection Agency (EPA) for The Clackamas River Watershed Project, and under the terms of this grant a portion of said grant was set aside for participation by The Oregon Graduate Institute, Student Watershed Research Project; and

WHEREAS, Metro and PARTICIPANT desire to jointly accomplish a planning process for The Clackamas River Watershed Project which involves participation in technical research, technical meetings facilitation and public involvement; and

WHEREAS, Metro is empowered by ORS 268.350 to contract with any public agency to plan for aspects of land use and transportation having a significant impact upon the orderly and responsible development of the metropolitan area; and

WHEREAS, The participating parties include Metro and The Oregon Graduate Institute; and

WHEREAS, Funding for the planning project is intended to consist of contributions from Metro and the U.S. Environmental Protection Agency (EPA). The CFDA program number and title for the federal funding is 66.SPX, Water Quality 104(b)3. Participant is considered a sub-recipient for purposes of this agreement; and

In consideration of the mutual covenants herein set forth, Metro and PARTICIPANT agree as follows:

Agreements:

1. Scope of Work

PARTICIPANT shall perform the specific tasks described in the Scope of Work identified as Exhibit "A," which is attached hereto and incorporated by reference as part of this Agreement. All services and materials shall be provided by PARTICIPANT in accordance

with the Scope of Work in a competent and professional manner. The PARTICIPANT shall perform such additional work as may be necessary to correct errors in the work required under this Agreement without undue delays and without additional costs.

2. Term of Agreement

The term of the Agreement shall commence on December 1, 1995, and terminate on September 30, 1996, unless terminated earlier under the provisions of the Agreement.

3. Obligations of Metro

- a. Metro is the lead agency and project manager and will serve as liaison with the Environmental Protection Agency and other participating parties in all substantive and procedural matters relating to the project.
- b. Metro shall administer funding, including the local match component and all revenues and expenditures and ensure prompt payment of all invoices upon approval as outlined in the method of payment section of this Agreement.
- c. Metro will promptly respond to requests by PARTICIPANT for information and consultation regarding the project's Scope of Work.
- d. Metro will reimburse PARTICIPANT for expenses incurred in the performance of consultant and staff activities in accordance with the Scope of Work, budget and payment sections of this Agreement.

4. Obligations of Participant

- a. PARTICIPANT will perform those tasks identified within the Scope of Work (Exhibit A). Task descriptions in the work scope, and any applicable corresponding changes in the project scope of work and budget (identified as Exhibit A, attached hereto, and by this reference made a part hereto), only may be changed in writing jointly by Metro and PARTICIPANT. Any such modifications shall not exceed the total contract amount.
- b. PARTICIPANT will participate as required in the project's public involvement activities as outlined in the Scope of Work.
- c. PARTICIPANT will participate as outlined in the Scope of Work in the study's advisory committees.

d. PARTICIPANT will maintain detailed and accurate records of all funds expended and all work performed with regard to this Agreement, and shall make such records

available to Metro for inspection at any reasonable time. Participant will promptly provide Metro's Accounting Division with a copy of any subsequent single audit report for this Project as required by the Single Audit Act of 1984 and thereby demonstrate full and complete compliance with all grant requirements.

e. PARTICIPANT will submit monthly invoices and progress reports describing progress and work completed. Reports will be itemized by agreed upon budget categories.

5. Compensation to PARTICIPANT

a. Total amount of this contract shall not exceed TEN THOUSAND AND NO/100S DOLLARS (\$10,000.00). Metro will provide the matching funds for the federal funding.

b. PARTICIPANT shall be compensated for actual work performed as specified in the Scope of Work, not to exceed the total amount of this contract. In the event that the costs for the actual work for any individual task is projected to exceed the amount budgeted for that task in the project budget, attached as Exhibit A, PARTICIPANT's Project Manager shall obtain written approval from Metro's Project Manager for the applicable budget reallocation within the total project budget prior to exceeding the amount budgeted for that task.

6. Method of Payment

a. For work completed, PARTICIPANT shall send Metro monthly invoices accompanied with the description of the work performed. The invoice shall be in a format specified by Metro. These invoices shall document services provided by PARTICIPANT itemized by task and Work Element as specified in the Scope of Work and supported by documentation for reimbursable costs. Metro will review invoices for consistency with the Scope of Work and this Agreement.

b. All costs charged to the project shall be supported by properly executed payrolls, time records, invoices, contracts or vouchers evidencing the nature and relationship to Work Elements in the Scope of Work for any such charges as further detailed herein. For direct salary costs and fringe benefits, invoice documentation must consist of time sheets listing hours worked by Work Element identified in the Scope of Work and a calculation of the applicable hourly payroll rate and fringe benefits earned based on

actual time worked. Time sheets and other applicable fringe benefit information must be retained for inspection.

For direct non-salary costs, invoice documentation must consist of copies of invoices of costs, including but not limited to services performed by contractors, reproduction, computer and communication expense, postage, telephone, supplies and transportation. Major items of equipment required for the tasks identified in the Scope of Work may be purchased with Metro's advance written approval and will be included in the Agreement as direct costs. The cost of specialized items of equipment will be limited to the amount of depreciation during the period of use as ascertained at the completion of the Study. Such items of equipment must be used primarily on, and required for, work incident to this Agreement, and must be of reasonable cost.

Direct costs will also include reasonable travel expenses that are directly related to production of a specific product in the Scope of Work, including meals, lodging, transportation and incidental expenses for personnel while away from their headquarters overnight. Reimbursement for travel expenses shall be made in conformance with the established reimbursement policy of the agency claiming such expenses. Reimbursement of participant travel expenses shall be in accordance with the contract with the participant.

If PARTICIPANT uses a project allocation system, PARTICIPANT may submit project reports in lieu of time sheets and invoices, provided that the project allocation report consists of, at a minimum, the following elements: date, description (vendor name, employee name), reference number and cost.

An overhead rate may be used for portions of direct costs provided that the overhead rate is adjusted to the actual costs at least annually, and provided that no costs billed as part of the overhead rate are also billed directly. The overhead rate adjustment shall be reflected in an invoice at least annually.

PARTICIPANT's invoice shall contain a statement signed by PARTICIPANT's Project Manager certifying that the costs have been incurred in the performance of the Scope of Work.

c. Metro will compensate PARTICIPANT directly for each invoice after Metro has received reimbursement from funding sources consistent with section 5, above. Metro shall coordinate reimbursement requests and payments.

7. Project Managers

The overall coordination and direction shall be provided by Metro's Project Manager. Metro's Project Manager is Rosemary Furfey. PARTICIPANT's Project Manager is Jane Blair. Any change of Project Manager by Metro or PARTICIPANT shall be noticed in writing to the other party.

8. Notices

All notices provided for hereunder shall be in writing and sufficient if deposited in the United States mail, postage prepaid, to the parties addressed as indicated below:

Metro

Rosemary Furfey
Growth Management Services
Metro
600 NE Grand Avenue
Portland, OR 97232-2736

Participant

Jane Blair, Director
Oregon Graduate Institute
Student Watershed Research Prj.
P.O. Box 91000
Portland, OR 97291-1000

9. Liability and Indemnity

PARTICIPANT shall indemnify Metro for and hold Metro harmless from all claims arising out of the negligent acts or omissions caused by PARTICIPANT or PARTICIPANT's officers, employees or agents, subject to the provisions of the Oregon Tort Claims Act and the Oregon Constitution. PARTICIPANT shall be liable to Metro for any damage to Metro's property or injury to Metro's officers, employees or agents caused by PARTICIPANT, subject to the provisions of the Oregon Tort Claims Act and the Oregon Constitution.

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10. Termination for Default

PARTICIPANT shall be deemed to be in material breach if it fails to comply with any provisions of this Agreement or if its progress in performance of its obligations is so unsatisfactory that contract performance of the Scope of Work of this Agreement is seriously impaired. Prior to termination under this provision, Metro shall provide PARTICIPANT with written notice of default and allow PARTICIPANT thirty (30) days within which to cure the defect. In the event PARTICIPANT does not cure the defect within thirty (30) days, Metro may terminate all or any part of this Agreement for default. PARTICIPANT shall be paid the contract price only for services performed in accordance with the manner of performance set forth in this Agreement.

PARTICIPANT shall be liable to Metro for all reasonable costs and actual damages incurred by Metro as a result of a termination for default.

If, after notice of termination, the parties agree or a court finds that PARTICIPANT was not in default or that the default was excusable, such as a strike, fire, flood or other event that is not the fault of, or is beyond the control of PARTICIPANT, Metro may allow PARTICIPANT to continue work, or may treat the termination as a termination for convenience, in which case the rights of the parties shall be the same as if the termination had been for Metro's convenience.

11. Termination for Convenience

Metro or PARTICIPANT may terminate all or part of this contract upon determining that termination is in the public interest. Termination under this paragraph shall be effective upon delivery of written notice of termination to Metro or PARTICIPANT. Upon termination under this paragraph, PARTICIPANT shall be entitled to payment in accordance with the terms of the contract for contract work completed before termination, and to payment for all reasonable contract close-out costs. Within thirty (30) days after termination pursuant to this paragraph, PARTICIPANT shall submit itemized invoice for all unreimbursed work within the Scope of Work of this Agreement completed before termination and all close-out costs actually incurred by PARTICIPANT. Metro shall not be liable for any costs invoiced later than thirty (30) days after termination unless PARTICIPANT can show good cause beyond its control for the delay.

12. Applicable Laws

All applicable provisions of ORS chapters 187 and 279, and all other terms and conditions necessary to be inserted into public contracts in the State of Oregon, are hereby incorporated as if such provision were a part of this Agreement, including but not limited to ORS 279.015 to 279.320 and 279.555.

Specifically, it is a condition of this Agreement that participant and all employers working under this Agreement are subject employers under the Oregon Worker's Compensation Law and shall comply with ORS 656.017 which requires them to provide worker's compensation for all their subject workers.

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All records, reports, data, documents, systems and concepts, whether in the form of writings, figures, graphs or models which are prepared or developed in connection with this project shall become public property. All work products provided by Metro pursuant to this Agreement shall be made available to PARTICIPANT, and all work products provided by PARTICIPANT pursuant to this Agreement shall be made available to Metro.

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and all of their contractors for three years from the date of completion of the project, or expiration of the grant agreement, whichever is later, to facilitate any audits or inspection.

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Metro and PARTICIPANT shall adhere to all applicable federal, state and local laws, regulations and policies including, but not limited to those included in "Exhibit B, Federal Requirements," and those related to Workers' Compensation, those of the Contract Work Hours and Safety Standards Act, and those relating to equal employment opportunity, nondiscrimination, and affirmative action including, but not limited to, those regulations implementing Executive Order No. 11246 of the President of the United States and Section 402 of the Vietnam Readjustment Act of 1973. Metro and PARTICIPANT shall adhere to all safety standards and regulations established by Metro for work performed on its premises or under its auspices. The regulatory authority is 40CFR, Part 31.

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PARTICIPANT agrees that all work shall be completed in a manner consistent with standards prevailing in the industry for similar work. In this regard, PARTICIPANT will make every effort to understand Metro's intent with respect to the quality of work expected for this project, and to undertake its work accordingly. Time of performance will be a critical factor in the success of this effort. PARTICIPANT shall make every effort to comply with the Scope of Work during its performance of activities under this Agreement's time lines.

22. Reports

Publication of all reports shall give credit to the funding parties. The following statement will be included in each report

Preparation of this report has been funded in part by the U.S. Environmental Protection Agency. The opinions, findings and conclusions expressed in this report are those of the authors

and are not necessarily those of the U.S. Environmental Protection Agency and Metro.

23. Labor and Material

PARTICIPANT shall provide and pay for all labor, materials, equipment, tools, water, heat, utilities, transportation, and other facilities and services necessary for the proper execution and completion of all tasks identified in the Scope of Work, all at no cost to Metro other than the compensation provided in this Agreement.

24. No Waiver of Claims

The failure to enforce any provision of this Agreement shall not constitute a waiver by Metro of that or any other provision.

25. Agreement Modifications

Either party may request changes in these provisions. Such changes which are mutually agreed upon shall be incorporated as written amendments to this Agreement. No variation or alteration of the terms of this Agreement shall be valid unless made in writing and signed by authorized representatives of the parties hereto.

27. Severability

If any covenant or provision in this Agreement shall be adjudged void, such adjudication shall not affect the validity, obligation or performance of any other covenant or provision which in itself is valid, if such remainder would then continue to conform with the terms and requirements of applicable law and the intent of this contract.

IN WITNESS THEREOF, the parties have executed this Agreement on the day and year first written above.

METRO

OREGON GRADUATE INSTITUTE

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

EXHIBIT A

SCOPE OF WORK

**TASKS OF THE OREGON GRADUATE INSTITUTE
THE CLACKAMAS RIVER WATERSHED PROJECT
Student Watershed Research Project (SWRP)**

Objective 1: Identify and inventory technical data

Task 1.3 Write contracts with project partners and finalize project agreements.

SWRP Write project workplan and formalize administrative arrangements.

Products: Workplan and contract

Objective 3: Stewardship and Education

Task 3.4 Initiate and support one new Student Watershed Research Project (SWRP) group in the Clackamas River watershed. Continuation funding for one additional student group.

Products: One new student watershed group funded and one continuing group maintained.

Background: The Student Watershed Research Project (SWRP) involves teachers and students in field research with practicing scientists. Students work with government agencies and university researchers to collect, interpret and communicate data from a local watershed. It is the mission of SWRP to develop awareness, knowledge, skills and commitment leading to responsible behavior and constructive actions with regard to water quality and watershed resources. Initial funding for SWRP was provided by the National Science Foundation and participating agencies.

Overview: These funds will be primarily used to support Nancy Jacobson, teacher at Clackamas High School. Nancy is a new teacher to SWRP representing initial involvement of Clackamas High School. Secondly, funds will be used to support Linda Heinrick at Parkrose High School. Linda is new to the SWRP program and will be continuing monitoring performed by previous Parkrose High School teachers.

Teachers will train students extensively in the classroom and field to collect and analyze physical, chemical and biological data to each of two sampling sites.

Sub-Task A: School Costs

The direct school costs involve the initial acquisition of monitoring equipment, chemicals and supplies for us throughout the year, reimbursement of costs for bus transportation and for substitute teachers in order to allow participation in field monitoring.

The school groups will analyze the quality of the watershed by measuring several in-stream chemical parameters, quantifying microbiological contamination, performing macroinvertebrate and vegetation inventories, and completing an overall habitat assessment. Students participate in field data collection activities to monitor trends and improve understanding of natural and human influences in the basin.

The Clackamas High School group will be taking a minimum of two trips (October and April) to sites on Rock Creek in Clackamas County. Rock Creek is a tributary of the Clackamas River a couple of miles northwest of the town of Carver. Monitoring may also be performed on Kellogg Creek, a tributary of the Willamette River in the Clackamas/Milwaukie area. This will add to one and a half years of prior data on Rock Creek.

Product: Field analysis and initial reporting of data from two sites on Rock Creek in Clackamas County, in both October and April.

The Parkrose High School group will be taking two trips (October and April) to two sites on Eagle Creek, a tributary of the Clackamas River near Estacada. This will add to two years of prior data on Eagle Creek.

Product: Field analysis and initial reporting of data from two sites on Eagle Creek in Clackamas County, in both October and April.

Sub-Task B: Training

Initial training occurred at a four-day workshop July 31-August 3, 1995 to prepare teachers for the 1995-96 school year. Additional training occurs throughout the year to cover all aspects of the SWRP project. Additional training includes computer software needed for data compilation and data transfer, specific technical help with areas corresponding to each teacher's previous background.

Product: Teachers with the technical skills and practice needed to utilize data collection equipment and techniques and subsequently train their students.

Sub-Task C: Technical Support

All data collected through the SWRP program is audited by project staff for scientific credibility prior to including in the project database. Results are compared to Quality Control values analyzed by professional labs, where applicable. All data is reviewed in the context of the methods used. After review, data results are discussed with each participating teacher.,

Prior to field monitoring, student groups analyze the nutrient concentrations of synthetic samples made by participating agency laboratories. The concentrations are then compared to the known concentrations of these nutrients as an initial step in a rigorous quality control program. During the field testing, duplicate samples are collected and analyzed at commercial and participating agency laboratories to check the accuracy of student data. Plant collections are reviewed and checked for proper identifications by project staff.

Data are transmitted to a regional database and then disseminated to agencies and community groups. Watershed data are maintained on a project-developed database at the Oregon Graduate Institute of Science and Technology. Quality control data are stored and reported with student data. This system is designed to provide custom reports in a variety of formats for use by participating agencies, community groups and students.

Product: Inclusion of new data from Rock Creek and Eagle Creek into the SWRP database.

Sub-Task D: Site Reports and Data Presentation

Additional SWRP teachers are performing watershed monitoring within the Clackamas and lower Willamette watersheds. There are a total of eight sites in the Clackamas Basin with a SWRP monitoring history. Teachers and students working on these sites will produce comprehensive site reports including previous data and descriptions of each site.

Products: Site reports on the Clackamas River (2 sites) and tributaries, Deep Creek (2 sites), Eagle Creek (2 sites), Rock Creek (2 sites).

Annual one-day watershed summit at Pacific University in Forest Grove, Oregon. Students present their findings to representatives of cooperating agencies and institutions in an open poster session and oral presentations. The fourth Watershed Summit is scheduled for May 17, 1996.

Products: Student oral and poster presentations.

Objective 5: Project Management and Coordination

Task 5.1 Conduct monthly steering committee meetings (Metro, Wetlands Conservancy and SWRP) and produce periodic project status reports and distribute to technical committee partners in the watershed and to EPA. Coordinate all technical advisory committee meetings and communication with cooperators in the watershed and elsewhere.

Product: Steering committee and periodic project status reports.

**BUDGET
 FOR WILLAMETTE BASIN INITIATIVE
 STUDENT WATERSHED RESEARCH PROJECT**

(1995-96)

Item	Clackamas High School (full support)	Parkrose High School (partial support)	Additional Schools	Total
School Costs:				
Start-up Equip	\$ 1,750			\$ 1,750
Supplies	400	200		600
Bus Trans.	250	100		350
Sub. Teachers	350	100		450
Training:				
Workshop	500			500
Additional training	500	500		1,000
Technical Support:				
Database Support	1,000	1,000		2,000
Quality Control	1,000	1,000		2,000
Final Outcome:				
Site Reports	200	200	250	650
Presentations	350	350		700
Total Budgeted:	\$ 6,300	\$ 3,450	\$ 250	\$10,000

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 12/15/95

AGREEMENT

THIS AGREEMENT is entered into between Metro, a metropolitan service district organized under the laws of the State of Oregon and the 1992 Metro Charter, located at 600 N.E. Grand Avenue, Portland, Oregon 97232-2736; and Friends of the Clackamas River, Attn: Wade Newbegin, Treasurer, 10025 S.W. Allen, Beaverton, Oregon 97005, hereinafter referred to as PARTICIPANT.

Recitals:

WHEREAS, Metro has received a grant from the Environmental Protection Agency (EPA) for The Clackamas River Watershed Project, and under the terms of this grant a portion of said grant was set aside for participation by The Wetlands Conservancy; and

WHEREAS, Metro and PARTICIPANT desire to jointly accomplish a planning process for The Clackamas River Watershed Project which involves participation in technical research, technical meetings facilitation and public involvement; and

WHEREAS, Metro is empowered by ORS 268.350 to contract with any public agency to plan for aspects of land use and transportation having a significant impact upon the orderly and responsible development of the metropolitan area; and

WHEREAS, The participating parties include Metro and Friends of the Clackamas River; and

WHEREAS, Funding for the planning project is intended to consist of contributions from Metro and the U.S. Environmental Protection Agency (EPA). The CFDA program number and title for the federal funding is 66.SPX, Water Quality 104(b)3. Participant is considered a sub-recipient for purposes of this agreement; and

In consideration of the mutual covenants herein set forth, Metro and PARTICIPANT agree as follows:

Agreements:

1. Scope of Work

PARTICIPANT shall perform the specific tasks described in the Scope of Work identified as Exhibit "A," which is attached hereto and incorporated by reference as part of this Agreement. All services and materials shall be provided by PARTICIPANT in accordance with the Scope of Work in a competent and professional manner. The PARTICIPANT shall perform such additional work as may be necessary to correct errors in the work required under this Agreement without undue delays and without additional costs.

2. Term of Agreement

The term of the Agreement shall commence on December 1, 1995, and terminate on September 30, 1996, unless terminated earlier under the provisions of the Agreement.

3. Obligations of Metro

- a. Metro is the lead agency and project manager and will serve as liaison with the Environmental Protection Agency and other participating parties in all substantive and procedural matters relating to the project.
- b. Metro shall administer funding, including the local match component and all revenues and expenditures and ensure prompt payment of all invoices upon approval as outlined in the method of payment section of this Agreement.
- c. Metro will promptly respond to requests by PARTICIPANT for information and consultation regarding the project's Scope of Work.
- d. Metro will reimburse PARTICIPANT for expenses incurred in the performance of consultant and staff activities in accordance with the Scope of Work, budget and payment sections of this Agreement.

4. Obligations of Participant

- a. PARTICIPANT will perform those tasks identified within the Scope of Work (Exhibit A). Task descriptions in the work scope, and any applicable corresponding changes in the project scope of work and budget (identified as Exhibit A, attached hereto, and by this reference made a part hereto), only may be changed in writing jointly by Metro and PARTICIPANT. Any such modifications shall not exceed the total contract amount.
- b. PARTICIPANT will participate as required in the project's public involvement activities as outlined in the Scope of Work.
- c. PARTICIPANT will participate as outlined in the Scope of Work in the study's advisory committees.
- d. PARTICIPANT will maintain detailed and accurate records of all funds expended and all work performed with regard to this Agreement, and shall make such records available to Metro for inspection at any reasonable time. Participant will promptly

provide Metro's Accounting Division with a copy of any subsequent single audit report for this Project as required by the Single Audit Act of 1984 and thereby demonstrate full and complete compliance with all grant requirements.

e. PARTICIPANT will submit monthly invoices and progress reports describing progress and work completed. Reports will be itemized by agreed upon budget categories.

5. Compensation to PARTICIPANT

a. Total amount of this contract shall not exceed TWO THOUSAND AND NO/100S DOLLARS (\$2,000.00). Metro will provide the matching funds for the federal funding.

b. PARTICIPANT shall be compensated for actual work performed as specified in the Scope of Work, not to exceed the total amount of this contract. In the event that the costs for the actual work for any individual task is projected to exceed the amount budgeted for that task in the project budget, attached as Exhibit A, PARTICIPANT's Project Manager shall obtain written approval from Metro's Project Manager for the applicable budget reallocation within the total project budget prior to exceeding the amount budgeted for that task.

6. Method of Payment

a. For work completed, PARTICIPANT shall send Metro monthly invoices accompanied with the description of the work performed. The invoice shall be in a format specified by Metro. These invoices shall document services provided by PARTICIPANT itemized by task and Work Element as specified in the Scope of Work and supported by documentation for reimbursable costs. Metro will review invoices for consistency with the Scope of Work and this Agreement.

b. All costs charged to the project shall be supported by properly executed payrolls, time records, invoices, contracts or vouchers evidencing the nature and relationship to Work Elements in the Scope of Work for any such charges as further detailed herein. For direct salary costs and fringe benefits, invoice documentation must consist of time sheets listing hours worked by Work Element identified in the Scope of Work and a calculation of the applicable hourly payroll rate and fringe benefits earned based on actual time worked. Time sheets and other applicable fringe benefit information must be retained for inspection.

For direct non-salary costs, invoice documentation must consist of copies of invoices of costs, including but not limited to services performed by contractors, reproduction, computer and communication expense, postage, telephone, supplies and transportation.

Major items of equipment required for the tasks identified in the Scope of Work may be purchased with Metro's advance written approval and will be included in the Agreement as direct costs. The cost of specialized items of equipment will be limited to the amount of depreciation during the period of use as ascertained at the completion of the Study. Such items of equipment must be used primarily on, and required for, work incident to this Agreement, and must be of reasonable cost.

Direct costs will also include reasonable travel expenses that are directly related to production of a specific product in the Scope of Work, including meals, lodging, transportation and incidental expenses for personnel while away from their headquarters overnight. Reimbursement for travel expenses shall be made in conformance with the established reimbursement policy of the agency claiming such expenses. Reimbursement of participant travel expenses shall be in accordance with the contract with the participant.

If PARTICIPANT uses a project allocation system, PARTICIPANT may submit project reports in lieu of time sheets and invoices, provided that the project allocation report consists of, at a minimum, the following elements: date, description (vendor name, employee name), reference number and cost.

An overhead rate may be used for portions of direct costs provided that the overhead rate is adjusted to the actual costs at least annually, and provided that no costs billed as part of the overhead rate are also billed directly. The overhead rate adjustment shall be reflected in an invoice at least annually.

PARTICIPANT's invoice shall contain a statement signed by PARTICIPANT's Project Manager certifying that the costs have been incurred in the performance of the Scope of Work.

c. Metro will compensate PARTICIPANT directly for each invoice after Metro has received reimbursement from funding sources consistent with section 5, above. Metro shall coordinate reimbursement requests and payments.

7. Project Managers

The overall coordination and direction shall be provided by Metro's Project Manager. Metro's Project Manager is Rosemary Furfey. PARTICIPANT's Project Manager is Wade Newbegin. Any change of Project Manager by Metro or PARTICIPANT shall be noticed in writing to the other party.

8. Notices

All notices provided for hereunder shall be in writing and sufficient if deposited in the United States mail, postage prepaid, to the parties addressed as indicated below:

Metro

Rosemary Furfey
Growth Management Services
Metro
600 NE Grand Avenue
Portland, OR 97232-2736

Participant

Wade Newbegin, Treasurer
Friends of the Clackamas River
10025 S.W. Allen
Beaverton, OR 97005

9. Liability and Indemnity

PARTICIPANT shall indemnify Metro for and hold Metro harmless from all claims arising out of the negligent acts or omissions caused by PARTICIPANT or PARTICIPANT's officers, employees or agents, subject to the provisions of the Oregon Tort Claims Act and the Oregon Constitution. PARTICIPANT shall be liable to Metro for any damage to Metro's property or injury to Metro's officers, employees or agents caused by PARTICIPANT, subject to the provisions of the Oregon Tort Claims Act and the Oregon Constitution.

Metro shall indemnify PARTICIPANT for, and hold PARTICIPANT harmless from, all claims arising out of the negligent acts or omissions caused by Metro or Metro's officers, employees or agents, subject to the provisions of the Oregon Tort Claims Act and the Oregon Constitution. Metro shall be liable to PARTICIPANT for any damage to PARTICIPANT's property or injury to PARTICIPANT's officers, employees or agents caused by Metro subject to the provisions of the Oregon Tort Claims Act and the Oregon Constitution.

10. Termination for Default

PARTICIPANT shall be deemed to be in material breach if it fails to comply with any provisions of this Agreement or if its progress in performance of its obligations is so unsatisfactory that contract performance of the Scope of Work of this Agreement is seriously impaired. Prior to termination under this provision, Metro shall provide PARTICIPANT with written notice of default and allow PARTICIPANT thirty (30) days within which to cure the defect. In the event PARTICIPANT does not cure the defect within thirty (30) days, Metro may terminate all or any part of this Agreement for default. PARTICIPANT shall be paid the contract price only for services performed in accordance with the manner of performance set forth in this Agreement.

PARTICIPANT shall be liable to Metro for all reasonable costs and actual damages incurred by Metro as a result of a termination for default.

If, after notice of termination, the parties agree or a court finds that PARTICIPANT was not in default or that the default was excusable, such as a strike, fire, flood or other event that is not the fault of, or is beyond the control of PARTICIPANT, Metro may allow PARTICIPANT to continue work, or may treat the termination as a termination for convenience, in which case the rights of the parties shall be the same as if the termination had been for Metro's convenience.

11. Termination for Convenience

Metro or PARTICIPANT may terminate all or part of this contract upon determining that termination is in the public interest. Termination under this paragraph shall be effective upon delivery of written notice of termination to Metro or PARTICIPANT. Upon termination under this paragraph, PARTICIPANT shall be entitled to payment in accordance with the terms of the contract for contract work completed before termination, and to payment for all reasonable contract close-out costs. Within thirty (30) days after termination pursuant to this paragraph, PARTICIPANT shall submit itemized invoice for all unreimbursed work within the Scope of Work of this Agreement completed before termination and all close-out costs actually incurred by PARTICIPANT. Metro shall not be liable for any costs invoiced later than thirty (30) days after termination unless PARTICIPANT can show good cause beyond its control for the delay.

12. Applicable Laws

All applicable provisions of ORS chapters 187 and 279, and all other terms and conditions necessary to be inserted into public contracts in the State of Oregon, are hereby incorporated as if such provision were a part of this Agreement, including but not limited to ORS 279.015 to 279.320 and 279.555.

Specifically, it is a condition of this Agreement that participant and all employers working under this Agreement are subject employers under the Oregon Worker's Compensation Law and shall comply with ORS 656.017 which requires them to provide worker's compensation for all their subject workers.

13. Documents are Public Property

All records, reports, data, documents, systems and concepts, whether in the form of writings, figures, graphs or models which are prepared or developed in connection with

this project shall become public property. All work products provided by Metro pursuant to this Agreement shall be made available to PARTICIPANT, and all work products provided by PARTICIPANT pursuant to this Agreement shall be made available to Metro.

14. Project Records

Comprehensive records and documentation relating to the Scope of Work shall be maintained by Metro, PARTICIPANT and all of their contractors.

Each party shall establish and maintain books, records, documents and other evidence of accounting procedures and practices, sufficient to properly reflect all direct and indirect costs of whatever nature claimed to have been incurred and anticipated to be incurred for the performance of this Agreement. To facilitate the administration of the project, separate accounts shall be established and maintained within Metro's existing accounting system or set up independently. Such accounts are referred to herein collectively as the "Project Account." PARTICIPANT shall charge to a Project Account all eligible costs of the project. Costs in excess of the latest approved budget, not performed in accordance with the Scope of Work or attributable to actions which have not received the required approval of Metro, shall not be considered eligible costs.

15. Audits, Inspections and Retention of Records

Metro, the U.S. Environmental Protection Agency and any of their representatives, shall have full access to and the right to examine, during normal business hours and as often as they deem necessary, all of PARTICIPANT's and Metro's records with respect to all matters covered by this Agreement. Such representatives shall be permitted to audit, examine and make excerpts or transcripts from such records, and to make audits of all contracts, invoices, materials, payrolls and other matters covered by this Agreement. All documents, papers, time sheets, accounting records and other materials pertaining to costs incurred in connection with the project shall be retained by PARTICIPANT and Metro and all of their contractors for three years from the date of completion of the project, or expiration of the grant agreement, whichever is later, to facilitate any audits or inspection.

A final determination of the allowability of costs charged to the project may be made on the basis of an audit or other review. Metro shall notify PARTICIPANT of any disallowed amounts stating the reasons therefor. Any funds paid to PARTICIPANT in excess of the amount to which PARTICIPANT is finally determined to be entitled under the terms of this Agreement constitute a debt to Metro, and shall be returned by PARTICIPANT to Metro.

16. Independent Contractor

PARTICIPANT shall be deemed an independent contractor for all purposes, and the employees of PARTICIPANT or any of its contractors, subcontractors and the employees thereof, shall not in any manner be deemed to be the employees of Metro. As such, the employees of PARTICIPANT, its contractors and subcontractors shall not be subject to any withholding for tax, social security or other purposes by Metro, nor shall such contractor, subcontractor or employee be entitled to sick leave, pension benefits, vacation, medical benefits, life insurance, workers or unemployment compensation of the like from Metro.

17. Compliance With Laws and Regulations

Metro and PARTICIPANT shall adhere to all applicable federal, state and local laws, regulations and policies including, but not limited to those included in "Exhibit B, Federal Requirements," and those related to Workers' Compensation, those of the Contract Work Hours and Safety Standards Act, and those relating to equal employment opportunity, nondiscrimination, and affirmative action including, but not limited to, those regulations implementing Executive Order No. 11246 of the President of the United States and Section 402 of the Vietnam Readjustment Act of 1973. Metro and PARTICIPANT shall adhere to all safety standards and regulations established by Metro for work performed on its premises or under its auspices. The regulatory authority is 40CFR, Part 31.

18. Subcontract Inclusions

PARTICIPANT shall include language substantially similar to the language contained in Exhibit B, Federal Requirements of this Agreement in all subcontracts entered into pursuant to this Agreement.

19. Copyright, Patent Rights, Trademarks and Trade Secrets

PARTICIPANT shall hold Metro harmless, indemnify and pay the entire cost of defending any claim or suit brought against Metro for alleged infringement of a copyright, patent, trademark or trade secret based on work products supplied by PARTICIPANT or infringements caused by PARTICIPANT subject to the limits of the Oregon Tort Claims Act and the Oregon Constitution.

Metro shall hold PARTICIPANT harmless, indemnify and pay the entire cost of defending any claim or suit brought against PARTICIPANT for alleged infringement of a copyright, patent, trademark or trade secret based on work products supplied by Metro or infringements caused by Metro subject to the limits of the Oregon Tort Claims Act and the Oregon Constitution.

20. Subcontractors and Assignments

Neither Metro nor PARTICIPANT shall assign any of their respective rights acquired hereunder without obtaining prior written approval from the other party. Any attempted assignment of this Agreement without the written consent of both parties shall be void. Neither PARTICIPANT nor Metro by this Agreement incurs any liability to third persons for payment of any compensation provided herein to Metro or PARTICIPANT except as provided under the terms of this Agreement.

21. Quality of Work

PARTICIPANT agrees that all work shall be completed in a manner consistent with standards prevailing in the industry for similar work. In this regard, PARTICIPANT will make every effort to understand Metro's intent with respect to the quality of work expected for this project, and to undertake its work accordingly. Time of performance will be a critical factor in the success of this effort. PARTICIPANT shall make every effort to comply with the Scope of Work during its performance of activities under this Agreement's time lines.

22. Reports

Publication of all reports shall give credit to the funding parties. The following statement will be included in each report

Preparation of this report has been funded in part by the U.S. Environmental Protection Agency. The opinions, findings and conclusions expressed in this report are those of the authors and are not necessarily those of the U.S. Environmental Protection Agency and Metro.

23. Labor and Material

PARTICIPANT shall provide and pay for all labor, materials, equipment, tools, water, heat, utilities, transportation, and other facilities and services necessary for the proper execution and completion of all tasks identified in the Scope of Work, all at no cost to Metro other than the compensation provided in this Agreement.

24. No Waiver of Claims

The failure to enforce any provision of this Agreement shall not constitute a waiver by Metro of that or any other provision.

25. Agreement Modifications

Either party may request changes in these provisions. Such changes which are mutually agreed upon shall be incorporated as written amendments to this Agreement. No variation or alteration of the terms of this Agreement shall be valid unless made in writing and signed by authorized representatives of the parties hereto.

27. Severability

If any covenant or provision in this Agreement shall be adjudged void, such adjudication shall not affect the validity, obligation or performance of any other covenant or provision which in itself is valid, if such remainder would then continue to conform with the terms and requirements of applicable law and the intent of this contract.

IN WITNESS THEREOF, the parties have executed this Agreement on the day and year first written above.

METRO

FRIENDS OF THE CLACKAMAS RIVER

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

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03/25/95

EXHIBIT A

SCOPE OF WORK

TASKS OF FRIENDS OF THE CLACKAMAS RIVER THE CLACKAMAS RIVER WATERSHED PROJECT

I. Introduction

Friends of the Clackamas River applied to the EPA Willamette Basin Initiative for funding to produce a video about the Clackamas River. Funding of \$2,000 was approved and that amount was added to Metro's EPA grant for pass through to the Friends of the Clackamas River.

II. Scope of Work

The Friends of the Clackamas River are producing a video about the Clackamas River. A total of \$2,000 will be used from the EPA Willamette Basin Initiative funding to Metro to complete this project.

The video is near completion and funds will be used to reimburse the Friends group for final costs to produce, edit and copy the video.

The Friends of the Clackamas River will submit invoices to Metro describing how much money was spent and on what for the video. Payment will be on a reimbursement basis only.

III. Timing

The project will be completed in early 1996. Invoices will be submitted as work is completed.

IV. Funding

The total amount to be reimbursed to the Friends of the Clackamas River will be \$2,000.

V. Contact

The coordinator for this project is Scott Hamersly, President, Friends of the Clackamas River

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12/15/95

AGENDA ITEM: 7.3
Meeting Date: February 29, 1996

Resolution No. 96-2260, For the Purpose of Recommending to the Environmental Quality Commission (EQC) the Transportation Control Measures (TCM's), Contingencies, and Emissions Budgets to be Included in the Portland Region's Ozone and Carbon Monoxide Maintenance Plans.

State of Oregon
Department of Environmental Quality

Memorandum

Date: February 9, 1996

To: Metro Transportation Planning Committee/Metro Council

From: John Kowalczyk

Subject: Resolution No. 96-2260, Final Recommendations

The attached draft resolution reflects final recommendations made by TPAC and JPACT at their respective January 26, 1996 and February 8, 1996 meetings. It is scheduled for final recommendations of the Metro Council on February 29, 1996. Please note the following:

BE IT RESOLVED 5., Industrial Growth Allowance

Resolution 5 was added by TPAC and supported by JPACT to address concerns that the reduced industrial growth allowance may not be sufficient. If the growth allowance is used up, emission offsets would be required. In making this recommendation it was understood by TPAC/JPACT, that if Metro itself creates some additional enforceable vehicle emission reductions through TDM or other measures, these would be used to increase the industrial growth allowance instead of being used as a substitute transportation control measure or credited against the transportation emission budget.

DEQ has proposed to reduce the approximately 1100 ton per year VOC industrial growth allowance recommended by the Governor's Task Force on Motor Vehicle Emission Reductions in the Portland Area (based on the historic industrial growth rate) to approximately 500 tons per year. This action was proposed because of a shortfall in the expected voluntary unused industrial permitted emission donation program and because DEQ believes it is more prudent to implement less stringent ECO, Parking Ratio and Vehicle Inspection Boundary Expansion programs. While prominent representatives of industry are concerned about the reduction in the growth cushion, they recognize that advancements in new emission control technology may result in industrial emissions increasing at less than the historic growth rate. These industrial representatives also recognize the substantial political resistance to more stringent ECO, Parking and Vehicle Inspection Program Boundary expansion programs.

DEQ is committed, if possible to increasing the industrial growth allowance in the future. Such actions as plant closures, and future voluntary donations of unused permitted emissions may provide additional means of increasing the growth allowance. Additionally, JPACT requested and DEQ agreed to report back to Metro within a couple years on the actual use of the growth cushion and on efforts to increase it.

EXHIBIT A, 1., Metro 2040 Growth Concept

The title was changed from the Metro 2040 Land Use Plan to the Metro 2040 Growth Concept to more accurately reference the land use and transportation aspects of the Plan. The UGB

expansion assumed in the transportation-emission model of the 2040 Growth Concept is approximately 4000-5000 acres.

EXHIBIT A, item 2., Central City Parking Requirements

Numerous parts of the 199 page Central City Transportation Management Plan Zoning Code have been identified by the City of Portland and DEQ as appropriate for inclusion in the CO maintenance plan. Anyone wishing to review this material prior to the meeting should contact Howard Harris @ 229-6086.

EXHIBIT B, item 1., Increased Transit Service

(a) The Central City transit service increase assumed in the maintenance plan has been incorporated into the regional transit increase language. A provision has been included to allow scaling down either or both transit service increases if actual employment growth in either or both areas is less than currently projected.

(c) An equivalent High Capacity Transit alternative for the South/North Light Rail Transit Line has been deleted. Since the proposed maintenance plans will provide for the substitution of Transportation Control Measures which achieve equivalent emission reductions, Metro may pursue such an alternative in the future if necessary. Should either transit service option or other equivalent Transportation Control Measures be found not feasible by Metro, DEQ would need to identify an equivalent emission control strategy and modify the maintenance plan accordingly.

EXHIBIT B, item 2., Bicycle and Pedestrian Facilities

(a) JPACT replaced "bike facilities" with "bikeways" in line seven. This action provides consistency in application and design with state law.

(b) JPACT changed the "Bicycle Facilities" title of this provision to the "RTP Constrained Bicycle System" and more specifically defined Metro's Interim Federal RTP as the "Financially Constrained Network" to provide clarity and insure progress is made on the RTP Bike System.

EXHIBITS B and C, Emission Budgets beyond 2006

The language included in the Ozone and CO Transportation Emission Budget items references Metro's 2040 VMT constrained transportation emission forecasts beyond 2006 as the transportation emission budgets beyond 2006. This approach should avoid conformity problems beyond 2006 and appears to be acceptable to EPA.

EXHIBIT C. Oxygenated Fuel

TPAC/JPACT recommended to keep the oxygenated fuel requirement until the winter of 1998-1999 at which time it would be reevaluated as to whether it is still needed.

TPAC/JPACT were provided with the latest cost impact information on oxygenated fuel submitted to DEQ by the Petroleum and Ethanol Industries. They did not see this information as a reason to change their recommendations. This information is summarized in the attached chart. DEQ has not fully analyzed this information and does not have a position on the cost impact at this time.

DEQ informed JPACT that it has not been clarified as yet whether the state has legal authority under the Clean Air Act to retain the oxygenated fuel requirement if it is not needed to maintain attainment. In consideration of this situation JPACT qualified its recommendation to apply only if it is legal to do so.

EXHIBIT D, Ozone Contingency Plan

Concern was raised that the Downtown Portland Parking Lid was referenced in the ozone attainment plan as well as the CO attainment and therefore it would need to be included in the ozone contingency plan and automatically reinstated if a violation of the ozone standard occurred. Further research into this issue concluded that, while mentioned in the ozone attainment plan, no emission reduction credit was taken for this measure. Therefore, the parking lid would not need to be included in the ozone contingency plan.

EXHIBIT E, CO Contingency Plan

TPAC raised the question whether the downtown parking lid would be reinstated if a CO violation occurred at the 82nd monitoring site. Since implementation of the parking lid in the downtown area would have little impact on reducing emissions at the 82nd Ave. monitoring site, EPA and DEQ have agreed that the downtown parking lid will only have to be reinstated if a violation is recorded in the downtown area. JPACT amended this contingency plan with language that clarifies that the parking lid would only be reinstated if a CO violation occurs within the Downtown area.

Portland Region's Ozone and Carbon Monoxide Maintenance Plans
Transportation Control Measures

A. Non-funding based Transportation Control Measures.

1. Metro 2040 Land Use Plan Growth Concept [TPAC] (included in both CO and ozone maintenance plans).

Metro's 2040 Land Use Plan Growth Concept [TPAC] is being included because it changes typical growth patterns to be less reliant on motor vehicle travel and thus it reduces motor vehicle emissions. Two elements of the land use plan (the Interim Measures and the Urban Growth Boundary) provide appropriate implementation mechanisms to meet Clean Air Act enforceability requirements for control strategies.

- a. Metro Interim Land Use Measures relating to:
- i. Change Zoning Maps to Implement the Metro Growth Concept.
 - ii. Change zoning text to provide for mixed-uses and compact urban designs in station areas, regional and town centers, mainstreets and corridors.
 - iii. Parking
 - Region-wide action to limit required off-street parking consistent with the schedule.
 - Parking maximums will be included either as part of the interim measures or when the Framework Plan is adopted.
 - iv. Manage Retail in Employment Areas

(Specific language will be used from the adopted Functional Plan assuming this plan is adopted before EPA approval of the maintenance plan and the language is not amended to significantly affect the air quality plan's transportation emission projections from current draft language.)

b. Urban Growth Boundary

The Urban Growth Boundary (UGB) as currently adopted or amended before EPA approval of the maintenance plan assuming an amendment does not significantly affect the air quality plan's transportation emission projections.

2. Central City Parking Requirements (CO maintenance plan only).

City of Portland Zoning Code provisions related to parking in the area covered by the Central City

Transportation Management Plan agreed on by DEQ and the City will be included in the CO maintenance plan.

3. DEQ Employee Commute Options Program (ozone maintenance plan only).

A 10% trip reduction target will be required for employers who employ 50 or more employees at the same work site.

4. DEQ Parking Ratio Program (ozone maintenance plan only).

Implement a voluntary parking ratio program providing incentives to solicit participation, including exemption from the Employee Commute Options program.

B. Funding based Transportation Control Measures.

1. Increased Transit Service (included in both CO and ozone maintenance plans, except the Central City commitment which will be included only in the CO plan).

a. Regional increase in transit service hours averaging 1.5% annually. This commitment includes an average annual capacity increase in the Central City area equal to the regional capacity increase. The level of transit capacity increase is based on the regional employment growth projections adopted by Metro Council on Dec. 21, 1995. These projections assume that the Central City will maintain its current share of the regional employment. Should less employment growth occur in the Region and/or the Central City, transit service increase may be reduced proportionally.

b. Completion of the Westside Light Rail Transit facility.

c. Completion of Light Rail Transit (LRT) in the South/North corridor by the year 2007.

2. Bicycle and Pedestrian Facilities (included in both CO and ozone maintenance plans).

a. Multimodal facilities.

Consistent with ORS 366.514¹, all major roadway expansion or reconstruction projects on an arterial or major

¹ This provides for the following exceptions:

- absence of any need;
- contrary to public safety; and
- excessively disproportionate cost.

collector shall include pedestrian and bicycle improvements where such facilities do not currently exist. Pedestrian improvements are defined as sidewalks on both sides of the street. Bicycle improvements are defined as bike lanes TPAC changed to facilities; JPACT changed to ways within the Metro boundary and shoulders outside the Metro boundary but within the Air Quality Maintenance Area.

b. Bicycle Lanes TPAC changed to bicycle facilities; JPACT amended to RTP Constrained Bicycle System.

In addition to (B)(2)(a) above, the region will add at least a total of 28 miles of bicycle lanes, shoulder bikeways or multi-use trails to the Regional Bicycle System as defined by in the Financially Constrained Network of [JPACT] Metro's Interim Federal RTP (adopted July 1995) by the year 2006. Reasonable progress toward implementation shall mean a minimum of five miles of new bike lanes, shoulder bikeways or multi-use trails shall be funded in each two year Transportation Improvement Program funding cycle.

Bike lanes are striped lanes dedicated for bicycle travel on curbed streets, a width of five to six feet is preferred; four feet is acceptable in rare circumstances. Use by autos is prohibited. Shoulder bikeways are five to six foot shoulders for bicycle travel and emergency parking. Multi-use trails are eight to 12 foot paths separate from the roadway open to non-motorized users.

c. Pedestrian facilities.

In addition to (B)(2)(a) above, the region will add at least a total of nine miles of major pedestrian upgrades in the following areas, as defined by Metro's Region 2040 Growth Concept: Central City/Regional Centers, Town Centers, Corridors & Station Communities, and Main Streets. Reasonable progress toward implementation shall mean a minimum of one and a half miles of major pedestrian upgrades in these areas shall be funded in each two year Transportation Improvement Program funding cycle.

C. TCM Substitution.

TCMs identified may be substituted in whole, or in part, with other TCMs providing equivalent emission reductions. Substitution will occur through TPAC/JPACT consultation. Such substitution will require EQC, but not EPA, approval.

Portland Region's Ozone Maintenance Plan
Transportation Emission Budget

Regional Emission Budgets for Volatile Organic Compounds and Nitrogen Oxides applicable to all on-road transportation emissions within the Portland Air Quality Maintenance Area will be established for each year from 1996 through 2006. The budgets will be established consistent with Metro's current emission forecast for the maintenance plan.

Emission budgets for 2007 through 2026 will be established using a growth factor consistent with the VMT growth rate in the Region 2040 forecast and the emission factor forecast. These future emission budgets will be accommodated in subsequent maintenance plans through appropriate measures such as:

- Updated population and VMT forecasts;
- New federal motor vehicle emission reduction strategies; and
- New state emission reduction strategies, if needed, to reduce on-road emissions.

Portland Region's Carbon Monoxide Maintenance Plan
Transportation Emission Budget

Three emission Budgets for Carbon Monoxide will be established for each year from 1996 through 2006:

- A regional emission budget applicable to all on-road transportation emissions within the Portland Air Quality Maintenance Area;
- A subregional emission budget applicable to all on-road transportation emissions within the 82nd Avenue area;
- A subregional emission budget applicable to all on-road transportation emissions within the CCTMP.

The budgets will be established consistent with Metro's current emission forecast for the maintenance plan, and:

- Maintaining the wintertime oxygenated fuel program at least until the winter of 1998-1999 (when enhanced inspection and maintenance is fully phased in). At that time the program will be re-evaluated to determine whether it should be continued.

Emission budgets for 2007 through 2026 will be established using a growth factor consistent with the VMT growth rate in the Region 2040 forecast and the emission factor forecast. Future emission budgets will be accommodated in subsequent maintenance plans through appropriate measures such as:

- Updated population and VMT forecasts;
- New federal motor vehicle emission reduction strategies;
- New state emission reduction strategies, if needed, to reduce on-road emissions.

Portland Region's Ozone Maintenance Plan
Contingency Plan Elements

- (1) If emissions exceed maintenance plan projections or the ambient standard is exceeded twice in 3 years, the Department conducts a study and recommends one or more of the following:
- reformulated gasoline (after 2005), congestion pricing, or other appropriate control measure;
 - additional studies to determine if further measures are needed; or
 - no further action because the problem was caused by emission factor changes, temporary emission increases or an exceptional event.
- (2) If a violation of the standard occurs:
- Major new and modified industry will be required to meet nonattainment area New Source Review Requirements (LAER and offsets). Any remaining growth allowance will be eliminated.
 - The Department will consider opting-in to the federal reformulated gasoline program unless:
 - It is prior to 2005, or
 - EPA rules do not allow the Portland area to opt-in

If reformulated gasoline is not implementable, the Department will convene an advisory committee to develop a congestion pricing program or identify an equivalent measure.

Note: A violation occurs if there are 4 exceedances of the standard in any 3 year period at the same monitoring site.

Portland Region's Carbon Monoxide Maintenance Plan
Contingency Plan Elements

(1) If the second high concentration of CO monitored equals or exceeds 8.1 ppm (90% of the CO standard), the Department convenes a planning group. The planning group will recommend one of the following:

- Implement an additional emission reduction strategy including, but not limited to:
 - increased parking pricing in the Central City;
 - increased funding for transit;
 - congestion pricing on major regional transportation corridors;
 - oxygenated fuel;
 - trip reduction program;
 - regional mandatory parking ratios; or
 - accelerated implementation of bicycle and pedestrian networks;
- Conduct additional studies to determine if further measures are needed; or
- Take no further action because the problem was caused by an exceptional event.

(2) If a violation of the standard occurs within the Downtown Parking and Circulation Policy Area, as defined in the 1982 CO attainment plan [JPACT]:

- Major new and modified industry will be required to meet nonattainment area New Source Review Requirements (LAER and offsets). Any remaining growth allowance will be eliminated.
- The downtown parking lid will be reinstated.
- Oxygenated gasoline at 2.7% weight will be required.

(3) If a violation of the standard occurs outside of the Downtown Parking and Circulation Policy Area, as defined in the 1982 CO attainment plan [JPACT]:

- Major new and modified industry will be required to meet nonattainment area New Source Review Requirements (LAER and offsets). Any remaining growth allowance will be eliminated.
- Oxygenated gasoline at 2.7% weight will be required.

Note: A violation occurs if the second high in any calendar year at a monitoring site is greater than 9 ppm.

Summary of Oxygenated Fuel Cost Impact Information Submitted to DEQ (1)

Revised 1/25/96

From Western States Petroleum Association

	Annual Cost	Equivalent \$/gal
Fuel Economy Loss (1.9% loss)	\$4,404,200	
Wholesale Cost Increase (2)	\$2,955,800	\$0.016 (3)
Federal Subsidy	\$7,750,000	

From Northwest Bio-Products Coalition

Fuel Economy Loss (4)

Producer Cost (5)

Producer who does not modify subgrade	\$380,815	\$0.003 (6)
Producer who modifies subgrade	-\$399,312	-\$0.007 (7)

Federal Renewable Alcohol Excise Tax Exemption \$0.0 (8)

(1) Based on 183,968,547 gallons of gasoline sold from November 1994 through February 1995.

(2) Use \$1.28/gallon cost for ethanol.

(3) Based on regular unleaded grade; WSPA indicated costs would not change significantly, or at all, if other grades were analyzed.

(4) Acknowledge EPA report of 1.9% loss but assert more than offset by lower gasoline prices in winter because of increased supply and lower demand.

(5) Use \$1.25/gallon cost of ethanol. Subgrade modification reduces octane (cost) of base gasoline which is compensated for by higher octane of ethanol.

(6) Average cost of all grades (for regular grade only, cost was calculated at \$0.014.

Dollar amounts are based on estimated 31% market share for producer modified subgrade, Multnomah County year end 1994 fuel sales.

(7) Savings

(8) Net savings to the federal treasure indicated by September 14, 1995, report from the Resource Community Development Division of Government Accounting Office (95-273R); response to Senator Grassle, i.e., more planting of corn for ethanol production reduces farm subsidies.

STAFF REPORT

CONSIDERATION OF RESOLUTION NO. 96-2260 FOR THE PURPOSE OF RECOMMENDING TO THE ENVIRONMENTAL QUALITY COMMISSION (EQC) THE TRANSPORTATION CONTROL MEASURES (TCM'S), CONTINGENCIES, AND EMISSIONS BUDGETS TO BE INCLUDED IN THE PORTLAND REGION'S OZONE AND CARBON MONOXIDE (CO) MAINTENANCE PLANS

Date: December 27, 1995

Presented by: Andrew Cotugno

PROPOSED ACTION

This resolution provides that the Metro Council and JPACT recommend to the Environmental Quality Commission (EQC) the Transportation Control Measures (TCM's) and the Transportation Emissions Budgets to be included in the Portland region's Ozone and Carbon Monoxide (CO) Maintenance Plans.

TPAC and JPACT, at their January 26 and February 8 meetings, respectively, recommended approval of Resolution No. 96-2260 as amended. In reviewing the resolution and exhibits, they made the following changes:

1. Bicycle Transportation Control Measures. TPAC recommended that the language in Exhibit A, item B.2.a. and B.2.b. reflect that bicycle "improvements" should be defined as "facilities" as opposed to "lanes." This language would allow for more flexibility in defining specific and appropriate language on a project-by-project basis. The new language is included in the attached Exhibit A. JPACT further amended this to refer to bike "ways" and reference the bike ways in the Financially Constrained RTP.
2. Industrial Growth Cushion. TPAC recommended that language be added to Exhibit B that would direct that any future emission surplus be applied to the industrial growth cushion to the level that the cushion was originally set during the 1992 Governor's Task Force on Vehicle Emission Reductions in the Portland Area. That language is included on Exhibit B. DEQ agreed to re-evaluate the status of the growth cushion after two years experience to determine if it is meeting the needs of the region.
3. Oxygenated Fuels. TPAC reviewed new cost information from representatives of the petroleum and ethanol industries. Upon review, TPAC has concluded that there is not sufficient information to warrant a change to the tentative position JPACT took at its January 11 meeting. That position was to maintain an oxygenated fuel program through the 1998-99 season at which time the program will be re-evaluated for continuation into future years. It was further clarified by DEQ at the February 8 JPACT meeting that if continuation of oxygenated fuel is found to be illegal, the region's CO transportation emissions budget would be adjusted accordingly.

4. An amendment was incorporated by JPACT clarifying that the CO Contingency Plan provides for reinstating the Downtown Parking Lid only in the event there is a CO violation in downtown Portland. This change is reflected in Exhibit E.

FACTUAL BACKGROUND AND ANALYSIS

The Clean Air Act Amendments (CAAA) of 1990 designated the Portland area as marginal non-attainment for ozone and moderate non-attainment for carbon monoxide (CO).

In accordance with federal law, the standard for ozone was to be met by November 1993 and for CO by November 1995. The Portland region has met the federal standards and can now apply for attainment status with the Environmental Protection Agency (EPA).

In order to be redesignated as attainment, EPA requires that maintenance plans for both ozone and carbon monoxide (CO) be developed. The plans must show how the region will stay in attainment for both pollutants for a period of at least 10 years. The plans must include both base and contingency strategies and be based on the latest travel and emission forecasts provided by Metro.

The Department of Environmental Quality (DEQ) initiated development of the maintenance plans in 1992 through their work with the Governor's Task Force on Motor Vehicle Emissions Reduction in the Portland Area. The purpose of the task force was to recommend strategies to reduce motor vehicle emissions for inclusion in the maintenance plans. Their original recommendations were modified by the 1993 Legislature in HB 2214.

During the past two years, DEQ has been working with citizen, policy and technical committees to finalize the provisions of HB 2214, particularly the transportation elements of the plans. Metro must ensure that the TCM's identified in the Ozone and CO Maintenance Plans are implemented consistent with the schedule established in the maintenance plans.

A joint DEQ and Metro work group was convened to review and recommend TCM's, contingencies, and to establish Emissions Budgets to be used to determine conformity of regionally significant projects, Transportation Improvement Programs and Regional Transportation Plans. New conformity procedures will eliminate the 1990 emission cap and build/no-build tests and substitute the Emissions Budget conformity test upon EPA approval of the Ozone and CO Maintenance Plans.

Upon EQC adoption, TCM's will be incorporated into Metro's RTP consistent with ISTEA guidelines. An approved maintenance plan will ensure a consistent flow of federal transportation funds to the region, allow DEQ to lift certain restrictions on industry, and ensure a clean and healthy Portland area airshed.

It is requested that the Metro Council and JPACT approve the attached resolution recommending specific TCM's, contingencies, and Emissions Budgets to the Environmental Quality Commission.

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF RECOMMENDING) RESOLUTION NO. 96-2260
TO THE ENVIRONMENTAL QUALITY)
COMMISSION THE TRANSPORTATION) Introduced by Rod Monroe,
CONTROL MEASURES (TCM'S), CON-) Chair, JPACT
TINGENCIES, AND EMISSIONS)
BUDGETS TO BE INCLUDED IN THE)
PORTLAND REGION'S OZONE AND)
CARBON MONOXIDE (CO) MAINTENANCE)
PLANS)

WHEREAS, The Clean Air Act Amendments (CAAA) of 1990 confirmed the Portland metropolitan area's nonattainment status by designating the region as moderate nonattainment for Carbon Monoxide (CO) and marginal nonattainment for Ozone; and

WHEREAS, The CAAA of 1990 required the Portland metropolitan area to attain the Ozone standard by 1993 and the CO standard by 1995; and

WHEREAS, The Portland region has met the federal standards for Ozone and CO and can apply for redesignation to attainment status with the Environmental Protection Agency (EPA); and

WHEREAS, In order for the Portland region to be reclassified from nonattainment to attainment, a 10-year maintenance plan must be developed for both Ozone and CO; and

WHEREAS, The maintenance plans must identify strategies for maintaining federal air quality standards, including transportation control measures (TCM's), for incorporation into the State Implementation Plan (SIP); and

WHEREAS, TCM's are measures that reduce emissions by reducing vehicle trips and/or vehicle miles traveled (VMT); and

WHEREAS, The Department of Environmental Quality (DEQ) initiated development of an Ozone Maintenance Plan in 1992 through their work with the Governor's Task Force on Motor Vehicle Emissions Reduction in the Portland Area; and

WHEREAS, The purpose of the Governor-appointed Task Force was to identify the appropriate emission reduction strategies, including TCM's, for inclusion in the Ozone Maintenance Plan; and

WHEREAS, The original recommendations from the Task Force were modified by the 1993 Legislature in HB 2214; and

WHEREAS, DEQ has finalized several components of HB 2214 over the last two years in conjunction with policy and technical advisory committees; and

WHEREAS, DEQ, in cooperation with the City of Portland, Metro and Tri-Met, initiated development of the CO Maintenance Plan in 1991 through the Central City Transportation Management Plan; and

WHEREAS, Under Section 174 of the Clean Air Act, the state on November 13, 1992 designated Metro as lead agency for recommending transportation-related control measures and contingency plans for the Portland region; and

WHEREAS, DEQ and Metro jointly convened a work group to review and recommend TCM's and emission budgets for both Ozone and CO; and

WHEREAS, TCM's identified in the Ozone and CO Maintenance Plans must be implemented consistent with the schedule established in the maintenance plans; and

WHEREAS, The emissions budgets will be used to determine

conformity of regionally significant projects, Transportation Improvement Programs and Regional Transportation Plans; now, therefore,

BE IT RESOLVED,

1. That the Metro Council and JPACT recommend to the Environmental Quality Commission that the Transportation Control Measures as delineated in Exhibit A be included in the Portland region's Ozone Maintenance Plan and Carbon Monoxide Maintenance Plan;

2. That the Metro Council and JPACT recommend to the Environmental Quality Commission that the emissions budgets in Exhibit B be included in the Portland region's Ozone Maintenance Plan;

3. That the Metro Council and JPACT recommend to the Environmental Quality Commission that the emissions budgets in Exhibit C be included in the Portland region's Carbon Monoxide Maintenance Plan.

4. That the Metro Council and JPACT recommend to the Environmental Quality Commission that the transportation elements in Exhibits D and E be included in the contingency plans for the Portland region's Ozone Maintenance Plan and Carbon Monoxide Maintenance Plan, respectively.

5. That the Metro Council and JPACT recommend to the Environmental Quality Commission that emission reductions achieved from strategies that are not required by the Ozone and Carbon Monoxide Maintenance Plans be earmarked to increase the

industrial source growth allocation up to the tonnage recommended by the Governor's Task Force on Motor Vehicle Emission Reductions in the Portland Area.

ADOPTED by the Metro Council this _____ day of _____,
1996.

Jon Kvistad, Presiding Officer

Approved as to Form:

Daniel B. Cooper, General Counsel

AGENDA ITEM: 8.1
Meeting Date: February 29, 1996

**ISTEA Reauthorization - Portland, Oregon Regional Position Paper. (Action
Requested: Motion to accept paper as written)**

ISTEA REAUTHORIZATION
PORTLAND, OREGON
REGIONAL POSITION PAPER
FEBRUARY 8, 1996

This position paper should be viewed as a work in progress. ISTEAs reauthorization will extend over the next 9-18 months during which time numerous proposals will surface which require further consideration by the Portland region. This position represents the region's starting place, thereby allowing these positions to be advocated through national organizations, before federal hearings and with the Oregon Congressional delegation. In addition, changes will be considered, if necessary, after coordination with other interests statewide through ODOT.

I. Introduction

The transportation providers of the Portland region believe there is a national interest in transportation that should be reflected in the programmatic emphasis in the next ISTEA. This national interest should focus on maintaining and improving metropolitan mobility to support the economic engines of the country and further international competitiveness. Second, it should maintain and improve vital connections between metropolitan areas. Finally, effective connections to international passenger and freight terminals to access the global marketplace are critical.

In order to ensure these national interests are accomplished through the distribution of federal transportation funds, a programmatic approach, rather than a block grant approach, is most appropriate. In this manner, the Federal Government can target its resources to the program areas that represent the national interest. The current ISTEA, with several improvements, provides an excellent model for such an approach to the next ISTEA. The ground-breaking changes in flexible financing, local control and public involvement embodied in the passage of ISTEA in 1991 were a major step forward in transportation development. Reauthorization of ISTEA should focus on building on the strengths of this landmark legislation rather than on major rollbacks or wholesale changes.

Reauthorization of ISTEA to include these provisions is integral to the Portland region's objectives for growth management and building a livable community. This region has strived to link transportation investments to land use decisions to achieve multiple objectives of preserving farm and forest lands, reinvesting in communities, meeting air quality standards and maintaining a livable region in the face of massive growth. It is essential that the Federal

Government maintain its partnership with the Portland region through the reauthorization of ISTEA.

The region would like to highlight the following issues for consideration during the reauthorization of ISTEA:

II. Substantive Issues

1. **MPO Role in Decision-Making.** We believe that the increased local and state role in transportation decision-making is one of the most important advances in ISTEA. The region strongly supports continuing a strong MPO role in planning, project selection, joint TIP/STIP approval, and public involvement. The MPO role in ISTEA has improved the partnership of local government officials, state departments of transportation and other transportation interests and should be reinforced in reauthorization.
2. **Joint MPO/State DOT Approval of TIPs.** Joint approval of state and metropolitan Transportation Improvement Programs (TIP) in each metropolitan area ensures a partnership approach to solving transportation problems. Typically, the state DOT is responsible for only a part of the transportation system and cities, counties, transit districts and port districts are responsible for the balance. Through a partnership approach, transportation investment decisions can be made to ensure the system as a whole meets the needs of the public and responds to the federal interest. Often in a complex metropolitan area, trade-off decisions must be made to determine which improvements to which part of the system can most effectively meet the needs. In addition, it is critical that transportation investment decisions are coordinated with land use decisions for the region which typically rest with local governments rather than the state DOT. Joint approval of the TIP assures that all parties responsible for the transportation system are party to making the priority decisions about its improvement.
3. **Flexible Funding.** The region supports maintaining and, where appropriate, expanding flexible funding. Flexibility gives local and state governments and citizens the opportunity to craft the most appropriate local solutions to transportation needs. Flexible funding has been a key component of this region's effort to respond to the demands of growth, address congestion and freight mobility needs and preserve livability and environmental quality.

~~The region agrees with other major user groups that~~
While the region supports continuing the existing
categories for Surface Transportation Program funds,

Transportation Enhancement funds, and Congestion Mitigation/Air Quality funds, including metropolitan set-asides, there should not be any additional categorical funding allocations in the next ISTEA as these if they have the effect, particularly in the environment of reduced or level funding, of actually reducing rather than increasing flexibility. This can occur if there is less funding split up among more categories. The region supports expanding the flexibility of existing STP and CMAQ funds to address capital improvements to freight rail and intermodal facilities. In addition, the region supports maintaining the existing flexibility provisions for the NHS program.

4. **Reject Rollbacks.** The region does not support the roll-back or elimination of major elements of ISTEA, such as local control, public involvement or joint MPO/state DOT approval of TIP/STIP. The passage of ISTEA resulted in improved coordination between the state, region and federal transportation providers. The benefits to the taxpayers are a more efficient use of existing transportation investments and the construction of new investments that best reflect their individual community needs. In this region, the experience of ISTEA has been a positive one and has resulted in a greater degree of public involvement in and support for the transportation investments.
5. **Discretionary Section 3 "New Start" Program.** The region supports the continuation of a discretionary Section 3 "New Starts" program. The program has been shown to be an effective way for urban areas to implement large-scale innovative transit alternatives to new freeway construction. Opportunities to leverage private sector investments are substantially enhanced with the existence of a categorical program and predictable funding allocations. The existence of a categorical program and the scale of investment accommodated by the New Start program is critical to the integration of long-range transit development and land use planning efforts such as that underway in the Portland region.
6. **New Start Evaluation and Land Use Benefits.** The region believes that one of the most important benefits of the Section 3 New Start program is the opportunity it offers communities to reduce urban sprawl and its associated costs. The new ISTEA should direct FTA to include the benefits of improved land use and the reduced costs of sprawl in the analysis for new rail projects. Projects which can demonstrate the reduced costs of sprawl through legally binding land use requirements should be

given additional consideration in the allocation of New Start funding.

FTA should be encouraged to continue its efforts to include in its evaluations the value of reduced sprawl, reduced utility costs, road construction and maintenance costs, air pollution and other benefits associated with the more compact development pattern attainable with integrated transit development and land use planning.

7. **Blanket Authorization of Contingent Commitments and Existing Full-Funding Grant Agreements.** The region supports the en bloc authorization of contingent commitment projects and carryover Full-Funding Grant Agreements. Failure to authorize these projects would unfairly penalize communities that have moved forward with the expenditure of local and state funds under the spirit and the letter of ISTEA's contingent commitment provisions. The level of local trust and cooperation with the Federal Government would be seriously harmed if contingent commitment projects are not authorized as indicated in ISTEA. Not authorizing contingent commitment projects will send a signal to the private sector that public sector financing is unreliable and would reduce future opportunities for public-private ventures. En bloc reauthorization of carryover Full-Funding Grant Agreements is critical to complete projects in mid-stream. In many cases, appropriations for these projects have not kept pace with the amount authorized in the current ISTEA and contracted for in these Full-funding Grant Agreements. The remaining appropriation must be provided for in the next ISTEA.
8. **Innovative Financing.** Steps taken in ISTEA to authorize innovative methods for financing transportation facilities is very helpful. These should be nurtured and expanded in the next ISTEA authorization bill. The flexible funding provisions of ISTEA provided important new tools for local communities to address their transportation needs. However, transportation infrastructure needs still far outstrip local, state and federal resources. Additional innovative financing mechanisms should be explored and local jurisdictions, MPOs and states should be given a broader range of tools to address funding shortfalls. In particular, the region supports expanded authority for tolling federal facilities to address mobility, freight movement and congestion demands. Secondly, the Congestion Pricing authority should be retained and funded. Third, expanded opportunities for public-private partnerships could allow greater private sector participation in transportation financing. Fourth, expanded methods of

providing the required local match should be retained and enhanced. Finally, the pilot effort to implement "Infrastructure Banks" should continue and be made permanent.

9. **Increased Funding.** ISTEA recognized the critical link between transportation investments and economic development, increased productivity and individual opportunity. Funding for ISTEA programs should be increased to reflect this critical linkage. To maintain the equity and flexibility in ISTEA, the existing funding ratios between highways and transit should remain constant.
10. Many of the highway funding distribution formulas are biased against Oregon, resulting in the state being in a "donor" status, paying more into the federal trust fund than returns through ISTEA. These formulas should be revisited to correct this problem.
11. 4.3 cents of the federal fuel tax is now being used for deficit reduction. When this tax increase was adopted by Congress, it was on the basis of being an interim measure and the commitment was made to return this to the Highway and Transit Trust Funds. This commitment should be fulfilled.
12. Oregon is facing a severe shortfall in meeting its Transportation Capital needs. This has been exacerbated by federal funding cuts and lack of action by the Oregon Legislature to meet the need. Most recently, ODOT was forced to cut \$400 million from its Modernization Program. Highway "Demo" projects represent a possibility for helping to meet these needs. The state should submit projects that have the greatest likelihood of being included as "Demo" projects.
13. **NHS Priority Corridors.** ISTEA designated several high priority NHS corridors throughout the nation. These corridors receive special funding for capital improvements. Oregon in cooperation with Washington and California ought to seek special status for I-5 as an NHS Priority Corridor. With the passage of NAFTA, this special designation is of even greater importance.
14. **Match Ratios.** Oregon should oppose any attempts to change the match ratios as outlined in ISTEA. Oregon benefits from the sliding scale match ratio provisions of ISTEA and should advocate for their inclusion in the next ISTEA.
15. The High-Speed Rail Program within ISTEA should be

reauthorized for the five selected priority corridors, including the Cascadia Corridor from Eugene, Oregon to Vancouver, B.C. There are important trackway improvements needed within the Portland metro area to improve speed and safety. In addition, the Portland region benefits from improved service (speed and frequency) to Eugene, Seattle and Vancouver, B.C.

16. Fiscal Constraint. The current requirement to base transportation plans and programs on realistic revenue forecasts should be continued. This requirement has brought about more realistic plans rather than simply a "wish list" and therefore greater attention to funding decisions which assume more cost-effective projects. However, equal attention should be paid to a "vision" plan to provide the basis for pursuing the funding needed to accomplish that vision.

ACC:lmk
ISTEAAREA.OL
2-8-96

Project Priorities

FY 97 is the final year of ISTEA which was adopted in 1992. In 1996, both consideration of the FY 98-2003 ISTEA and the FY 97 Appropriations Bill will provide opportunities to consider earmarking projects. The following priorities should be considered for funding through the ISTEA reauthorization or appropriations. This list should be accepted on a preliminary basis to allow for coordination with ODOT on statewide priorities. It may be necessary to add projects elsewhere in the state or delete some Portland area projects. The "Regional Priority Projects" are endorsed as priorities for all jurisdictions of the region while the other projects are a priority for individual jurisdictions.

A. Regional Priority Projects

1. Completion of Westside/Hillsboro LRT project - Section 3.

Approximately \$100 million remains to be authorized in the ISTEA update for this project. In addition, appropriations remain for FY 97 and FY 98.

2. Initiation of South/North LRT project - Section 3.

\$750 million for segment 1 of the South/North LRT project should be sought in the ISTEA update.

3. Deepening of the Columbia River Ship Channel - Corps of Engineers.

The Port of Portland, in cooperation with other Columbia River ports, is seeking Corps of Engineers funding to deepen the Columbia River ship channel to accommodate larger ocean-going vessels. This is critical to the international competitiveness of the Portland area and directly tied to truck and freight rail access improvements in the Rivergate area.

We strongly support full funding in Fiscal Year 1997 for the U.S. Army Corps of Engineers' next phase of the feasibility study for the Columbia River channel deepening.

The region also encourages Congress to approve bill language to provide a contingent authorization, subject to required environmental, economic and engineering reviews, for the channel project. This authorization is a critical step in keeping the project on schedule for construction early in the next decade.

B. Local or Agency Priority Projects

1. I-5/Highway 217/Kruse Way Interchange - FHWA Demo project.

A revised design has been developed and endorsed by ODOT, the affected local governments and Metro. \$25-47 million of Highway Demonstration funds or Interstate Discretionary funds would allow this critical I-5 bottleneck and safety problem to be corrected.

2. Sunnybrook Interchange - FHWA Demo project.

Project development on this project is nearly complete. \$14 million of Highway Demonstration funds or Interstate Discretionary funds in combination with previously committed ODOT and local funds would allow this project to proceed on schedule.

3. South Rivergate Railroad Overcrossing - FHWA Demo project.

Columbia River channel dredging and Rivergate rail improvements are increasing the cargo movements into and out of the Rivergate port terminals. \$15 million of Highway Demonstration funds for this railroad grade separation would enhance truck access to these terminals.

4. Lovejoy Ramp Removal/Broadway Bridge Rehabilitation - FHWA Demo and Bridge Program.

Replacement of the Lovejoy ramp in the River district and upgrade to the Broadway Bridge will enable major redevelopment in this Central City district. \$15 million of Highway Demonstration funds and \$10 million of Highway Bridge Repair and Replacement funds would allow these projects to proceed.

5. Seek Congressional support for designating Oregon for one of the 10 pilot Infrastructure Bank projects, to have the bank capitalized and available for such projects as the Tualatin Expressway and cash-flow management for the Westside LRT project.

6. 242nd Avenue/I-84 Connection: Mt. Hood Parkway Interim Improvement.

242nd Avenue is the region's designated NHS corridor connection between I-84 and U.S. 26. Existing roads in this corridor are poorly connected to these highways or provide less direct travel into and out of the region for autos and substantial truck movements.

The proposed project will provide for a more direct connection to I-84 by extending 242nd Avenue northerly from Glisan Street to Sandy Boulevard and connecting to I-84 via ramps. Development of this alignment will replace a hazardous, steep three-lane road (238th Avenue) which has a high accident rate and must be closed during icy conditions. Existing East County streets used for travel into and through the region are projected to suffer from increased congestion. Thus a more direct route with access control and with some operational changes can better serve these substantial non-local traffic movements.

Much of the right-of-way is currently owned by Multnomah County and ODOT. Project cost for project construction is \$20 million. An additional \$5 million is proposed to make operational enhancements to the existing 242nd Avenue to improve flow and eliminate bottlenecks.

7. Cornell/Cornelius Pass Intersection.

Implementation of Region 2040 combined with a proposal to restrict the size of Cornell Road from seven to five lanes west of this intersection results in the need for grade-separated intersections and/or addition of a new arterial connection. This \$12 million demonstration project will identify and construct the correct solution to accommodate the land use regime the region desires for this area.

8. Willamette Valley High-Speed Rail - High-Speed Rail Account.

\$25 million should be sought for track upgrade to improve speed and safety. The Eugene to Vancouver, B.C. corridor is one of five priority corridors selected by USDOT following establishment of the High-Speed Rail Program in the last ISTEA.

9. Transit-Oriented Development Revolving Fund - Section 3.

In 1994, \$3 million of Regional STP funds were allocated to establish this revolving fund. Initiation of the grant application through the Federal Transit Administration is now in progress. In addition, \$10 million of Section 3 funds would allow additional projects adjacent to LRT to be implemented.

The criteria for recommending these projects is as follows:

1. Projects are of statewide significance.
2. Projects can be built within the timeframe of the next ISTEA bill (1998-2003).

3. There is a strong base of support for the project within the governments and community organizations.
4. The proposal would bring new funds to the state, not merely result in reallocation of existing funds.
5. Members of the Congressional delegation express a willingness to pursue the project.
6. There should be a short list of priorities.
7. The list should be integrated with ODOT's statewide priorities.

In addition, Portland State University is seeking funds to proceed with its University Center building located at a key South/North Light Rail station. They have adopted a master plan with a strong focus on transit for student, faculty and public access.



Del J. Fogelquist
Northwest Regional Manager

February 28, 1996

METRO Council
METRO
600 NE Grand Avenue
Portland, Oregon 97232

Dear Councilors.

The Western States Petroleum Association (WSPA) appreciates the opportunity to comment on proposed Resolution No. 96-2260, For The Purpose Of Recommending To The Environmental Quality Commission The Transportation Control Measures And Emission Budgets To Be Included In The Portland Region's Ozone And Carbon Monoxide (CO) Maintenance Plans. WSPA is a trade association whose member companies account for more than 90% of the petroleum produced, refined, transported and marketed in six western states, including Oregon. In particular, our comments pertain to exhibit C of the Resolution which includes a proposed recommendation to maintain the mandatory oxygenated fuel program through the winter of 1998-1999, and to perform an evaluation at that time as to whether it should be continued. WSPA firmly opposes this recommendation on the basis that:

- 1) Oxygenated fuels are not needed in order for CO levels in the region to remain well below the federal health based standards,
- 2) Oxygenated fuel mandates are expensive; WSPA estimates that the program costs the region's consumers, businesses, and taxpayers more than \$15 million each year, and
- 3) Continuing an oxygenated fuel mandate when it is not needed for attainment violates the provisions of the Clean Air Act Amendments of 1990 (CAAA90).

As petroleum producers and marketers, like those in other industries, we have a direct interest in keeping the cost of our products as low as possible for our customers (although costs will vary from company to company). The oxygenated fuel program has an impact on us, and them, by adding to those costs. We also have a direct interest in eliminating artificial constraints that dictate what type of products we can sell and where. However, if an oxygenated fuel program was a cost-effective method to address a real problem facing this region, we of course would continue to support it, just as we have done in other areas.

Based on DEQ's analyses however, it is clear that CO levels in the Portland metropolitan area will remain well below the federal health-based standard without the use of oxygenated gasoline throughout the entire ten year maintenance period. In fact, DEQ has stated in its background materials for various METRO staff meetings, that ". . . [assuming the current oxygenated fuel requirement is repealed by the '96-'97 winter] It is clear that maintenance can be demonstrated with substantial margin of safety below the federal CO standard in all years" and "[CO levels] in the worst case scenario would still be well below the federal standard."¹

The Portland metropolitan area (consisting of Multnomah, Clackamas, Washington and Yamhill counties) achieved attainment of the National Ambient Air Quality Standard (NAAQS) for CO beginning in 1990, two full years prior to the start of the oxygenated fuels mandate in November of 1992. As shown in Figure 1, CO levels in the Portland area improved dramatically in the late 1970's and early 80's. The main reason behind this marked improvement is the increased technological sophistication of new motor vehicle emission control systems, and the state's vehicle inspection and maintenance program which ensures that the vehicle emission control systems maintain their effectiveness. It is clear from Figure 1 that the region had conquered its CO problem well before oxygenated fuels were ever introduced.

In fact, as newer vehicles with sophisticated emission control systems continue to replace the older fleet, the effectiveness of oxygenated fuels in reducing vehicle CO emissions will continue to decline. While oxygenated fuel reduces CO emissions in older cars and trucks, it has little or no beneficial impact in new vehicles. New vehicles use sophisticated computer controls to continually monitor and adjust the relative amount of fuel and oxygen in the engine, in order to achieve optimum combustion conditions. Hence, any oxygen that is contained in the fuel itself is simply redundant with regard to CO emissions. As these newer vehicles continue to replace the older fleet, CO fleet emissions will continue to decrease, despite a growing population which spends increasingly more time on the road. At the same time, the overall emissions impact of the oxygenated gasoline program will decline. Yet, the costs will remain.

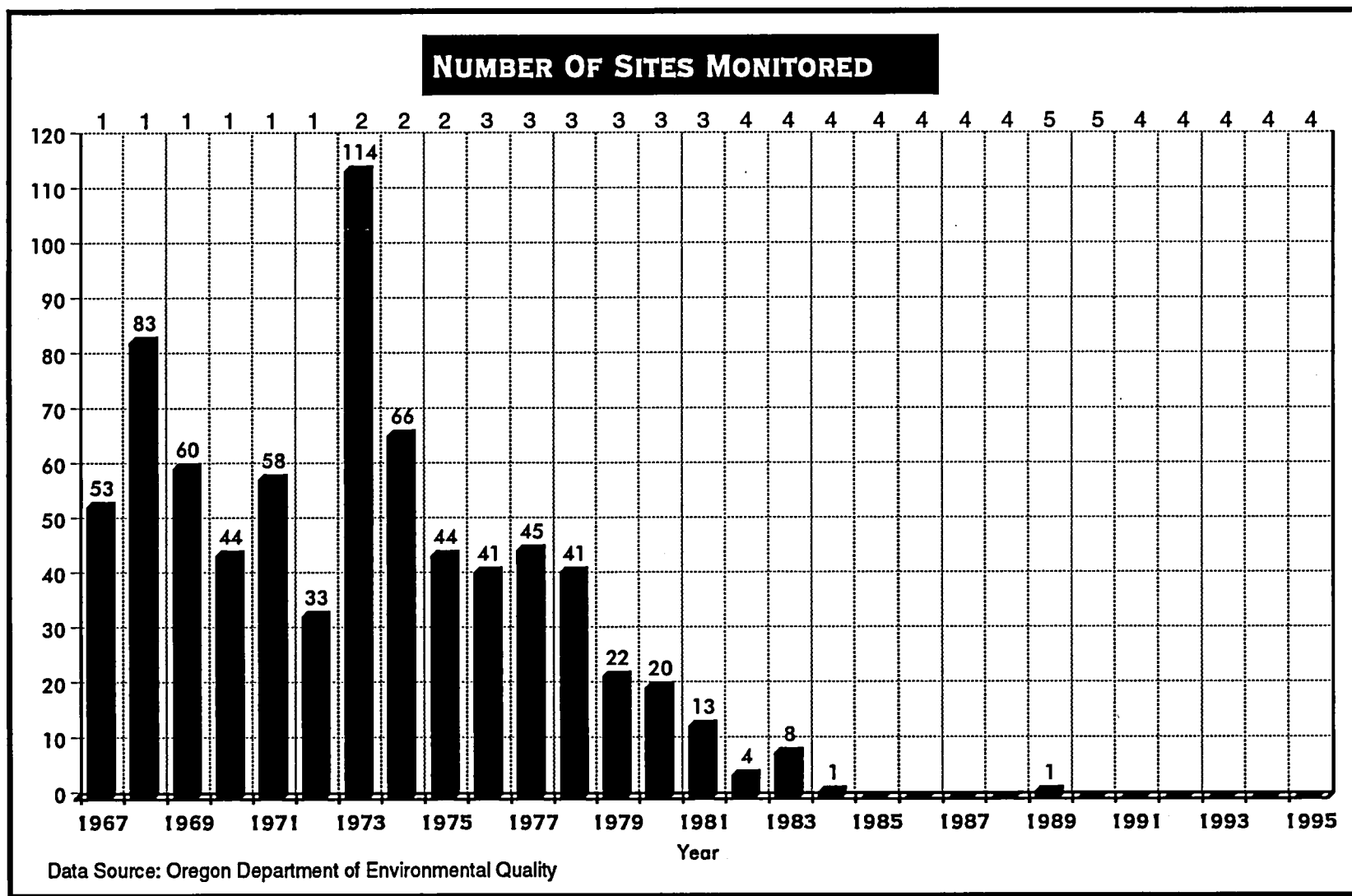
Proponents of maintaining an oxygenated fuel program in the Portland area claim that the continued use of oxygenated gasoline will provide additional health benefits. However, there is no evidence that this is the case. The federal health-based CO standard was established with a large margin of safety to adequately protect public health. Therefore, there are no additional health benefits from reducing CO concentration levels that are already well below the CO NAAQS.

Oxygenated fuel programs are expensive control strategies and should be eliminated in areas where they are no longer necessary. Based on publicly available market data on the wholesale cost of oxygenated and non-oxygenated gasoline, the cost of the oxygenated fuel program in the Portland metropolitan area appears to be over \$15 million per year.² Because of the program, Portland

¹ Page 4-1 of the meeting package (agenda and related materials) for the January 3, 1996 meeting of the Metro Air Quality Maintenance Plan Work Group, dated December 27, 1996.

² WSPA Economic Analysis submitted to Oregon DEQ on 1/10/96.

Number of CO Violations in the Portland Metro Area



Violations of the CO standard in the Portland metropolitan area have declined dramatically since 1967, with only two violations since 1983. This decline is a result of improved pollution control equipment on automobiles and implementation of the region's vehicle inspection program in 1975. In fact, the Portland area achieved over six years of CO attainment prior to the implementation of the mandatory oxygenated fuel program in November 1992.

residents are subject to increased expenditures in three ways: 1) increased cost per gallon at the gas pump totaling approximately \$3 million, 2) increased fuel consumption due to lowered fuel efficiency totaling approximately \$4.4 million, and 3) decreased revenue for the federal highway fund totaling approximately \$7.7 million. This decrease occurs because federal excise tax money is being diverted from the federal highway trust fund in order to subsidize ethanol producers, none of which operate within the state of Oregon. AAA Oregon reports that the ethanol subsidy costs the federal highway trust fund between \$500 to \$600 million a year and that it has resulted in an overall loss of approximately \$6 billion for transportation and highway projects over the last decade. This significant loss in funding has surely resulted in the loss of federal dollars for transportation improvement projects within the state of Oregon.

Based on its own cost analysis, the Northwest Bio-Products Coalition contends that the oxygenated fuel program actually results in an economic benefit to the Portland area. The Coalition's analysis however, is based on two major misconceptions regarding the gasoline market. First, the Coalition's analysis is based on numerous erroneous assumptions regarding the methods used to produce and blend gasoline by the oil industry as a whole. Second, the Coalition estimated producer economics (flawed as it is) rather than the cost to the consumer. Production cost is only one of a number of factors that determines a product's market price. Ultimately, the price of a product is determined by the conditions that exist in the market at the time that the product is sold. The cost impact to consumers of the oxygenated fuel program can only be accurately determined by a comparison of oxygenated and non-oxygenated gasoline prices under identical market conditions (i.e., both types of gasoline must be offered for sale at the same time, at the same location, by the same retailer, and to the same customers). The Coalition's assumption that production costs dictate the total cost of the program ignores many of the basic laws of economics. On the other hand, WSPA's analyses is based on publicly available market data that reflect the actual price differential between oxygenated and non-oxygenated gasoline under identical market conditions. Unlike WSPA's analyses, the Coalition's analysis is based on erroneous assumptions regarding producer economics. WSPA's analysis therefore more accurately reflects the costs incurred by Portland consumers, businesses, and taxpayers due to the oxygenated fuel program.

The Coalition also contends that blending oxygenates, such as ethanol, in winter oxygenated fuel programs leads to lower gasoline prices because it increases the overall supply of gasoline. Historically, winter gasoline prices are lower. However this general trend was well established before the implementation of winter oxygenated fuel programs. Likewise, it is an historic phenomenon of the marketplace (especially in the Northwest), that winter gasoline demand is lower and therefore, as free market economics dictate, prices are traditionally lower than summer gasoline prices. Our data suggest that winter gasoline prices are higher than they otherwise would be without a mandatory oxygenated fuel program.

For the reasons described above (i.e., oxygenated gasoline is not needed in order to maintain healthy air quality, air quality has improved as a result of new vehicle technology and vehicle inspection and maintenance programs, and mandatory oxygenated gasoline programs are expensive), local air quality control agencies in Vancouver and Puget Sound (Seattle/Tacoma) in the state of Washington, voted to eliminate their mandatory oxygenated fuel programs in the winter of 1996/97.

Finally, the state's legal authority to maintain a mandatory oxygenated fuel program during a maintenance period is quite limited. The Clean Air Act Amendments of 1990 (CAAA90) clearly restrict the retaining of mandatory oxygenated gasoline programs if not necessary to maintain the federal health based standards. As referenced above, DEQ staff have clearly indicated that the oxygenated fuel program is not necessary to maintain compliance with the CO NAAQS. In fact, the Portland metropolitan region has been in full compliance with the CO NAAQS since 1990, two full years prior to the introduction of oxygenated fuel. Maintaining the oxygenated fuel program in the Portland metropolitan area therefore conflicts with the provisions of CAAA90.³

In summary, WSPA opposes the proposed recommendation to continue a mandatory oxygenated fuel program in the Portland metropolitan area. Mandatory oxygenated fuel programs are expensive and should be eliminated in areas where not needed. The program is estimated to cost Portland area consumers, businesses, and taxpayers over \$15 million per year. DEQ has determined that without a mandatory oxygenated fuel program, CO levels within the Portland metropolitan area will remain below the health based CO NAAQS with a substantial margin of safety. Maintaining an expensive oxygenated fuel mandate when it is not necessary to attain/maintain the federal CO NAAQS clearly does not comply with the provisions of CAAA90.

We are also submitting for the record, letters opposing the continuation of the oxygenated fuel mandate from the Associated Oregon Industries, AAA Oregon, Oregon Highway Users, National Federation of Independent Businesses, and the Oregon Gasoline Dealers Association.

We appreciate the opportunity to provide input on this important issue. If you have any questions or require additional information, please contact me at (206) 441-9642 or Janet Fisher of ARCO at (206) 682-3079.

Sincerely,



MS/DJF/lr
96162

³ WSPA Legal Analysis submitted to Oregon DEQ on 1/11/96.

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February 15, 1996

Metro Council
600 NE Grand Avenue
Portland, OR 97232

Re: Removal of Oxygenated Fuels Requirement from the Portland
Carbon Monoxide Maintenance Plan

Dear Metro Councilors:

Associated Oregon Industries represents the interests of all Oregon businesses, large and small, on issues concerning the state's business climate. AOI has 2,400 primary members and 14,000 associated members. Environmental affairs is a primary field of interest for AOI. The AOI Environment Committee is recognized as the foremost statewide forum for environmental affairs, from an industrial perspective.

The issue of removing the oxygenated fuels requirement from the Portland Airshed Carbon Monoxide Maintenance Plan is of importance to AOI members. As with most environmental issues, industry competes with non-industrial pollution sources for limited airshed capacity. With carbon monoxide, it is industry versus automobiles. If automobiles use too much of the airshed, there will be little or no room for industrial growth.

On the other hand, AOI does not believe outdated pollution control strategies should be continued beyond the time necessary to ensure clean air, water and land. To retain unneeded pollution control strategies is to continue an unwarranted drain of dollars from a local economy at no benefit to the environment.

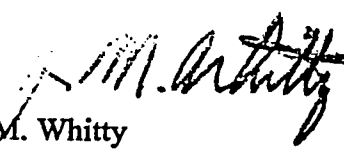
AOI's Air Quality Subcommittee has examined the issue of removal of oxygenated fuels requirements from the Portland Airshed Carbon Monoxide Maintenance Plan. After considering testimony from both sides of the issue and careful deliberation, the committee decided to recommend removal of the requirement for oxygenated fuels from the maintenance plan.

AOI members believe the oxygenated fuels requirement in the Portland Carbon Monoxide Maintenance Plan has become mere surplus in the strategy mix to ensure high air quality in the Portland area. The area has been in compliance with air quality standards for some time and by a large margin. The trending is for far greater improvement in the next ten years, even considering elimination of the oxygenated fuels requirement. This has largely to do with automobile fleet turnover with cleaner, more sophisticated vehicles replacing older, less efficient vehicles in the airshed every year.

As a secondary issue, AOI is concerned with the revenue loss to the state's Highway Trust Fund. Continuing the oxygenated fuels mandate exacerbates the effect of the ethanol fuels exemption from the state gas tax. Despite tremendous needs for transportation infrastructure improvements in Oregon to meet explosive population growth, the purchasing power of our highway dollars is shrinking every year as the Legislative Assembly fails to enact additional transportation revenue measures. At this point, Oregon can not afford to lose millions of dollars in tax revenues to support an unneeded pollution control mandate.

AOI supports elimination of the oxygenated fuels requirement as a Portland airshed carbon monoxide control strategy as soon as feasible.

Sincerely,



James M. Whitty
Legislative Counsel

cc: Greg Green, ODEQ
Richard Butrick, AOI President

JW/vcm

h/vick/jw/env/air/metro-c.ltr



Serving Oregon Motorists
Since 1905

AAA Oregon

600 S.W. Market Street
Portland, OR 97201
503/222-8734
Fax: 503/243-6432

February 19, 1996

Mike Burton
Metro Executive Director
600 NE Grand Ave.
Portland, Oregon 97232-2736

Dear Mike Burton:

AAA Oregon supports the Department of Environmental Quality's (DEQ) plan to discontinue the oxygenated fuel requirement in the Portland metropolitan area.

In 1992 the Auto Club supported the use of oxygenated fuel, however, the evidence now shows it is unnecessary to maintain low levels of carbon monoxide (CO) emissions, well below the federal minimum standards. AAA believes we can no longer afford to continue an ineffective program that siphons money out of the Federal Highway Fund. Oxygenated fuel is subsidized at the expense of the federal transportation fund. That fund is responsible for providing our region's transit system and roads.

A single 1989 violation

The metro area has been in attainment with federal CO standards for more than six years. The Environmental Protection Agency's mandate was the result of a single violation in 1989. The region began sale of oxygenated fuel in November of 1992. There have been no violations since 1989, including the three years between the violation and the sale of oxygenate fuel.

Cars pollute less

Despite population growth, the regional CO emissions have steadily declined. DEQ forecast studies indicate this is a long-range trend that will continue with or without the use of oxygenated fuel. Manufacturers have significantly reduced the CO emissions in newer cars. The advent of fuel injected cars in 1982, reduced the CO emissions. Manufacturers made even greater advances in 1992 by equipping cars with oxygen sensors that lean the air/fuel mixture and do the job of oxygenated fuel. Cars older than 1982 have carburetors with a set air/fuel mixture intake. Oxygenated fuel is designed for those vehicles that are 14 years old and older. These vehicles represent a small and ever diminishing portion of the cars on the road.

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Several factors discourage these vehicles for commuters;

- the recent elimination of leaded fuel
- age related wear - these vehicles would have an average *minimum* of 170,000 miles.
- and, poor gas mileage.

Motorists are attracted to newer cars with low interest purchase plans, the recent explosive popularity of leasing (6 out of 10 Jeep drivers lease), better mileage and improved safety features. These vehicles also fit easily in today's smaller parking spaces.

Oxygenated Fuel Reduces Available Federal Transportation Dollars

Continuing the oxygenated fuel program may have a detrimental impact on the region's federally funded transportation programs. Oxygenated fuel gets a tax credit at the expense of our federally funded transportation programs. The ethanol excise tax break cost the Federal Highway Trust Fund between \$500 to \$600 million a year. In the past decade the overall loss has been about \$6 billion.

We are all aware that transportation needs far exceed available funds. In the Portland region alone, the ethanol subsidy amounts to nearly \$8 million a year. That is money that will not be available for our light rail system, high speed rail, bus system and roads.

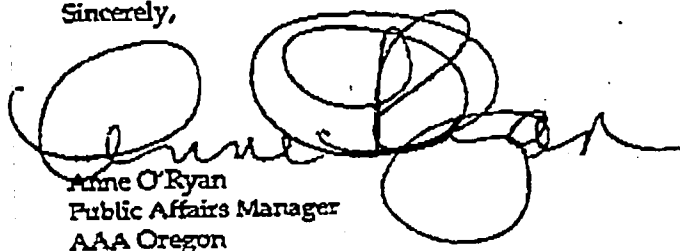
Opportunity to Act Now

Metro and the DEQ Commission have an opportunity to act now on this important issue. DEQ is in the midst of preparing its CO maintenance plan for the Environmental Protection Agency.

Other communities have recently acted to eliminate this ineffective and costly program. The Puget Sound, Vancouver and Maryland have already voted to discontinue oxygenated fuel.

For all these reasons, AAA Oregon encourages you to adopt DEQ's proposal to eliminate oxygenated fuels in 1996.

Sincerely,



Anne O'Ryan
Public Affairs Manager
AAA Oregon

U N I T E D



NFIB
National Federation of
Independent Business

January 30, 1996

Mr. Langdon Marsh
Department of Environmental Quality
811 SW Sixth Avenue
Portland OR 97204-1390

Dear Mr. Marsh,

In the matter of the Portland Area Oxygenated Fuel Mandate (OFM) I would like to express NFIB/Oregon's support for the Department's proposal to discontinue this program. NFIB/Oregon represents 17,000 small Oregon businesses from all industries.

Our first reason for supporting your proposal is that the program has become an example of obsolete and unnecessary regulation. The program was designed as part of the Clean Air Act, but under the Act's rules is no longer necessary for the reduction of acceptable air emissions. The Act provides that the program can be discontinued.

Second, the program raises fuel costs to small business owners and private citizens by over \$7 million. Seven million dollars that is taken from the economy for a program that has been deemed unneeded.

Finally, the resources dedicated to its enforcement could be reallocated and used in other programs that could be beneficial to the mission of the Clean Air Act.

The DEQ has the full support of NFIB/Oregon to assist you in your efforts to discontinue this unneeded program.

Sincerely,

A handwritten signature in black ink, appearing to read 'Joe Gilliam'.

Joe Gilliam
State Director

Oregon Highway Users Conference

P.O. Box 5506, Salem, OR 97304 ♦ Phone: (503)585-7716 ♦ FAX: (503) 585-7733

February 19, 1996

Mr. Langdon Marsh
Director, Oregon Department of Environmental Quality
811 SW Sixth Avenue
Portland OR 97204

Dear Mr. Marsh,


The Oregon Highway Users Conference is an organization advocating for sound transportation policy. We currently have a membership of nearly fifty associations, businesses, and individuals representing all sectors of Oregon's transportation industry. We are writing to express our opposition to continuing the oxygenated fuel mandate in the Portland metro area.

Oxygenated fuel generally costs more and provides lower fuel efficiency than other forms of gasoline. The direct consumer cost of the Portland metro area winter oxygenated fuels requirement is conservatively estimated at more than \$7.3 million each year. Also, and more problematic for our group, is the \$7.7 million in federal gasoline taxes from the Portland area which are siphoned off from the federal highway trust fund every year in order to subsidize ethanol producers who are manufacturing in other states and even outside the country. This subsidy of ethanol producers is wasteful and is reducing valuable funds for the highway trust fund.

For the past 15 years, the Portland metropolitan area has met federal standards which means that continuing the mandate violates the Clean Air Act. The Clean Air Act states that an EPA administrator may approve a plan regulating fuel or fuel additives "only if he finds that the state control or prohibition is necessary to achieve the national primary or secondary ambient air quality standard which the plan implements." Thus, if it is determined that an oxygenated gasoline program is not necessary to keep the region in attainment with the national CO standard, then it cannot be included in the CO maintenance plan. Therefore, the oxygenated fuels mandate should be removed from any DEQ 10-year CO plans.

With consumer dollars and highway funding in short supply, we strongly endorse the recommendation that the oxygenated fuel program be discontinued. We encourage the DEQ to approve this recommendation.

Sincerely,



Marshall Coba, president

cc: Metro Councilors

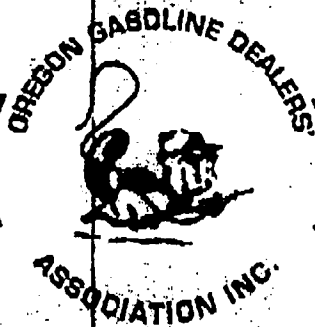


Marshall Coba
OHUC President
(Oregon Trucking Associations)

Anne O'Ryan
OHUC Vice President
(AAA Oregon)

Don Schellenberg
OHUC Secretary
(Oregon Farm Bureau Federation)

Sandra Flicker
OHUC Treasurer
(Oregon Rural Electric Cooperative Assn.)



Langdon Marsh
Department of Environmental Quality
811 SW 6th
Portland, OR 97204

January 23, 1996

Dear Mr. Marsh:

We are writing to express our strong opposition to continuing the oxygenated fuel requirement in the carbon monoxide maintenance plan now being prepared by the Department of Environmental Quality.

This requirement is expensive and unnecessary. Your agency conservatively estimates that the direct cost to consumers exceeds \$5 million during each winter season. In fact, that number would be considerably higher if it included the costs of lower fuel efficiency and those associated with lost federal Highway Trust Fund revenues that result from the subsidy to the ethanol industry.

The Portland metropolitan area is now in attainment with the federal carbon monoxide standard. As newer vehicles with more sophisticated pollution control technologies replace the older ones now on the road, the region's airshed will continue to improve. DEQ's staff projects that the area will remain in attainment for CO and, in fact will continue to perform better than those standards, even without the oxygenated fuels mandate.

It is also our understanding that continuing the requirement in the maintenance plan, when it is not needed to meet the CO standard, violates provisions of the Clean Air Act.

As small businesses, gasoline dealers are already burdened with a myriad of state and federal environmental regulations that add significantly to our cost of doing business. While we are willing to accept the expense of complying with needed regulations, we strongly resent being burdened with the cost of complying with unneeded rules and regulations.

For these reasons, we support DEQ's proposal to eliminate oxygenated fuels in 1996. With consumer dollars and highway funding both in short supply, we believe that the region should adopt the most cost-effective maintenance plan possible. We urge you to eliminate the unneeded oxygenated fuel requirement.

Sincerely,


Michael D. Sherlock
Executive Director

777 - 13th St. S.E., Suite 120, Salem, OR 97301
(503) 581-9156 • FAX (503) 585-9736

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Kathleen Curtis Dotten

OREGON METALS INDUSTRY COUNCIL

101 SW Main Street, Suite 245
Portland, Oregon 97204-3210
(503) 223-0719 FAX (503) 223-0816

Public Testimony before Metro Council Regular Meeting
February 29, 1996

Given by Kathleen Curtis Dotten on behalf of the
Oregon Metals Industry Council

RE: Resolution No. 96-2260

I am testifying before you on behalf of the Oregon Metals Industry Council to express our concern with Resolution No. 96-2260 recommending to the Environmental Quality Commission (EQC) the Transportation Control Measures (TCM's), Contingencies, and Emissions Budgets to be included in the Portland Region's Ozone and Carbon Monoxide maintenance plans.

Industry accounts for only 10 to 15 percent of the emissions in the Portland airshed, and yet, if you look at the Maintenance Plan, much of the burden for attainment of the maintenance plan falls upon industry. The Oregon Metals Industry Council strongly supports efforts to maintain our air quality but are concerned that unless we tackle the non-industrial sources of emissions, especially automobiles, the maintenance plan will be unsuccessful over time.

The Metals Council's specific concerns are two fold: (1) the growth allowance that has been allocated is insufficient to sustain economic vitality within the region. Furthermore, future plant closures and/or industrial emissions savings should be specifically attributed to expansion of the growth allowance. (2)The Employer Commute Option places the burden on the employer to reduce ridership, not the individual driver, where the responsibility belongs. The ECO rule places a particularly onerous burden on metals companies since most companies run three shift operations, are located in the extended urban area, and are in areas which are not served by public transit.

Also of concern is that some of the details of the Ozone Maintenance Plan have not been worked out yet, for example, the exact number of tons of additional emissions to be included in the growth allowance. It is for this reason that the Oregon Metals Industry Council encourages the Metro Council to defer its decision on Resolution 96-2260 until all of the facts are clearly defined. This issue will impact the growth of industry for the next ten years.

Kathleen Dotten
Executive Director
Oregon Metals Industry Council

cc: Langdon Marsh, Director, DEQ

REGIONAL ENVIRONMENTAL MANAGEMENT COMMITTEE REPORT

CONSIDERATION OF ORDINANCE NO. 96-634, FOR THE PURPOSE OF GRANTING A FRANCHISE TO WASTE RECOVERY, INC. FOR THE PURPOSE OF OPERATING A SOLID WASTE PROCESSING FACILITY AND AMENDING CODE SECTION 7.01.050 REGARDING EXCISE TAX EXEMPTIONS

Date: February 26, 1996

Presented by: Councilor McCaig

Committee Recommendation: At the February 21 meeting, the Committee unanimously voted to recommend Council adoption of Ordinance No. 96-634. Voting in favor: Councilors McCaig, McFarland, and McLain.

Committee Issues/Discussion: Bern Shanks, Regional Environmental Management Director, presented the staff report and reviewed the purpose of the proposed ordinance. Metro and Waste Recovery Inc. (WRI) have been negotiating for the past year to develop a mutually acceptable regulatory relationship. The franchise agreement proposed for approval by this ordinance outlines this relationship.

WRI is a major waste tire recycler in the Metro region and throughout the Northwest. The company processed over five million tires in 1994. These tires are chipped and then used primarily as boiler fuel or recycled into new rubber products. The chipping process currently produces about a 20% residual which consists mostly of the metal wire found in radial tires. This residual is landfilled.

The state has sought to encourage the recycling of waste tires through a ban on the landfilling of tires. As a result of this ban, a waste tire management system has developed which is outside the normal waste disposal system. The material is source-separated and collected independent of the mixed waste collection system. WRI is the only tire recycler currently operating in the Metro region and is the largest recycler in the Northwest.

Metro had originally questioned whether the residual material from WRI's processing facility should be subject to Metro's Regional User Fee of \$17.50/ton. WRI contended that most of the tires processed at the facility were from outside the region and that WRI was seeking to implement a state legislative policy that encouraged tire recycling. They also noted that the total amount of the Metro fees and excise taxes would be greater than the company's current profit.

Though WRI is not required to obtain a franchise from Metro, both parties determined that the issues between them could be best addressed through the development of a voluntary franchise agreement. Metro determined that it was in the agency's best interest to encourage tire recycling through the private sector.

The terms of the franchise are designed to encourage WRI to invest

in new technology to significantly reduce its residual levels. The franchise would reduce the fees owed to Metro for the disposal of residual to a flat annual rate of \$4,000 for each of the next three years. This fee reduction would encourage WRI to investment in new technology that could virtually eliminate the residual produced at its facility. WRI has indicated that the technology should be operational within three years. If the implementation of the new technology is delayed or does not work as planned, if WRI can meet certain benchmarks, it may continue to qualify for the flat rate fee payment for up to three additional years.

After the expiration of the period during which WRI would pay the flat fee, any residual still produced by the facility would be subject to payment of the Regional User Fee based on a sliding rate schedule. For example, if 60-100% of the processed material remains as residual, WRI would pay 100% of the Regional User Fee. If the residual rate remains at the current percentage (20%), WRI would pay 10% of the Regional User Fee. If the new technology is successful, residual may be reduced to less than 5%. If this occurs, WRI would pay only 2.5% of the Regional User Fee on the remaining residual.

The franchise is intended to maximize a private sector approach to recycling a major wastestream. If successful, Metro will receive a minimal annual fee payment from WRI.

REM COMMITTEE

FEBRUARY 21, 1996

PROPOSED MODIFICATIONS TO "EXHIBIT A"

TO ORDINANCE NO. 96-634

13.3

- b. For a period of three years beginning from the initial date of this franchise and while Franchisee implements new wire recovery technology, Franchisee shall pay to Metro a flat User Fee per year of \$4,000. If during this three year period the residual rate exceeds ~~25%~~ 40% for any single year, the terms and conditions of the rate schedule as defined in 13.3a shall apply for a subsequent one year period.

- 13.6 ~~Franchisee shall establish uniform rates to be charged for all loads accepted at the Facility.~~ Franchisee shall establish objective criteria and standards for acceptance of tires and will submit a copy to Metro within 10 days of execution of this agreement. To minimize potential customer conflicts regarding the recoverability of loads, the Franchisee shall minimize the number of rate categories and shall not change the rates during an operating day, but rates may be charged on a continuing basis as market demands may dictate. Public rates charged at the facility shall be posted on a sign near where fees are collected.

16. NOTICES

- 16.1 All notices required to be given to the Franchisee under this Franchise shall be delivered to:

Mark W. Hope, Vice President
Waste Recovery, Inc.

Mark W. Hope, Vice President
Waste Recovery, Inc.

Mike Burton, Executive Officer
Metro

Date: _____

Date: _____

TRANSPORTATION PLANNING COMMITTEE REPORT

CONSIDERATION OF RESOLUTION NO. 96-2260, FOR THE PURPOSE OF RECOMMENDING TO THE ENVIRONMENTAL QUALITY COMMISSION (EQC) THE TRANSPORTATION CONTROL MEASURES (TCM'S), CONTINGENCIES AND EMISSIONS BUDGETS TO BE INCLUDED IN THE PORTLAND REGION'S OZONE AND CARBON MONOXIDE (CO) MAINTENANCE PLANS

Date: February 26, 1996

Presented by: Councilor Monroe

Committee Recommendation: At the February 20 meeting, the Committee unanimously voted to recommend Council adoption of Resolution No. 96-2260. Voting in favor: Councilors McLain, Monroe and Morissette.

Committee Issues/Discussion: Andy Cotugno, Transportation Director, and Annette Liebe and Howard Harris, State Department of Environmental Quality, presented the staff report and reviewed the purpose of the proposed resolution. The resolution and the attached exhibits outline the recommendations of the Council and JPACT concerning the transportation control measures (TCM's) and emissions budgets to be included in the region's ozone and carbon monoxide maintenance plans. These changes and the maintenance plans must be approved by the state Environmental Quality Commission and the federal government. Upon receiving state approval, these recommendations would be incorporated in the regional transportation plan (RTP).

In 1990 the region was designated as being in marginal non-attainment status for ozone and moderate non-attainment status for carbon monoxide. This non-attainment status resulted in restrictions that included parking limitations, the use of oxygenated gas in the winter months and the use of more expensive emission control systems. Though the region now meets the federal ozone and carbon monoxide emission standards, it is necessary to develop an approved 10 year maintenance plan to obtain federal attainment status and have the restrictions noted above removed.

A joint Metro-DEQ work group developed a draft maintenance plan that was then reviewed and modified by TPAC and JPACT, prior to being forwarded to the Council. The proposed plans include elements related to regional land use function plans, transit services, multi-modal facilities, and parking. The contingency plans identify those measures that would be taken should non-attainment violations occur.

Annette Liebe reviewed the changes to the draft plans that were made by TPAC and JPACT. She noted that the industrial emission growth allowance had been reduced from 1,100 tons to 500 tons. However, it was further noted that the benefits of any additional actions that reduced emissions would be used to increase the industrial allowance. A second change related to the inclusion of portions of the central city transportation plan in the maintenance

plan. Another change specified that the proposed increase in transit service in downtown Portland could be scaled down if actual employment growth was below projections. Both TPAC and JPACT recommended retaining the oxygenated fuel requirement through winter 1998-99, when its continued use would be reevaluated. The language of the carbon monoxide plan also was amended to provide that a violation outside of the downtown Portland area would not require the reinstatement of a downtown parking lid.

Howard Harris, DEQ staff, reviewed data concerning the economic effects of the use of oxygenated fuels. He noted that data had been received from the Western States Petroleum Association and Northwest Bio-Products Commission. Due to the widely differing assumptions used by these organizations, their analyses of economic effects resulted in very different conclusions. The association concluded that the impact was approximately \$15 million annually or 1.6 cents per gallon. The commission concluded that there was no economic impact.

Councilor McLain requested that the review of the continued need for the use of oxygenated fuels be completed in advance in the proposed winter 1998-99 deadline.

Councilor Morissette asked what assumptions were made concerning the impact of increasing the urban growth boundary on potential vehicle emissions. Cotugno responded that the plans assumed a 4,000-5,000 acre increase in the UGB. Councilor Morissette noted that a larger increase of 8,000-10,000 acre was more likely to occur. Cotugno indicated that a larger increase might require a review of the emissions forecasts used in the plans. Morissette noted that he would support moving the resolution for Council consideration, but that he had concerns about the differing cost assumptions related to the economic effect of oxygenated fuels.

21130 N.E. Interlachen Ln., Troutdale, Or 97060 Feb 29, 1996

Metro Council
600 N.E. Grand Ave
Portland, Or 97232

RE: "A REAL MESS", BLUE & FAIRVIEW LAKE AREA SUBJECT TO POTENTIAL
DISASTER

Dear Members of Metro Council:

Thank you for the opportunity to speak to you today. Enclosed is a letter addressed to John Fregonese, Chair of Metro's Advisory Committee on Mitigating Earthquake Disaster (MACMED). The concern is the need to list LEVEES on table 7, p. 22, under the land use group "Potential Catastrophy if Damaged". This is found in Metro's booklet "Using Earthquake Hazard Maps for Land Use Planning", Dec. 1995. We request also that the word LEVEE be included in the text reference.

The complex relationship of hydrology, wetlands, soils, groundwater, natural resources and land use for the Blue & Fairview Lake Area needs to be addressed by a regional government. Fairview Lake is the headwaters for the Upper Columbia Slough and the collection point for a majority of runoff for the Gresham and Fairview area. There is no management plan in place. This area is a candidate for the National Priority List (Superfund) for contaminated groundwater. There is also a lack of adequate community wellhead protection plans which would include a delineation of capture zones and protection under LCDC statewide Goal 5, Natural Resources.

This area's groundwater is used by the 700,000 residents of the City of Portland, Fairview, Gresham, and Interlachen. Our current dilemma of internal flooding, (flood of '96), a financially strapped Drainage District, loss of wellfield capture zone and wetlands for aquifer recharge, our lack of disaster response and emergency preparedness, and the potential for scouring of life lines, presents a disastrous situation.

Therefore, as a way to begin to address this regional issue, we would like to have the Metro Council recommend to the MACMED Committee:

- 1) to add LEVEES to table 7 Land Uses described above,
- 2) to request a Special Study Zone (as outlined in the Homebuyer's Guide to Earthquake Hazards by the Bay Area Regional Earthquake Preparedness Project, p. 2) for the wellfield capture zone area of the Portland Water Bureau and Blue & Fairview Lake. Factors that necessitate this study include:
 - a) Flood & inundation zone (areas subject to inundation by potential ruptures of dams & reservoirs & by floodwaters that back up)
 - b) Geologic Hazard Zone: areas where intense ground shaking,

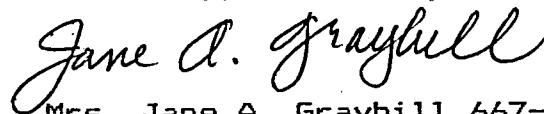
settlement, landsliding or liquefaction (earthquake induced flow of water-saturated sandy soils) may occur in a large quake. Soft and unstable soils will magnify forces and damage structures. See enclosed letters from John Beaulieu and Dennis Olmstead of Dept. of Geology and Mineral Industries, plus maps.

c) Fault zones: 2 fault zones considered to be active, Lackamas and Grant Butte; 2 others located at Blue & Fairview Lake.

d) Other factors: this area is being used as a mitigation bank for nearby industrial properties, close proximity of the Gresham Sewage Treatment Plant, the Fairview Lake Dam and reservoir, the Marine Drive Levee and N.E. 223rd Cross Levee, the City of Portland emergency wellfield, surface & groundwater dynamics & effects of the plume of contamination, the major east-west rail line, Metro's own regional Blue Lake Park, and the soon coming addition of 300-600 more homes to be located on alluvial soils.

We look now to Metro to help us in our regional dilemma to help us solve very complex issues. Thank you for your consideration.

Sincerely,

A handwritten signature in cursive script that reads "Jane A. Graybill". The signature is written in black ink and is positioned above the typed name and affiliation.

Mrs. Jane A. Graybill 667-4547
Friends of Blue & Fairview Lake

Mr. John Fregonese, Chair
Metro Advisory Comm. Mitigating Earthquake Damage
600 N.E. Grand Ave
Portland, Or 97232

RE: NEED FOR LISTING OF LEVEES ON LAND USE LIST FOR EARTHQUAKE HAZARD MAPS by Dept. of Geology & Mineral Industries & Metro.

Dear Mr. Fregonese:

A review of the Land Use List (table 7) on p. 22 of Metro's Using Earthquake Hazard Maps for Land Use Planning & Building Permit Administration Dec 1995, reveals that levees have not been included.

The soils along the Columbia River and the Slough/Lake area are recognized as alluvial flood deposits and are susceptible to liquefaction and ground motion amplification. (See enclosed article "Columbia Corridor Seen Bad in Quake" 5/20/93). The following factors make the lake area & upper Slough a "sensitive environment" and in need of special protection and planning:

1. The presence of 2 fault zones (see map from DLCD) that apparently intersect at the Marine Drive Levee and Blue Lake Road.
2. The high water table
3. The floodplain hazard potential (clarified by the Flood of '96)
4. The close proximity of the Interlachen neighborhood of 150 homes & the soon-to-be neighborhoods of additional 300-600 homes, to the Marine Drive and N.E. 223rd Levee
5. The need to protect the 2 billion dollar investment of industry and business of the cities of Portland, Gresham and Fairview along the Columbia South Shore/Prevent scouring of LIFE LINES, gas, water, sewer and electric lines and cost to the public
6. Protection for Metro's Regional Blue Lake Park investment
7. Wellhead Protection for the City of Portland's Emergency Backup Water Supply - Blue Lake & Fairview Lake Wellfield
8. Protection for the Superfund candidate area & its multiple exposure pathways to the groundwater supply for Portland and the Interlachen community.
9. LCDC Statewide Goal 7, Natural Hazards, is usually not addressed, or does not factor in the above items in local comprehensive plans.

In summary, the geologic hazards present in our local area include fault zones, areas of water-saturated sandy soils that are unstable, and a flood and inundation zone. It is important for Metro, cities, and citizens to acknowledge and plan carefully how best to protect lives, property and resources. A Special Study Zone is also appropriate because of the presence the active fault zones, Grant Butte & Lackamas (Port. Water Bureau), 2 fault zones at Blue & Fairview Lake described above, Fairview Lake Dam/reservoir and because of the liquefaction/ground motion amplification potential. (see Home buyer's guide to earthquake hazards-Bay Area Regional Earthquake Prepared-

ness Project with FEMA)

We request that the Metro Advisory Committee for Mitigating Earthquake Damage add levees under the category "Potential Catastrophe if Damaged". We would appreciate a written response.

Thank you very much for your attention to this important matter.

Sincerely,

Jane A. Graybill

Jane A. Graybill 667-4547

Friends of Blue & Fairview Lake

Encl: Home buyer's guide to earthquake hazards (BAREPP)
Map Figure 1 Columbia Slough Study Area w/levees
Article: Columbia Corridor Seen Bad in Quake 5/20/93
Map: TSA Plume Map for TCE, "proposed fault line" North-South '92
Fax & map fr. M. Riley to Bruce Gilles, DEQ, 4/14/92 fault zone
Letter to Jim Knight, DLCD, from John Beaulieu, DOGAMI, 8/13/93
Letter to Jim Kennedy, DLCD, from Dennis Olmstead, DOGAMI, 8/30/93
Letter to Richard Benner, DLCD, fr Sherry Patterson, DEPN, 11/15/93
Article: Metro Study, Oregonian, 1/18/94, Portland, Or, zone 3
Meeting notes: OSSPAC Land Use Committee July 12, 1994
Oregonian Editorial: "Plan for natural and fiscal disasters" 12/31/94
" "Quake experts say earth liquefies as deep as 30 feet" 2/17/95
" "Shaky Ground" 5/12/95
Map: DEQ Groundwater Project, top of Confining Unit 1 (fault zone?)
Map: DLCD 1993 "Natural Hazards Planner/newsletter/2 fault zones
Article: The Wetlands Conservancy (TWC), Jack Broome, Wetlands under
Threat Again April 1995
Article: "THE OTHER RIVER BARRICADE" Oregonian 2/19/96 Metro Section
cc Jim Kennedy DLCD
Lyn Mattei NWEA
Sherry Patterson, Dr. Earthquake Prepard. Network
Mike Houck, Audubon
Citizens, Tom Burns, Jean Ridings, Michael Whitten
Peg Reagan, OSSPAC
Curt Peterson, PSU
Douglas Larson, PhD
Rosemary Furfey, Water Quality, Metro
Susan McClaine, Land Use/Metro
Jon Kvistad, Presiding Officer, Metro
Charles Cieko, Metro Parks
Ed Sullivan, MACMED
George Huston, Div. Chief, Emerg. Managem., Port. Fire Bureau
Gov. Kitzhaber
Myra Lee OEM
Fema Region 10
Sen. John Lim
Rep. Elizabeth Furse
Sen. Ron Wyden Bruce Niss, PWB

Metro Report: Metro Adv. Comm. Mitigating Earthquake Damage (MAMED) DEC 1995

TABLE 7: SITE INVESTIGATION REQUIREMENTS BASED ON RELATIVE EARTHQUAKE HAZARD MAP

LAND USE GROUP	LAND USES	Facilities Affected by OSSC	HAZARD ZONES & INVESTIGATION REQUIREMENTS				KEY TO SITE INVESTIGATION REQUIREMENTS
			Greatest	High	Moderat	Least	
Potential Catastrophe If Damaged	Large dams						4 = Site investigation with panel peer review required
	Nuclear plants						
	Facilities using/storing large qt. of haz. mat.	X					
High-Occupancy with Involuntary or Dependent Occupants	Day care centers < 250 kids						3 = Site Investigation required unless other data suggest otherwise
	Day care centers > 250 kids	X					
	Schools K-12 < 300 students						2 = Site investigation not automatically required. Local govt may require if desired
	Schools K-12 > 300 students	X					
	Convalescent homes < 50 persons						1 = Site investigation not required.
	Convalescent homes > 50 persons	X					
	Jails and detention facilities	X					
Essential for Emergency Response	Fire & police stations						EARTHQUAKE PERFORMANCE OBJECTIVES
	Garages for emergency vehicles						
	Water tanks						
	Structures housing fire suppressants						
	Govt. communications centers						
	Emergency response centers						
	Hospitals						
	Medical bldg. with surgical services						
Critical to functioning of the Metro Region	Large power plants						Fully Functional (Acceptable risk is near zero)
	Power intertie						
	Sewage treatment plants						Immediate Occupancy (Acceptable risk is very low)
	Water plants	X					
	Regional highways and bridges and tunnels						Damage Control (Acceptable risk is low)
	Regional rail lines						
	Airports						Substantial Life-Safety (Acceptable risk is moderate)
	Port facilities						
	Major communications facilities	X					
	Telephone exchanges	X					
Radio and TV stations							
High Occupancy	Buildings > 10 stories	X	3	3	2	1	CURRENT STATE REQUIREMENT
	Public & private Colleges < 500 occupants		3	3	2	1	
	Public & private Colleges > 500 occupants	X	3	3	2	1	
	Public assembly places w/ > 300 capacity	X	3	3	2	1	
	Hotels/motels >50 rms >60,000' >10 stories	X	3	3	2	1	
	Major industries and employers		3	3	2	1	
	Apartments > 25 units		3	3	2	1	
Buildings w/ > 150 employees		3	3	2	1		
Important Local Impacts If Damaged	Facilities using/storing small qt. of haz mat.	X	3	3	2	1	X = Facilities required to have seismic site hazard study by the Oregon Structural Specialty Code (OSSC)
	Small dams that would cause flooding		3	3	2	1	
	Gas stations		2	2	2	1	
	Highways, streets, and bridges		2	2	2	1	
	Utility lines, substations, and gas mains		3	3	2	1	
	Water & sewer mains		3	3	2	1	
	Industries/business important to economy		2	2	2	1	
Health care clinics		2	2	2	1		
Co-generation power plants		3	3	2	1		
Moderate Occupancy	Buildings w/ 4 to 10 stories	X	3	3	2	1	CURRENT STATE REQUIREMENT
	Apartment 9 to 25 units		3	3	2	1	
	Buildings w/ 50 to 150 employees		3	3	2	1	
	Bldgs w/50-150 employees >60k' >10 stories	X	3	3	2	1	
	Public assembly places: 50 to 300 capacity		3	3	2	1	
	Hotels/motels <50 rms <60,000' <10 stories		3	3	2	1	
Low Occupancy	Apartment with 2 to 8 units		3	2	1	1	CURRENT STATE REQUIREMENT
	Buildings with < 50 employees		3	2	1	1	
	Buildings with 1 to 3 stories		3	2	1	1	
	Public assembly places with < 50 capacity		2	2	1	1	
	Single-family houses in a subdivision		3	2	2	1	
	Single-family houses		2	2	1	1	
	Mobilehomes in a subdivision		3	2	2	1	
	Mobilehomes		2	2	1	1	

The land uses are guidelines and could change as unique facilities and land uses are developed.

Handwritten: Graham Sewage Treatment plant

Handwritten: What about Marne Drive * 7500 ft PHF Area w/ 50 Rating for Substandard Contain up FAULT ZONE

The OTHER river barricade

FEB 19, 1996

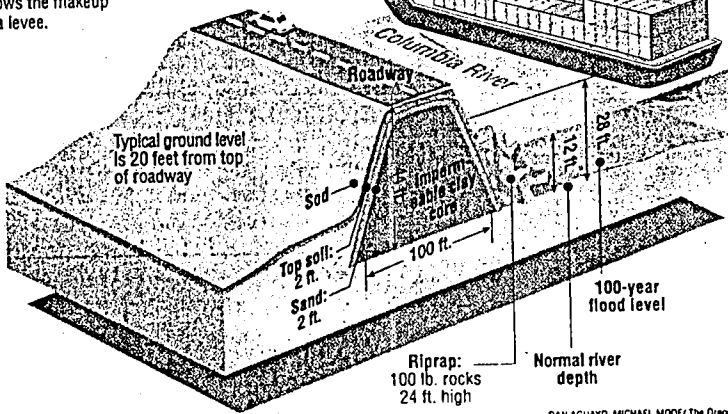
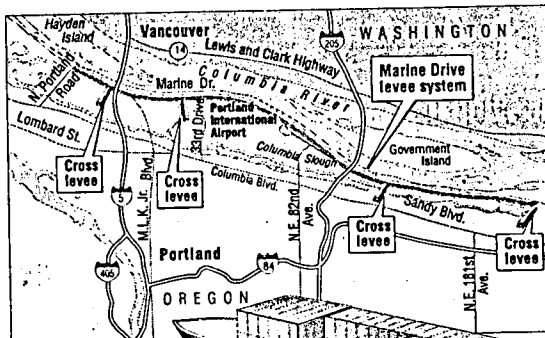
Pete Adelman of Portland and Betty Barton of Vancouver, Wash., stroll along the Columbia River levee Sunday morning above Northeast Marine Drive near Portland International Airport.



PATRICIA CORDELL/The Oregonian

MARINE DRIVE LEVEE

An 18-mile-long system of levees, all but forgotten between floods, worked flawlessly to protect \$2 billion worth of property where Portland nudges the Columbia River. The cross section below shows the makeup of a levee.



DAN AGUAYO, MICHAEL MOORE/The Oregonian

They look like part of the landscape, but levees dating to 1919 do their duty on the Columbia

By JAMES LONG and DAVID R. ANDERSON
of The Oregonian staff

Delta Airlines, fearing the Columbia River would turn Portland International Airport into a lake, turned Flight 1529 around in midair Feb. 8 and sent it back to Atlanta.

The Oregon State Police kept calling the flood emergency center that afternoon, wondering when it would have to evacuate the 480 inmates at the Columbia River Correctional Institution near Northeast Marine Drive and 33rd Avenue.

Alaska Airlines, which usually parks as many as 11 airliners overnight at Portland International, flew the planes to Seattle that evening for safekeeping.

But the flood never came. Once again, the Portland area's northern rim was saved by its oldest and least visible flood-protection system, a string of levees about 18 miles long.

Stretching from the Burlington Northern Railroad bridge west of Interstate 5 to the Sandy River to the east, the levees have been in place for the better part of a century.

They are so big that they seem like part of the natural landscape. Every few decades they are called

“
If we do our job right, hardly anybody knows we're here. We're like an insurance policy.”

Tim Hayford,
manager, Multnomah County
Drainage District 1

upon to thrust a shoulder between the Columbia and the increasing development along its shore.

At 11 a.m. Feb. 9, the Columbia foamed to 29.3 feet at Northeast 13th Avenue and stayed there for 30 hours. That was more than 11 feet above flood stage, but no problem at all for the 45-foot levee.

Only reluctantly did the river ease its grip, taking a full week to slacken down the levee to mere flood stage at 18 feet.

As contests with the river go, this one was barely exciting, except for a

Please turn to
LEVEES, Page D6

Over

Levees: Vibrating vehicles could have caused them to liquefy

2/19/96
 ■ Continued from Page D1
couple of minor leaks that the levees' operators quickly contained.

"It wasn't close at all," said Tim Hayford, manager of Multnomah County Drainage District 1, one of four such districts that tend the levee system. "I'd say we were 98 percent assured of no failure."

What about the other 2 percent?

"The only reason I say 98 and not 100 is I remember reading about the Titanic," Hayford said with a laugh. "If Mother Nature wants to win, she's gonna win."

Portlanders have been disputing with the Columbia over its flood plain for nearly 100 years and have lost only one serious battle.

Horse-drawn scrapers piled up dirt for the first primitive levees along the river in 1919. After the catastrophic Vanport flood punched through what is now the Burlington railroad embankment in 1948 — a structure never meant to be a levee — authorities reconsidered the crude earthworks they had built.

In the 1950s and 1960s, they replaced the old levees with stronger, more sophisticated structures designed by the U.S. Army Corps of Engineers.

The new levees are 40 to 45 feet tall, with a base as wide as a football field is long.

Riprap is no riffraff

The heart of a levee is nearly waterproof clay, encased in 2 feet of sand overlaid with 2 feet of topsoil and a skin of sod. The river side of the dike usually is armored with riprap — rocks weighing at least 100 pounds each — to discourage erosion.

Unlike most major levees, the one facing the Columbia north of the Portland airport is topped with a major thoroughfare, Northeast Marine Drive. The roadway is noted for its fast-moving truck traffic and clots of boat-towing recreationalists.

Unsure what effect the traffic might have, authorities closed Marine Drive during the flood and didn't remove the barricades until more than a week later.

Les Miller, chief of the emergency

operations center for the Portland district of the Army Corps of Engineers, said the danger was that vehicles, especially large trucks, might cause vibrations that would reach a resonance that would liquefy the levee.

This kind of thing sometimes happens during earthquakes, when vibrations liquefy soil and cause buildings to capsize like ships.

Miller thought that slowing the traffic to 25 mph might have done the job, but everyone agreed that it was easier to close the road than to try to get motorists to drive slowly.

Hayford isn't used to being in the spotlight.

"If we do our job right, hardly anybody knows we're here," said Hayford, whose Multnomah County Drainage District 1 will spend \$870,000 this year keeping the Columbia at bay. "We're like an insurance policy."

Liquid jeopardized assets

Together, the four districts are responsible for keeping the river from burying at least \$2 billion worth of developments that have grown up between the river and Northeast Columbia and Sandy boulevards.

These include such big-ticket properties as the Rivergate industrial district and its 58 businesses and factories, the Jantzen Beach commercial complex, Portland International Airport and Reynolds Metals.

Also in the levees' shadow are some public assets that worry officials even more.

The city of Portland, for instance, was concerned about a series of 22 wells between the airport and Fairview — the city's alternate water supply.

Mort Anoushiravani, chief engineer for the Portland Water Bureau, said floodwater could have contaminated the wells, knocked out power to their pumps or destroyed the pump station that moves water to the top of Powell Butte for distribution to hundreds of thousands of customers.

Those were the wells that kept taps running in the metropolitan area when the Bull Run water supply was unusable. Under the worst

scenario, Anoushiravani said, the city would have lost the wells, too, forcing everyone on the Bull Run system to boil drinking water.

The Army Corps of Engineers helped monitor the levees during the flood.

"We had a lot of little seeps and sloughs, but at no time was (a) levee in danger of failing," said Miller, the engineers' emergency center chief. "The safety factor is huge."

Still, the public might have wondered why there seemed to be so much concern, so many people keeping an eye on the levees.

"A lot of that is called comfort factor," Miller said, adding that the crews were out there more to reassure people by their presence than to repair problems.

One thing that got crews out was a gusting 30-mph wind that drove waves into the side of one of Hayford's levees near Northeast 53rd Avenue. The waves gouged out dirt, bringing crews running with filter-fabric and three truckloads of sand-bags.

"We were never in trouble," Hayford said. "Where the water was hitting, the levee is about 45 feet wide. We still had 15 feet of freeboard to the top of the dike."

Waiting for the trickle

Even if the river had broken through the levee, experts said, it wouldn't have been like a tidal wave but more like a trickle that would increase slowly during the hours. With the levees patrolled intensively, experts said, there would have been plenty of time to plug the gaps.

That was the reason for the 24-hour monitoring, Miller said.

The Oregon Army National Guard sent helicopters over the area for several nights with infrared cameras that could detect any infiltration of colder river water past the levees.

Greg Witter, a spokesman for Alaska Airlines, said it was caution more than nervousness that caused Alaska to move its planes out of an airport that all the experts said was in no danger of flooding.

"That may be," Witter said, "but at \$30 to \$35 million a plane, you don't take a chance."

Mentions Fairview Lake/plume

THE FLOOD OF '96

GOOD SUMMARY of PROBLEMS

BEYOND BULL RUN



The Bull Run watershed, on the flank of Mount Hood, provides water to the Portland area.

PAUL KITAGAKI JR./The Oregonian

The ravages of winter force city officials to temporarily rely on wells threatened by contamination

2/25/96

By R. GREGORY NOKES
of The Oregonian staff

Portland had run out of options: For the first time in 101 years, Bull Run water was unsafe to drink. Officials faced warning nearly 800,000 people to boil their water.

On Feb. 7, city officials quietly took a risky step. As the Bull Run ran muddy, they started drawing water from two dozen wells along the Columbia River, including wells unused since 1987 because of the threat of contamination.

"We were at the point of having no water supply," said Mike Rosenberger, director of the Portland Water Bureau. "There really was no choice. We needed water, and that was the water. And it was safe."

The Bull Run system has been the pride of Port-

land for more than a century, but it has been tested this winter as never before, once when a landslide took out two main conduits and once during the floods.

Both times, Portland turned to the backup wells stretched along the Columbia River between Interstate 205 and Troutdale. But only during the floods did officials resort to wells threatened by contamination. Of 24 wells, only one wasn't used.

The system survived but barely. Flooding had put the Portland area on the brink of the unthinkable and has added urgency to an ongoing effort to develop reliable water supplies for the future.

"Once you rely totally on the backup supply, you have no backup," Rosenberger said. "You are right on the edge."

Portland and regional water agencies are looking at a variety of options, including treatment of water from the Willamette River, a new dam in the

Bull Run watershed, underground storage, more pipeline connections and intensified conservation.

In addition, the shutdown of Bull Run will reinforce demands for a permanent ban against logging in the watershed, because past logging partly is being blamed for the muddy debris that washed out the water supply.

□

City officials are admittedly nervous about using the wellfields to support the entire Bull Run system, which supplies not only Portland but also the Tualatin Valley Water District and cities such as Tualatin and Gresham.

The wells provided nearly all of the system's water for most of a week, pumping as much as 93 million gallons a day, nearly three times what the

Please turn to
BULL RUN, Page A16

BEYOND BULL RUN: FINDING NEW WATER RESOURCES

2/25/96

Bull Run: Plume threatening aquifers feeding the wells

■ Continued from Page One

city has considered reliable long-term production.

Some wells draw from aquifers threatened by contamination from cancer-causing residue from industrial waste: Two wells contained traces of tetrachloroethylene, and two contained traces of perchloroethylene. Health officials said that the amounts were well within safety margins and that the water was treated before being mixed into the system.

But while apparently safe, the wellfields water came with a risk: that a pool of underground contamination would move closer to some wells and damage the city's only backup supply for emergencies.

Relying on the wells poses other potential problems. A power failure, for instance, could paralyze the pumps that draw water from the wells. A break in the dike along Marine Drive would have been enough to knock out the power to a number of wells. As it was, one well was partially flooded and temporarily unusable.

"I don't think it's fragile, but each component is critical, and we never can take our water supply for granted," said Mike Lindberg, the Portland city commissioner in charge of the Water Bureau.

Since 1895, Bull Run water has been the best. It helps to define us as citizens of Portland, as does the scent of roses and our view of Mount Hood. It's free on our street corners. We brag about its purity.

Nestled in the foothills of Mount Hood about 35 miles east of Portland, the 100-square-mile watershed gets about one-third of its water from fog and mist and the rest from snowmelt and rain. Closed to the public, the watershed is free from polluting towns, farms and industry.

Its purity makes it one of the few unfiltered major municipal water systems in the country.

But is there enough? The region's population is booming, and water-consuming high-tech plants are coming, partly attracted by the abundance of pure water.

Until this winter, the answer had been yes. Officials thought sufficient water was available for at least the next 20 years, counting projects already on the drawing boards and

ongoing conservation.

The answer still might be yes. More water poured over the Bull Run dams in one day, Feb. 7, than Bull Run customers usually use during July and August combined.

But the bigger issue might be reliability. Those billions of gallons could not have been used safely. Bull Run was shut off entirely from Feb. 7 until Feb. 12, when turbidity levels returned to the safe zone.

Without full use of the wellfields, the city would have been forced to warn nearly 800,000 people to boil Bull Run water for drinking and cooking, a staggering prospect for a city of Portland's size. Lindberg shudders at the potential health threat to those who could have missed such a warning.

City officials had only to look down Interstate 5 toward Salem to see the consequences of the lack of a backup supply: lost wages for laid-off workers, laundry still undone, people eating off paper plates. Or to smaller towns such as St. Helens, where consumers still were boiling water last week.

People knew the city was using the wellfields: it regularly uses four safe Blue Lake-area wells near Gresham to supplement Bull Run during dry summer months. But they weren't told they were getting water from wells threatened with contamination.

Gayle Killam, water program director for the Oregon Environmental Council, thinks the city erred in not being candid with consumers. Had people known that the city was risking movement of the underground contamination, called a plume, they might have opted for more conservation, Killam says.

As it was, the city's ban on outdoor water use, coupled with voluntary cutbacks by households and businesses, reduced consumption by 25 percent to 30 percent at the height of the crisis.

"Have we sacrificed our future supply?" Killam asked. "If we have moved the plume, it jeopardizes the capacity of the wellfields to be used for the future."

A 30-year project to clean up the wellfields has made progress but is behind schedule. The city and the state Department of Environmental Quality say the Boeing Co. and Cascade Corp. are among businesses

that caused the pollution and must pay the multimillion-dollar expense of cleaning it up.

But Killam said that if the city has moved the plume, it could end up with some liability of its own, which could be passed to consumers.

The DEQ had approved the city's emergency wellfield pumping plan in advance. Bruce Gilles, a DEQ manager for environmental cleanup, said the city's action could have moved the plume by 10 feet or so, which he did not consider cause for alarm.

"We're working on a 300-plus-acre plume of contamination," Gilles said. "That small amount of migration is really insignificant in the context of what we're contemplating for cleanup." The main plume is south of Fairview Lake and threatens several wells. A second unrelated plume is east of Interstate 205.

No one can say for sure that past logging helped create the sediment that shut down the system; the 10 inches of rain in four days in early February might have caused the turbidity regardless. But suspicion is widespread that logging contributed.

"It's common sense that there's a connection to road building and logging," Lindberg said. "Whether we can scientifically prove it or not, I don't know."

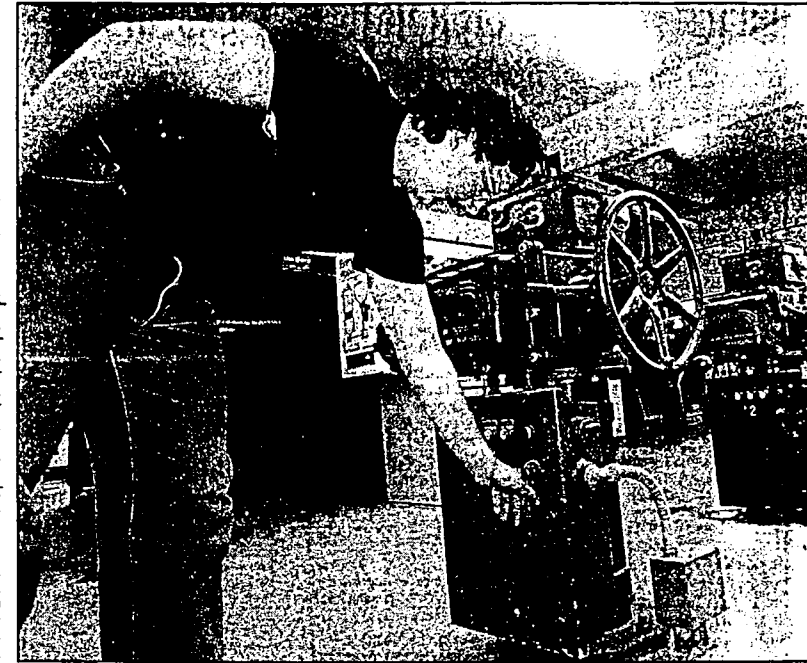
About one-third of the watershed was logged from 1959 to 1991, the last year of logging.

A study from Portland State University says sediment at the upper end of one of two Bull Run reservoirs is 20 to 30 feet thick but only about six inches over the entire reservoir.

Although the loss of reservoir capacity is minimal, the study concluded that much of the sediment might have been deposited from 1964 to 1972, which coincided with the years of intensive logging. A major 1964 storm also might have been a cause.

And although there hasn't been any recent logging, Lindberg said the salvage logging rider adopted by Congress last year carries the risk of new logging. The Portland City Council has called for repeal of the salvage rider and supports legislation introduced by Rep. Elizabeth Furse, D-Ore., for a permanent ban on all logging in the watershed.

As for future supplies, Portland



Tom Zimmerman shows valves that regulate water flow to Portland at the Bull Run watershed headworks.

STUDY LOOKS AHEAD 50 YEARS FOR WATER SOURCES

The Portland Water Bureau and other regional water agencies are nearing completion of a study to secure reliable water supplies for the Portland area's needs for the next 50 years.

The Trask River project already is under way. The agencies also agree about the need for more conservation and for more pipeline connections to share water supplies, especially in emergencies.

They have not agreed, however, on a major new water source and are leaving that for future decision-makers.

Among the options:

■ **Bull Run** — building a third dam and a treatment plant, if needed. Preliminary estimate: \$236 million for the dam and pipeline plus \$120 million for a treatment plant. Capacity: 278 million gallons a day; existing capacity of 225 million gallons.

■ **Clackamas River** — new intake and treatment facilities, near existing Clackamas River water operation. Estimate:

from \$35 million for 25 million gallons a day to \$141 million for 160 million gallons.

■ **Willamette River** — intake and treatment plant upstream from the Interstate 5 bridge at Wilsonville. Estimate: \$162 million for 100 million gallons a day to \$538 million for 500 million gallons.

■ **Columbia River** — intake and treatment plant north of Troutdale, downstream from the mouth of the Sandy River. Estimate: \$124 million for 100 million gallons a day to \$316 million for 400 million gallons.

■ **Trask River** — a new dam and expansion of Barney Reservoir. Going forward independently as part of a \$23 million project undertaken by Hillsboro, Beaverton, Forest Grove and the Tualatin Water District.

■ **Aquifer storage** of surplus water for use during dry periods. Estimates: Powell Valley, \$15 million, and Cooper-Bull Mountain, \$16.8 million, both for 20 million gallons daily during a four-month period.

and regional water officials are nearing completion of a four-year study that includes the Willamette River and a third Bull Run dam, without recommending any of the options.

A filtration plant in the Bull Run

watershed is another option that might get more attention because it could have screened out the sediment during the flood. The cost would be expensive, however, as much as \$200 million.

The City Council has ruled out the Willamette for Portland users because of its pollution problems. But if the issue becomes poorer-quality water vs. no water, the city would have to find another source.

next 20 years, counting projects already on the drawing boards and

state Department of Environmental Quality say the Boeing Co. and Cascade Corp. are among businesses

for a permanent ban on all logging in the watershed. As for future supplies, Portland

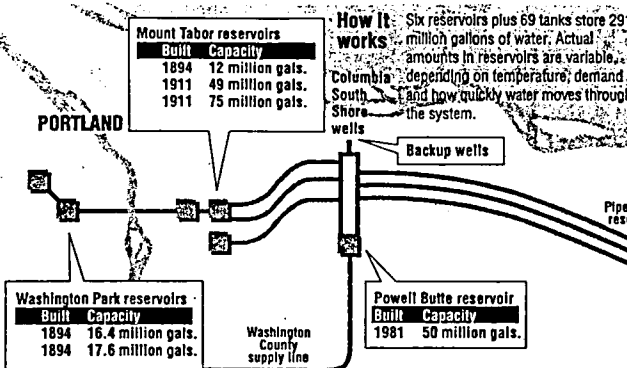
and a third Bull Run dam, without recommending any of the options. A filtration plant in the Bull Run

ment during the flood. The cost would be expensive, however, as much as \$200 million.

But if the issue becomes poorer-quality water vs. no water, the city would have to find another source.

Water Works

Portland has one of the purest water supplies in the country and one of the few that doesn't require filtration. Since 1895, the water has come from the Bull Run watershed about 35 miles east of Portland in the foothills of Mount Hood.



How it works Six reservoirs plus 69 tanks store 291 million gallons of water. Actual amounts in reservoirs are variable, depending on temperature, demand and how quickly water moves through the system.

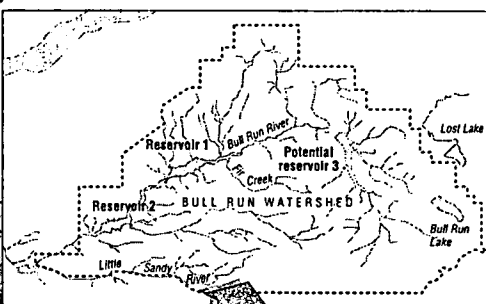
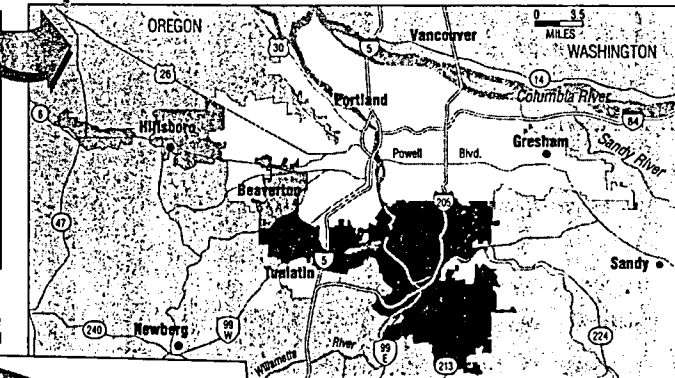
About the pipelines Total daily carrying capacity: about 225 million gallons. Three 25-mile steel conduits carry water by gravity flow.

- Conduit 44- to 54- inch diameter, volume per day: 50 million gallons
- Conduit 50- to 68- inch diameter, volume per day: 75 million gallons
- Conduit 52- to 68- inch diameter, volume per day: 100 million gallons

Where do you get your water?

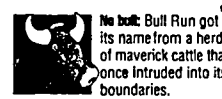
The following communities and water districts are served by water from Portland's Bull Run watershed. Other sources are shown on map at right:

- MULTNOMAH COUNTY:** Portland, Burlington Water District, Gresham, Loma Water District, Lusted Water District, Palatine Hill Water District, Pleasant Home Water District, Powell Valley Road Water District, Rockwood Water PUD, Valley View Water District.
- CLACKAMAS COUNTY:** Green Valley Water Co., GNR Corp. (a water provider), Hideaway Hills, Lake Grove Water District, Sky View Acres.
- WASHINGTON COUNTY:** Raleigh Water District, Tualatin, Tualatin Valley Water District, West Slope Water District.



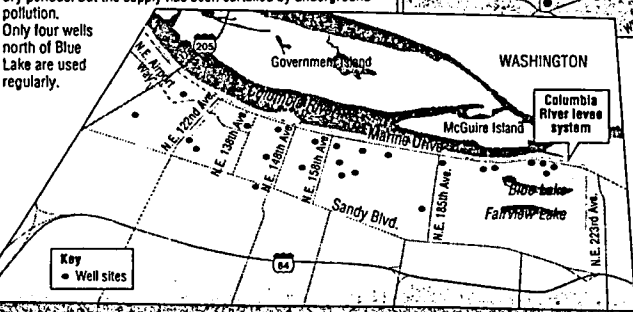
About the Bull Run watershed

Bull Run, which holds 23 billion gallons, has been Portland's primary water source for more than a century. It serves about 800,000 people throughout the metropolitan area.



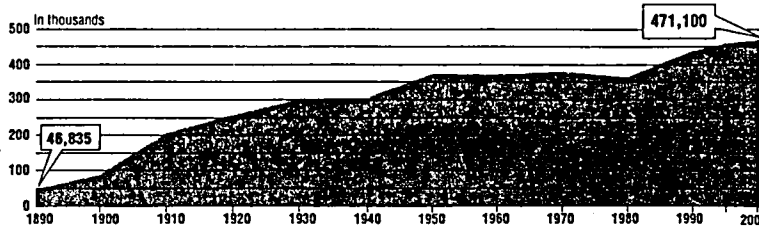
Columbia South Shore well fields

In 1984, Portland dug wells for a backup water supply during dry periods. But the supply has been curtailed by underground pollution. Only four wells north of Blue Lake are used regularly.



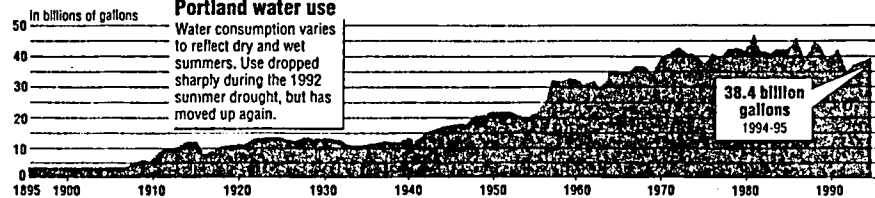
Portland population

Water planners expect to serve 855,000 people with Bull Run water by the year 2000, including 471,100 people in Portland.



Portland water use

Water consumption varies to reflect dry and wet summers. Use dropped sharply during the 1992 summer drought, but has moved up again.



By the drop: Bull Run water is replenished by rain and mist collected by fir needles, plus some snowmelt, at stream rates averaging 900 million gallons per day.

Average household use: About 7,000 gallons per month, enough to fill a hot tub 20 times. The cost in Portland is a monthly service charge of \$4.59, plus about one penny for every 10 gallons.

Average metre use: 130 million gallons per day. Peak day use has been up to 200 million gallons.

Sources: City of Portland Bureau of Water Works, Oregon Blue Book, Research: CYNTHIA B. GARDNER, JULIA H. WOTIPKA/The Oregonian

Well Field Capture Zone

File # 27



CITY OF

PORTLAND, OREGON

BUREAU OF WATER WORKS

Mike Lindberg, Commissioner
Michael F. Rosenberger, Administrator
1120 S.W. 5th Avenue
Portland, Oregon 97204-1926
Information (503) 796-7404

December 30, 1992

DEPARTMENT OF LAND
CONSERVATION & DEVELOPMENT

WQ 5.4

DEC 31 1992

SALEM

Mr. Jim Hinman
State of Oregon
Department of Land Conservation and Development
1175 Court Street NE
Salem, OR 97310-0590

Dear Jim:

Thank you for taking the time to discuss the periodic review process with me the other day. As we discussed, the City of Fairview is currently undergoing periodic review.

Fairview is not actually contiguous to the city of Portland, however activities within that jurisdiction have the potential to greatly affect the Water Bureau. Several wells in our Columbia South Shore Wellfield are located outside our city limits and the wellfield capture zone extends into the city of Fairview. The wellfield, constructed at a cost of nearly 40 million dollars in the 1980's, is Portland's emergency back up water supply source.

Given the City's considerable investment, the Water Bureau would be remiss not to make every effort to protect groundwater within the wellfield capture zone. To this end, we request that the Bureau be included on the list of affected neighboring jurisdictions that are allowed to submit comments during the City of Fairview's periodic reviews.

If you have any questions or desire additional information regarding this matter, please feel free to contact me at 796-7598.

Sincerely,

Curt Ireland, P.E.
Groundwater Specialist

cc: Bruce Niss
Jim Doane
Marilyn Holstrom, City of Fairview

CRI: DLCD.LTR

PR Files (2)
JH
JS
MTR



AUDUBON SOCIETY OF PORTLAND

Inspiring people to love and protect nature.

2/11/96

To: Metro Council, MTAC, MPAC & WRPAC
From: Mike Houck

I am attaching a copy of *The Urban Naturalist*, which was released three weeks ago and I think is quite timely and a copy of an *In My Opinion* piece which appeared this past week in *The Oregonian*.

As Dr. Stan Gregory pointed out in today's *The Oregonian*, we have a "teachable" moment" and if we need to use it wisely. As we move into discussions concerning Interim Measures and development of a Regional Framework Plan I am hopeful that lessons of the Midwest floods which inundated much of the Midwest in 1993 and our own recent experiences will be taken to heart. I am attaching our most recent issue of *The Urban Naturalist*, which was released three weeks ago and I believe contains some timely information as well.

There has already been resistance to some water quality proposals in the region because some people are concerned about not being able to meet "density targets." As you engage yourselves in discussions about riparian management zones, floodplain management and the "unbuildable lands" inventory I am hopeful that you will keep the Green Infrastructure at the forefront of the discussion, rather than in the background, as is too often the case. We need to protect more riparian zones on our streams, not less. We need to get out of the floodplain, not concentrate residential and other development in the floodplain. We need to follow through on reducing or eliminating development on the region's "unbuildable" lands, the floodplains, wetlands, steep slopes and stream corridors.

Public health and safety, along with the multiple benefits of our regional streams, rivers, riparian zones and wetlands dictate a more enlightened approach to zoning, land use, and transportation planning than has occurred in this region to this point. We not only have a "teachable moment" but also the opportunity to create a regional alternative infrastructure which minimizes loss of property and health hazards during future events like the past weeks, events we know will be repeated many times.

Respectfully,

Mike Houck
Urban Naturalist

STATE WIDE GOAL 7

NATURAL HAZARDS

and land-use planning

Columbia corridor seen bad in quake

■ An expert says sandy soil along the river could liquefy, causing damage to structures

By ERIC GORANSON ^{MAY 20,}
of The Oregonian staff ₁₉₉₃

The sandy soil found along the Columbia River is most likely to liquefy if a major earthquake hits the Portland area.

And the masonry and tilt-up concrete commercial structures going up in the Columbia corridor are the buildings most likely to sustain the most damage, two experts told a business group Wednesday.

The warnings came Wednesday from two consulting engineers and geologists and were the last thing members of the Columbia Corridor Association, an organization promoting economic development in the area, wanted to hear.

However, David Driscoll of Geotechnical Resources Inc. said steps such as using the proper design and doing soil studies can lessen the chances of major damage happening.

Driscoll spoke at the association's monthly meeting because part of the corridor is being considered for an earthquake zone. And more business owners are concerned about the immediate and future influence of earthquakes following the March 25 earthquake that damaged several communities in the northern Willamette Valley.

Driscoll said large or nearby earthquakes turn solid soil into quicksand. The longer the ground shakes, the more likely it will happen. Structures don't sink, they just flow away, he said.

Duration of the quake, soil compaction, texture and depth and the presence of water all influence the degree of damage.

Dredged dirt from rivers is the most susceptible to becoming quicksand during an earthquake, Driscoll said, but much of the soil used at Portland International Airport has been compacted, lessening the danger.

The dredged soil covers a clay and silty layer more than 35 feet thick which, in turn, sits atop another sand and silty layer. The clay layer is stable, but the water-saturated bottom layer is susceptible to becoming quicksand.

The thinner the soils, the greater the danger, Driscoll said. The thicker the clay layer, the less likely the bottom layer will liquefy because of the weight over it.

If the ground drops evenly, there should not be much danger, Driscoll said. But if it happens unevenly, buildings will be damaged.

"I don't see a huge amount of danger to well-designed buildings falling down. Pieces of it, yes, not the building," Driscoll said. "I don't envision the land flowing away forever like chocolate pudding," he added.

The biggest danger, he warned, is along Marine Drive and other riverfront areas where the steep slopes may lead to part or all of the dike sliding away.

Driscoll said his biggest fear was overreacting to the March 25 quake that shook the Northwest. The quake measured 5.6 on the Richter scale.

Local, small quakes happen periodically. One area along the Columbia River in mid-Multnomah County has shifted the ground 500 feet vertically over long, long periods of time due to earthquakes.



missed 3 #'s

292-
2621

Geotechnical Resources Inc
7412 SW Beav. Blvd Hwyway

arametrix, Inc.

3020 Northup Way Bellevue, WA 98005
206-455-2550 Fax: 206-869-9556

822-8880

FAX TRANSMISSION COVER PAGE
FAX # 206-869-9556

Clyde Ringstadt is with Geo Recon July '92
1-206-362-9184

Number of Pages (not including this page) 1

To: Bruce Gillis

From: M. Riley

Receiving FAX Number: (503) 229-6124

Date: April 14, '92 Time: 3:45

Comments:

Here is a sketch of the fault zone per Clyde Ringstadt. The ~~is~~ marked area is a clutter of different rock types - sand, gravel, etc. "A real mess" as Clyde called it. He estimated the zone as about a 1/2 mile wide. We can talk more about this tomorrow.

"A real mess"

MAP →

FAULT ZONE

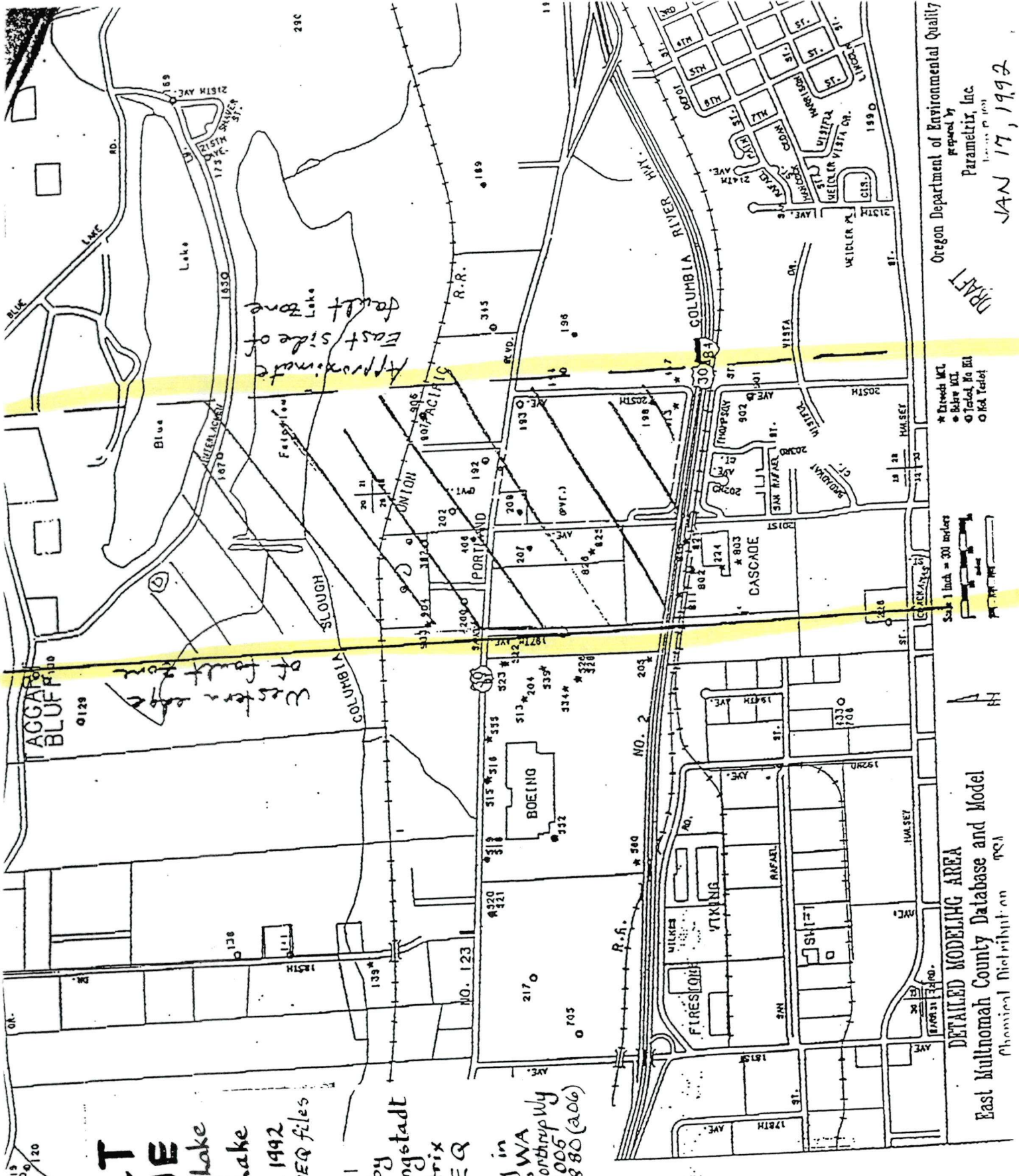
Fairview lake and Blue lake

April 1992

found in DEQ files

sketch by Clyde Ringstadt
Parametrix
for DEQ

currently in Bellevue, WA
13020 Northrup Wy
98006
822-8880 (206)



DETAILED MODELING AREA
East Multnomah County Database and Model
Chemical Distribution (CS)

Oregon Department of Environmental Quality
prepared by
Parametrix, Inc.
JAN 17, 1992

DRAFT

Scale 1 inch = 300 feet
 * Elected ML
 * Below ML
 * Below ML
 * Below ML
 * Below ML

1/17/1992 2:51 PM

DEPARTMENT OF LAND
CONSERVATION & DEVELOPMENT

AUG 16 1993

SALEM

DEPARTMENT OF
GEOLOGY AND
MINERAL
INDUSTRIES

ADMINISTRATIVE
OFFICE

August 13, 1993

Jim Knight
Department of Land Conservation & Development
1175 Court Street NE
Salem OR 97310

Dear Jim:

We appreciated the opportunity to meet with you and other members of the DLCD staff on the morning of August 5, 1993. Much of the discussion focused on the manner in which hazards should be addressed in the periodic review process, particularly for Fairview.

In general terms, we recognized that we are in poorly defined area of procedures when we deal with the implementation of hazards data in the planning process. We also recognized that there are three discrete questions to ask: 1) "Is there a hazardous condition or not?", 2) "If there is a hazardous or critical condition, what is the level of risk above which the community chooses to mitigate risk?", and 3) "What is the chosen course of mitigation?"

For much of Oregon including Fairview, these questions have not been rigorously asked or answered. The periodic review process may provide an opportunity to make progress in this area.

For the city of Fairview, a fault has appeared in the literature. It underlies the city and possibly the dam. Sufficient corroborating evidence exists to conclude the fault actually exists. Too little is known to draw conclusions regarding size, recency, or frequency of movement. Requirements beyond those of the Buildings Code Agency are not required by the current data bases for this fault specifically.

We note that earthquake risk is a broader issue than just the fault and should be addressed in the comprehensive plan. Ground response for earthquakes regardless of specific earthquake location is the key to cost effective and successful earthquake mitigation in Oregon and particularly in the Portland area. For the impoundment itself amplification and liquefaction are sources of significant concern given the specifics of construction, local geology, and possible future land use.

For the city of Fairview, we would recommend three courses of action if they have not been taken already:

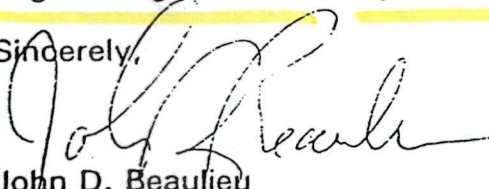


Suite 965
800 NE Oregon Street # 28
Portland, OR 97232
(503) 731-4100
FAX (503) 731-4066

1. Zone 3 seismic zone has been adopted for western Oregon. The Fairview comprehensive plan should accommodate zone 3 requirements and should provide that zone 3 requirements actually are implemented in any relevant permit process. Provisions for site specific studies for certain classes of buildings will soon become part of this designation and room also should be made in the plan and city permit processes to accommodate these requirements.
2. In two years or less, the Oregon Department of Geology and Mineral Industries will release ground response maps for the community of Fairview. These should be accommodated in a future periodic review process.
3. It is our understanding that construction of housing units may be proposed on the man made fill area that functions in part as retainment for the lake. Ground of this type can be hazardous given its unconsolidated, unconfined, unengineered, and possibly saturated nature. Without some pre-existing evidence to the contrary, site-specific investigation is warranted prior to development. Please note that possible liquefaction beneath housing developments is an issue distinct from actual dam failure, which we understand is no longer a concern.

The community would benefit from a site-specific investigation of ground conditions of the impoundment prior to any construction on the impoundment. Whether this issue can be approached through the periodic review process is unclear to me, but prudence would dictate that it is an issue that should be addressed. If construction on the impoundment is contemplated we would recommend that the scope of engineering studies be expanded to address this concern.

Sincerely,



John D. Beaufieu
Deputy State Geologist

JDB:ch/knight.let/3

cc: Jim Kennedy, DLCD
Dennis Olmstead
Ian Madin
Matthew Mabey

August 30, 1993

Jim Kennedy
Department of Land Conservation
and Development
1175 Court Street NE
Salem, OR 97310

DEPARTMENT OF
CONSERVATION AND DEVELOPMENT

SEP 01 1993

SALEM

?
This is to comment on the proposed Fairview Dam project report. The report addresses the flood hazard adequately but overlooks the hazard to any structures located on the fill due to earthquakes.

We now know there is a possibility of large earthquakes in the Northwest. Planning for use of sites such as the Fairview Dam need to allow for ground response to such events. The report states that there are no fill compaction records for the dam. In addition, we know or can assume that the material is unconstrained in the downslope direction and is largely saturated with water. These factors combine to give a liquefaction potential that should be considered as well as ground motion amplification due to soil thickness. These can be very damaging to structures located on the fill. In moderate to large earthquakes, liquefaction and amplification can make the effects of the ground motion much more severe than would be indicated by the magnitude of the earthquake alone.

I hope these comments are helpful. Please call if you have any questions.

Sincerely,



Dennis L. Olmstead
Petroleum Engineer

DLO:jp\kennedy.ltr\2

cc: John Beaulieu



18926 S.W. Arrowood Avenue
Lake Oswego, OR 97035
November 15, 1993

Mr. Richard Benner, Director
Department of Land Conservation and Development
1175 Court Street N.E.
Salem, OR 97310-0590

RE: The Periodic Review for the City of Fairview

Dear Mr. Benner,

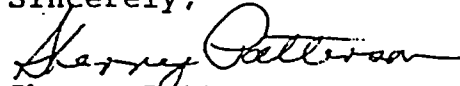
The City of Fairview has inadequately addressed Goal 7 in light of existing seismic hazards. Enclosed in Jane Graybill's packet are numerous examples of publications establishing Oregon's seismic vulnerability.

California courts have determined that a permit-granting agency may be held responsible for damages incurred by the development if they are the result of lack of knowledge or lack of concern about geologic hazards (Sheffet and Los Angeles Superior Court Case #32487). Additionally, attorney Tim Cronin identifies the legal liability of governmental entities to address seismic risks. Just because the Department of Geology and Minerals Industries' (DOGAMI) hazard map of the Fairview area will not be completed for two years does not preclude Fairview from addressing present seismic hazard conditions, such as, liquifaction, lateral spreading, amplification, fault displacement, fault rupture, just to name a few. DOGAMI's hazard maps are most helpful in identifying vulnerable areas but they are in no way designed to replace site-specific seismic analysis.

Furthermore, the Fairview Dam has yet to have seismic risk analysis done evaluating liquifaction, lateral spreading, seiching and amplification. Nor correlated attenuation effects from active seismic faults were done (note the Cornforth Study for the Portland Water Bureau). Considering that twelve homes may be built on the dam it is irresponsible not to address seismic risks.

The City of Fairview has the legal responsibility to utilize state-of-the-art engineering analysis to reduce loss of life and property damage. Numerous engineering modifications can enable the city to build more safely. Please require that they adequately address their seismic risks.

Sincerely,



Sherry Patterson
Oregon Earthquake Preparedness Network
503 639-5161

GOAL 7 SEISMIC HAZARD

WATER WAVES on



COLUMBIA RIVER
UPPER SLUG
BLUE &
FAIRVIEW LAKE

1/18/94

RICHTER SCALE

The Richter scale is a gauge of the energy released by an earthquake, as measured by the ground motion recorded on a seismograph.

MAGNITUDE AND QUAKE DESCRIPTION

8.0 Considered a "great" earthquake, capable of tremendous damage

7.0 Considered a major earthquake, capable of widespread, heavy damage

6.0 Can cause severe damage

5.0 Can cause considerable damage

4.0 Can cause moderate damage

3.5 Can cause slight damage

2.0 Smallest normally felt

Associated Press

1/18/94

IN PORTLAND

What would happen if a magnitude 6.5 earthquake struck Portland?

A study completed last year of a 60-block area in northeast and northwest Portland came up with these conclusions:

- 11 fatalities, 39 injuries.
- \$20 million damage, or about 12 percent of the market value of the buildings in the study area. The figure was conservative because it didn't include damage to highways, bridges and utilities.
- 46 percent of the housing and business space temporarily removed from the economy.

• Intense shaking would produce damaging landslides, water waves on the Willamette River and liquefaction, which is a phenomenon in which shaking a soil causes it to behave like a liquid.

The study, conducted by Metro and the Oregon Department of Geology and Mineral Industries, included 185 buildings on 441 parcels of land, railroad tracks, utility lines, sewers and overpasses. The northern boundary was Northwest Glisan Street and Northeast Oregon Street, the west boundary was Northeast 12th Avenue and the south boundary was Burnside Street.

Landmarks included the Oregon Convention Center, the State Office Building, Metro headquarters, Interstate 5, Interstate 84 and the Steel and Burnside bridges.

The study serves as a planning tool for emergency-management planners, land-use planners, structural engineers, policymakers and others interested in reducing earthquake hazards.

Scientists have identified three faults underneath Portland. Geologists do not know if the faults are capable of producing earthquakes, but they say if the faults are active, the faults could produce a quake up to 7 on the Richter scale.

Oregon's building code was upgraded in 1992. New buildings west of the Cascades and in Hood River and in Klamath counties are required to meet stricter standards to resist earthquake damage. The new Seismic Zone 3 designation represents a 50 percent increase in design strength over the former Seismic Zone 2B.

ZONE 3 designation
Designer 6.5 earthquake

RE: FAIRVIEW LAKE AREA / Earthquakes / ground response
Fairview Lake Dam
Metro Model ordinance

Oregon

August 3, 1994

DEPARTMENT OF
GEOLOGY AND
MINERAL
INDUSTRIES

Ms. Jane A. Graybill
21130 NE Interlachen Lane
Troutdale OR 97060

ADMINISTRATIVE
OFFICE

Dear Ms. Graybill:

This is in response to your letter of July 23, 1994, regarding various earlier communications related to the Fairview area and perceived earthquake issues.

Your first question relates to my earlier comments regarding the scope of engineering studies related to the impoundment. It is my recollection that a year ago the focus of attention was on perceived threat of the dam failing in an earthquake. Engineering evaluations focused on the issue of dam collapse. I believe that the issue was adequately and properly put to rest by the Oregon Department of Water Resources.

My earlier comments related to a different issue, that of possible construction of homes on the impoundment. I was merely suggesting that potential ground shaking or lateral ground displacement in an area of fill might be a concern to new homeowners. This issue is not addressed by giving attention to possible dam failure. To pursue this issue, one would address ground amplification or ground liquefaction. This could be done by the developer, by the homeowner, or by the city if a need to do so were recognized.

I hasten to point out that the manner in which earthquake ground response risk is dealt with for home construction in Oregon is presently poorly defined. There are no model ordinances or traditions which routinely address this kind of risk. As pointed out earlier, Metro currently has a contract from the U.S. Geological Survey to pursue development of a model ordinance to address these issues. Data developed by DOGAMI as part of our cooperative Metro project funded by FEMA is designed to provide information for such an ordinance. As indicated earlier, our mapping for the Fairview area is not yet available.

Your second question asked if there are ways to help local jurisdictions with proper testing so that the testing is monitored scientifically. Again, there is no tradition of jurisdictions actually conducting such testing. Further, it is unclear under which circumstances it should be required to acquire this data or who should collect it. Finally, if it were decided under which conditions to require this kind of testing, it would be difficult to apply to the Fairview area because we do not have the information needed to compare to the criteria.



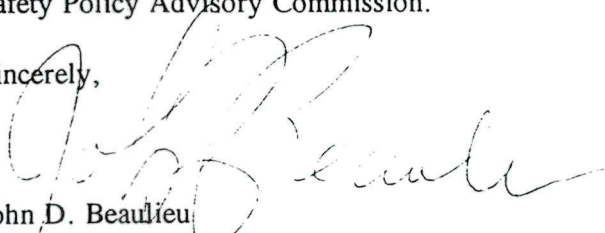
Suite 965
800 NE Oregon Street # 20
Portland, OR 97232
(503) 731-4100
FAX (503) 731-4066

I recall in a hearing in Salem that a consultant for Fairview indicated that his house was damaged during the Scotts Mills earthquake. I believe the individual lives in Fairview but not on the impoundment. Large areas of Fairview may be subject to significant ground amplification in the event of an earthquake and that the impoundment itself may not be any more hazardous than other parts of the community. Again, we don't know this at this time and will have to wait for the data to make more precise statements.

A key piece of information that will be helpful if you track this issue further will be the release of our ground response map for the area. I can't give you a date on when that will occur because our federal funding has been slowed; we don't know exactly what the pace of our work will be yet. Secondly, you'll want to be looking forward to the release of the Metro model ordinance for earthquake ground response that will be released by Metro under the NEHRP contract. I have no idea when that will occur. I recommend you contact Gerry Uba at Metro for more information.

Also, Jim Kennedy of DLCD is leading a related discussion for a subcommittee of the Oregon Seismic Safety Policy Advisory Commission.

Sincerely,



John D. Beaulieu
Deputy State Geologist

cc: Ian Madin
Dennis Olmstead
Jim Knight

JDB:ch/secretar.mem/graybill.let

FAIRVIEW GOAL 1 SEISMIC HAZARD

July 12, 1994

OSSPAC Land Use Committee

Location: Building Code Agency Conference Room
1535 Edgewater N.W., Salem, Oregon

1400

Meeting Notes

Members: Jim Kennedy, Chair; Peg Reagan Curry Co.; Truman Baird, Higher Education; Jim Schwager, Portland Fire Bureau; John Falk, Oregon Water Resources; Sherry Patterson; Jim Bela requested notification of subcommittee meetings.

ATTENDANCE: Jim Kennedy, Peg Reagan, Truman Baird, John Falk
Sherry Patterson, Jim Schwager, Walt Friday

- 1) Appointed Jim Schwager temporary secretary. Will ask Sherry Patterson to record future minutes.
- 2) Reviewed purpose of committee listed in May 10, 1994 OSSPAC Land Use Committee meeting notes and Emily Toby's observations of the May meeting. Chairman Kennedy indicated this committee will be ongoing as opposed to short term limited issue committee.
- 3) Future committee meetings will be held after the regular OSSPAC meetings.
- 4) Reviewed meeting notes from May 10, 1994 meeting. No additions or corrections suggested. During the May 10th meeting it became apparent that some basic land use training would be helpful to develop a common understanding of the land use process. Chairman Jim Kennedy will arrange the training through LCDC. All OSSPAC members will be invited and Land Use Committee members are encourage to attend. Training was set for August 18 from 9 am to 12, location to be announced.
- 5) Priority topics from May 2nd MEMO.
Discussed which topics could be addressed before land use training. Used City of Fairview general comprehensive plan review by LCDC as an example of the difficulty in dealing with seismic related issues without precise studies. Lessons from the LCDC ruling were summarized as follows:
 - > LCDC considers DOGAMI as the geologic expert in planning issues (no authority - only makes recommendations and suggestions)
 - > DOGAMI is reluctant to make recommendations until they complete studies
 - > DOGAMI has limited resources to do studies
- 6) Two LCDC papers dealing with seismic planning were distributed:
 - > "A Natural Hazards Planner", "Land Use Planning in the Mitigation of Seismic Hazards", by Derek Booth
 - > "Land Use Considerations in Earthquake Hazard Mitigation, Focus:Portland Metro", by Jim Kennedy PhD.

by Jim Schwager

Plan for natural and fiscal disasters

12/31/94 Congress should take steps to see
that federal disaster aid doesn't increase deficit

Natural disasters are bad enough, but Congress has made matters worse by the way it funds — or, more aptly, fails to fund — disaster aid. It has added to the long-term, slow-motion disaster that is the federal budget deficit and national debt.

That could change if the next Congress gets cracking on the recent recommendations of the bipartisan congressional task force on disasters.

Lots of lawmakers have become fed up with the hyperpoliticized and fiscally irresponsible way Congress provides emergency relief in natural disasters. That's not surprising, considering that Congress has had to shell out more than \$1 billion each for the nine natural disasters since 1989.

Other figures may be even more revealing than that billion-dollar price tag. Federal responsibility for disaster costs has gone from about 5 percent in the early 1950s to more than 90 percent today.

Among the task force's 55 recommendations are proposals that should better share the burden with homeowners, insurers, states and localities. Homeowners with federally backed mortgages (nearly all mortgages) would have to purchase "all-hazard" insurance, which covers damage from floods and earthquakes.

As a condition of federal assistance, states and localities would have to enforce model building codes, and safety

and siting ordinances. The task force recommends a limited tax deduction for taxpayers who retrofit a structure to meet these standards.

To fund federal disaster relief efforts in the future, the panel would endow a federal trust fund with a 1 percent fee on property insurance premiums. It would also offer incentives for states to set up similar funds.

Many of the recommendations make sense, and all deserve consideration.

One recommendation that was missing — and pushed by task force member Rep. Elizabeth Furse — should be considered as well. The Oregon Democrat thinks Congress should pass legislation saying that if any funds are appropriated beyond those in the trust fund, Congress must provide that, by a date certain in the same or succeeding fiscal year, proposals to ensure deficit neutrality be considered.

This, too, makes sense. As Furse has noted, it allows aid to get to affected areas as soon as possible, while removing the incentive for members to play politics with disaster aid. Congress would have to pay for any additional aid in the near future.

This and the task force's recommendations can save dollars and save lives in future emergencies. Not bad. Who says Congress produces nothing but disasters these days?

OREGONIAN EDITORIAL

" LIQUEFACTION "

FEB 17 1995
**Quake experts say earth
liquefies as deep as 30 feet**

TOKYO — Last month's earthquake in western Japan shifted the earth along at least eight fault lines, turning the ground into a type of quicksand in many areas, scientists said Thursday.

Investigators have found that earthquakes can cause earth to turn to a type of liquid at much deeper levels than previously believed.

The Kobe quake showed that liquefaction can occur at more than 30 feet deep. A report quake experts at ~~Osaka City University~~ found that the ground turned to liquid at unexpected depths in at least 15 places, allowing buildings to collapse, sink

into the ground or simply fall over.

SHAKY GROUND

MAY 12
1995

A new map of Portland identifies areas with the highest risk in the event of a major earthquake

By RICHARD L. HILL
of The Oregonian staff

In case of earthquake, don't assume you'll be able to catch a flight out of Portland. Or perhaps even drive across the Columbia River on the Interstate 205 bridge.

A new map suggests that Portland International Airport and the bridge might not be the safest places during a strong earthquake. And the industrial area just south of the airport around the Columbia Slough and Columbia Boulevard could be even more hazardous.

The Oregon Department of Geology and Mineral Industries on Thursday released the map, which shows the areas that are most likely to be damaged by an earthquake.

A 52-square-mile portion of Portland's east side and a small part of Vancouver, Wash., is included in the map. Four hazard levels are defined according to the geology beneath an area.

The map doesn't attempt to spell out which structures are unsafe, but focuses on three potential earthquake hazards: liquefaction — the turning of loose soils into liquid by severe shaking; ground-motion amplification caused by loose soils; and slope instability.

"There are no real big surprises here," said Ian P. Madin, seismic hazards geologist with the geology agency. "There are two factors involved along the Columbia River. One is the soft sand and silt there of the old river bottom, material that can actually make the ground shake harder — it actually amplifies the shaking."

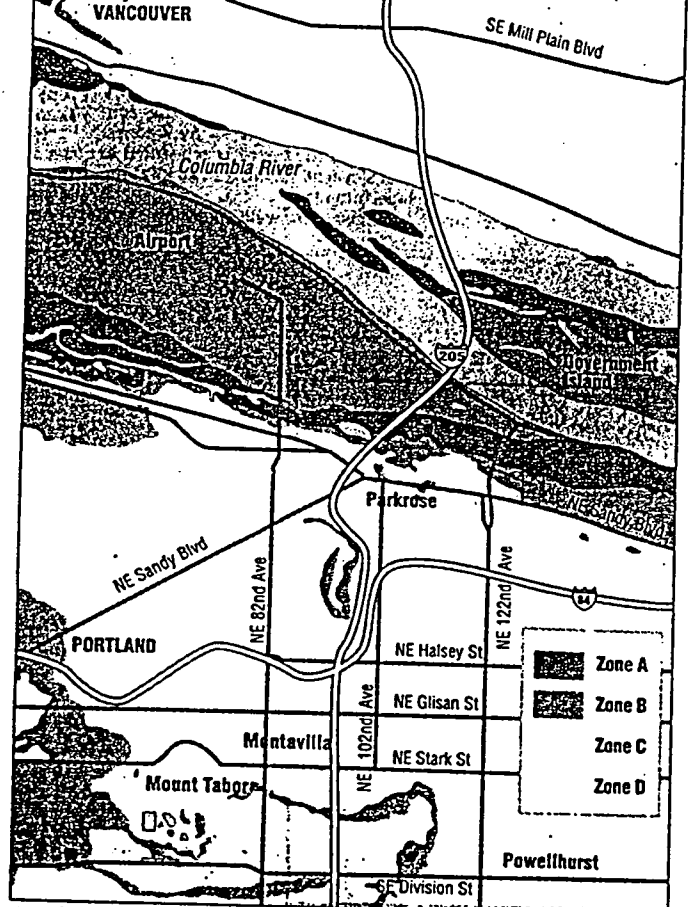
"The other thing that can happen is that this loose, old river-bottom

“
The soft sand and silt there of the old river bottom, material that can actually make the ground shake harder — it actually amplifies the shaking.”

Ian P. Madin,
seismic hazards
geologist

EARTHQUAKE ZONES

The earthquake hazard zones range from Zone A, which shows areas of greatest hazard, to Zone D, which shows areas of least hazard. The degree of hazard was based on the factors of ground-motion amplification, liquefaction and slope instability.



The Oregonian

MORE INFO

■ The new map — "Relative Earthquake Hazard Map of the Mount Tabor Quadrangle," or GMS-89 — is available for \$10 from the Nature of the Northwest Information Center, Suite 177, State Office Building, 800 N.E. Oregon St., No. 5, Portland 97232-2109, or by calling 872-2750.

Quake: Oregon could be rocked by large tremor

■ Continued from Page B1
makers to develop strategies that would limit damage and loss of life in an earthquake.

Although Portland has experienced little damage from past earthquakes, scientists believe that Oregon could be rocked by a large offshore earthquake as large as magnitude 8 or 9. They also believe that faults under or near the Portland area also could be capable of producing damaging moderate-size quakes.

The map is one of a series of "relative earthquake hazard maps" being made of the Portland metropolitan area as part of a joint project by the geology department and Metro. The first hazard map, released two years ago, showed that portions of downtown Portland and areas of the city along the Willamette and Columbia rivers and the steeper patches of the West Hills would receive the most damage in an earthquake.

The geologic hazard maps will be used by Metro in putting together maps that will indicate what buildings, pipelines and other facilities are at risk. Ruth McFarland, Metro's presiding officer, said the Federal Emergency Management Agency is giving the geology department and her agency \$950,000 to complete the mapping project.

sand can turn into quicksand and lose its strength. That means a large portion of this area will sort of inch out toward the river, and that can literally tear buildings apart and cause bridges to fall and pipelines to fall and that sort of thing," Madin said.

The good news is that most of the area included in the map — primarily residential neighborhoods — is rated as a relatively low-hazard zone.

Portions of the Laurelhurst and Hollywood neighborhoods are shown as being higher-hazard areas because of looser soils deposited by the Missoula Floods that crashed down the

Columbia about 15,000 years ago. "The water swirled around behind Mount Tabor and Rocky Butte and carved out channels that are hundreds of feet deep that were filled with fine sand," Madin said.

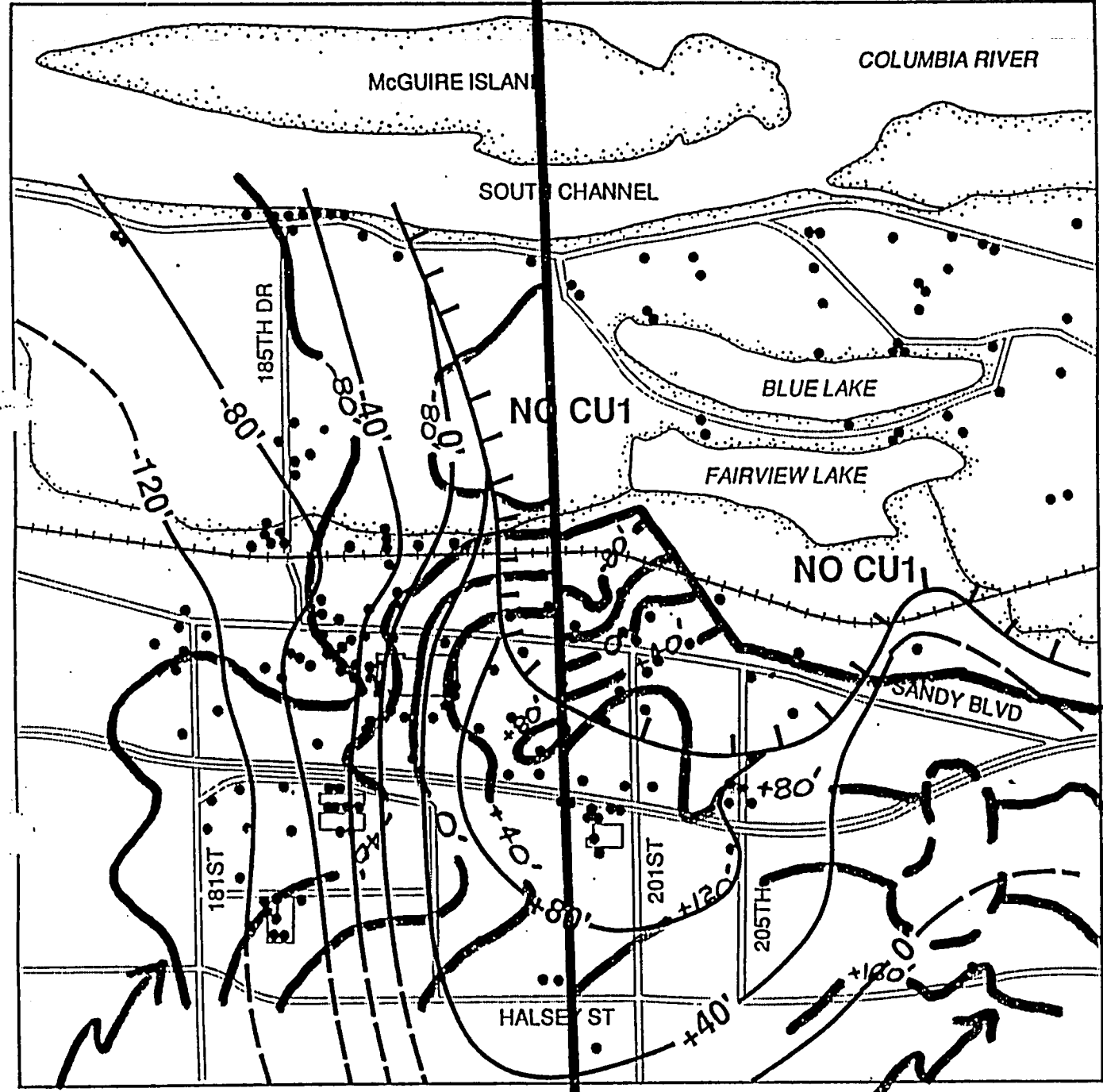
The area just south of the airport is placed in the highest hazard classification because the sand and silt deposits aren't as thick as those under the airport, he said.

Donald A. Hull, director of the geology agency, said that the map was made to enable planners and policy-

Please turn to
QUAKE, Page B7

1992?

Elevation of Top of CU1



Contour Interval = 40 feet

● Well Location



Prepared By:
Parametrix, Inc.

GRI C41 CONTOURS GRI C42 CONTOURS

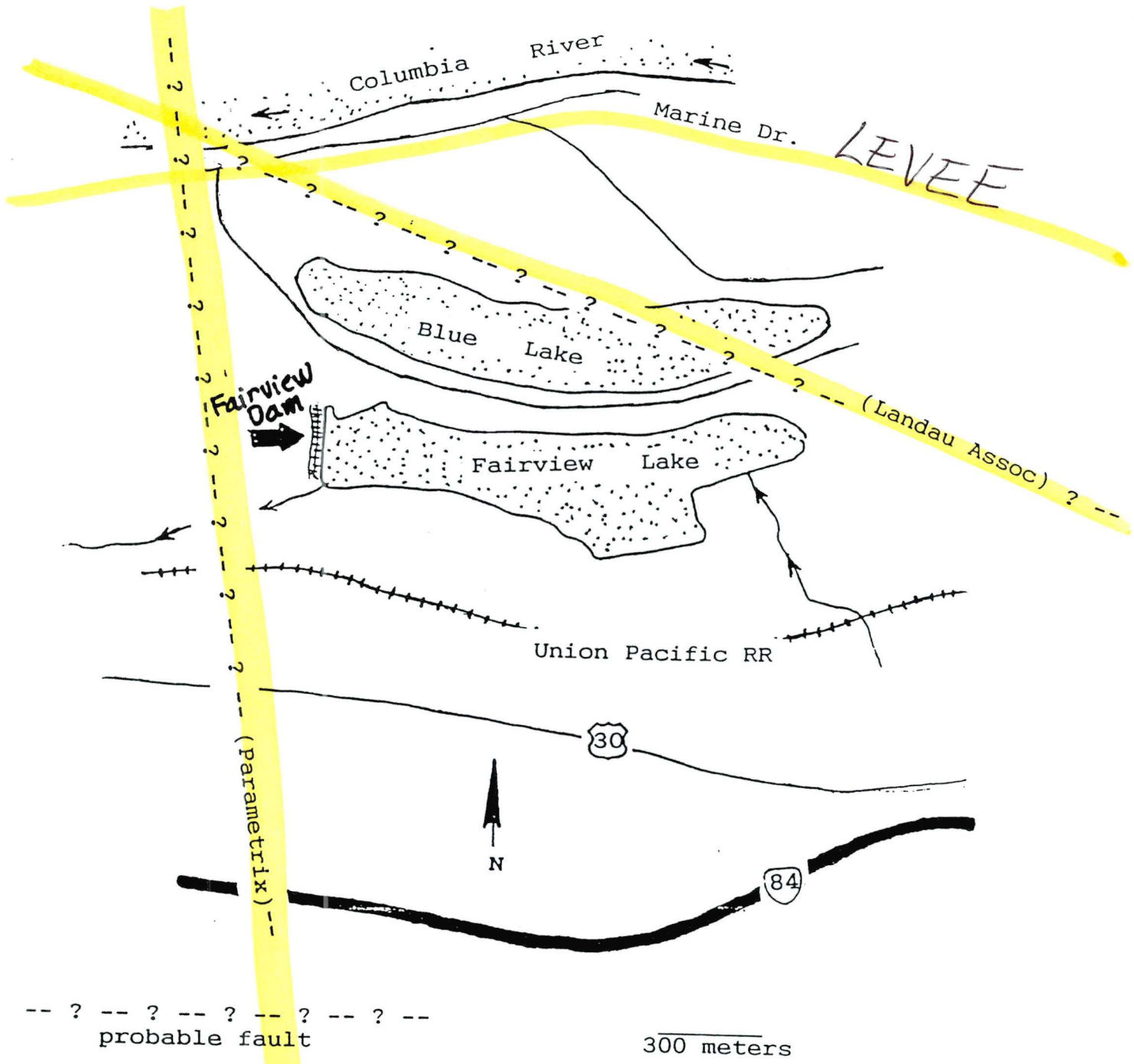
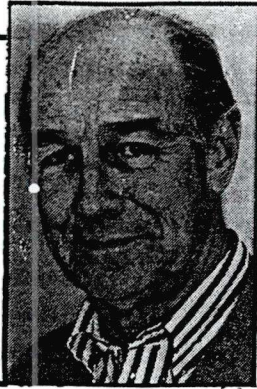


Figure 1 "Natural Hazards Planner" Dept. of Land Conserv. & Dev. Newsletter for local government 1993 4th quarter
 Jim Kennedy / LEOC goal 7 "natural hazards" Salem

: 1995 April

TWC Properties

JACK BROOME
Director



Wetlands under threat again

The current emphasis on private property rights over community rights can be especially costly and dangerous to individual property owners, developers and the general public if the current thinking is applied to wetlands.

As a March 10th Oregonian opinion/editorial article by Judith Basehore, "Concept of Community Lost" states: "All over the West, the course for this nation's dwindling supply of unimproved and sensitive lands is being debated. The emphasis is on a property owner's 'right' to alter the land's natural characteristics or make a profit from the sale of it for a new use."

One alters (fills or drains) a wetland for development to the detriment of public health and safety and at the potential peril of the ultimate property owner. Earthquakes in San Francisco and more recently in Kobe, Japan, have shown what happens when seismic waves agitate wetland soils or fills in wetlands. Wherever earthquakes occur, extreme damage due to liquefaction of fill areas results in disastrous losses of buildings and underground utilities. These become community as well as individual property losses. Innocent lives may be lost as well.

When wetlands are converted for development, there are permanent and irreversible losses for the public at large. Stormwater storage capability is lost to the hazard of down-stream property owners. Groundwater recharge is lost which is a general public benefit. Wetlands purify the water moving through them and provide irreplaceable habitat for a great variety of plants and wildlife. Their amazing diversity makes wetlands an ideal area for nature study, scientific research and passive recreation; all community benefits.

The question arises: Should the public have to pay an individual not to cause down-stream flooding or water pollution? Wetlands are often purchased as low value "vacant" land with the intent of obtaining a zone change and a fill permit changing the value of the land from a few thousand dollars an acre to high commercial or industrial land values. The stakes are high and Congress and the

Oregon Legislature are intent upon reversing long held concepts of public vs. private wetland property rights and responsibilities.

For over 20 years wetlands have received federal and state protection through the Clean Water Act and Oregon's Removal/Fill law. Fresh and salt water wetlands were deemed waters of this state in 1979 and have received some measure of protection under state law since that time.

Wetlands owned by The Wetland Conservancy, The Nature Conservancy and other land trusts are secure in that they are held as natural areas and wildlife habitat in perpetuity. If wetlands are to continue to be protected in Oregon and the United States, land trusts will have to increase their efforts dramatically and individual citizens are going to have to continue their fight for wetlands protection in the face of the new threats to public health and safety posed by currently proposed drastic changes in the definition of "takings."

A "taking" may occur when a property owner is denied any beneficial use of his/her land due to government regulation. Proposed changes would bring about a taking when the development value of the land is reduced by a certain amount. When we consider land as a commodity and property development as a "right" there can and will be unfortunate results for the general public and the resident and migratory wildlife that depends upon wetlands for food, shelter and rearing habitat.

Wetland losses have been tremendous in the past and they could well repeat that situation if current legislative proposals prevail.



Join the celebration! Great Blue Heron Week,
May 13-21

The next 100-year flood could come next spring

FEB 14
1996

By KEVIN G. COULTON

As the floodwaters recede, hydrologists will begin to gather their data on the recent flood flows and elevations and crunch the numbers to determine the magnitude of the flood of 1996 by assigning a return period to the event; i.e., was this a 100-year flood or a 200-year flood?

The public, and especially new Oregonians or those who do not know about the 1964 floods, will latch onto this soon-to-be-published proclamation, and as carpets dry out and cows come home, they will think this is a once-in-a-lifetime experience; this will never happen again for 100 years.

In fact, this same flood could happen again in February 1997 or February 1998 or February 1999. All we need are similar weather conditions and plenty of news coverage, and we'll have the same drama as we have just experienced.

The 100-year flood has been burned into the minds of many as a misconception. In truth, it's an easy way to present a statistic that simply means a flood that has a 1 percent chance of happening in any year, or a 26 percent chance of happening during a typical 30-year mortgage on a home in the floodplain.

If we step back in time 100 years or so it will become more apparent how frequent and natural flooding on the Willamette River was to our ancestors. In December 1813, Alexander Henry of the Northwest Fur Company observed great flooding on the Willamette from Champoeg. Other severe Willamette River floods are recorded for November 1844, January 1850, January 1853, December 1861, January 1881, February 1890, January 1903, February 1907, November 1909, January 1910, January 1923, February 1927, January 1936, January 1943, December 1945, January 1953, December 1955, February 1961, December 1964, January 1974, December 1977, and now February 1996. If the size of these floods are compared on an equal basis — without the benefit of today's flood-control reservoirs — the floods of 1861, 1890 and 1964 would be classified as floods equal to or greater than the theoretical 100-year flood at Salem.

In other words, the Willamette River has experienced three natural floods of the 100-year flood proportion in a time span of a hundred years.

The 100-year flood was adopted by the Federal Emergency Management Agency years ago as the acceptable minimum standard to establish flood hazard zones from which actuarial flood-insurance rates are set. The enforcement of FEMA floodplain boundaries has been the responsibility of the states and local communities since the inception of the National Flood Insurance Program with the passage of the National Flood Insurance Act

IN MY OPINION THE OREGONIAN

of 1968.

However, at the local level, it becomes very difficult to balance the human drive to develop in the tempting flat and accessible floodplain lands (to increase the community tax base) against preserving these lands so that the once-in-a-100-year flood can ride through, causing limited damage (to preserve the community tax base).

As I observed the recent flooding from a plane over the Willamette Valley and from a helicopter over Tillamook County, it was interesting to note the significant number of new homes and businesses engulfed by the muddy floodwaters.

Since the 100-year floodplain is a minimum standard, local communities can be more stringent than FEMA to protect their citizens' lives and property. In addition, there is uncertainty in the statistical information these maps portray.

Part of this uncertainty comes from the fact that many of the FEMA floodplain boundaries are outdated. Continued development in our watersheds has resulted in pavement and efficient storm sewers that speed runoff to the floodplains. By increasing the rate and volume of runoff from urbanization, a statistical 100-year floodplain flow value from 1960 may be much less than that same statistical value today, and correspondingly, today's true 100-year floodplain may be larger than we believe.

When the flood damage figures come in from the flood of '96, let's do the math and compare the benefits of increasing community income from risky floodplain development to the financial losses uninsured homeowners, businesses and we, the taxpayers, face. We really need to think about whether it is prudent to continue to develop within our floodplains and build right down to that sacred, yet uncertain, 100-year floodplain line on the map.

As Sir Alan P. Herbert wrote in the poem "Water," "Nature is blamed for failings that are Man's and well-run rivers have to change their plans."

We cannot completely blame nature for our misfortunes. We must learn from the past and plan for history to repeat itself because, on the Willamette River, the 100-year flood may be lapping at our doors again next year.

Kevin G. Coulton is an associate with Philip Williams & Associates Ltd., a hydrology and hydraulic engineering consulting firm in Portland. Mail in response to this column can be sent to the author in care of the op-ed page at the Oregonian, 1320 S.W. Broadway, Portland 97201.



Oregon State Public Interest Research Group
1536 SE 11th Avenue, Portland, OR 97214 (503)231-4181 • fax (503)231-4007

**Statement of Randy Tucker, Environmental Advocate
Oregon State Public Interest Research Group
Metro, February 29, 1996**

Good afternoon. My name is Randy Tucker and I'm here representing the 30,000 members of the Oregon State Public Interest Research Group, a statewide, non-profit, non-partisan consumer and environmental organization. We would like to go on record *opposing* any plan that would eliminate or suspend current requirements that oxygenated fuels be used during the winter months.

OSPIRG has long been interested in questions of air quality, which relate directly to our broader concerns with environmental protection, public health, and consumer equity. Recently, we have been working to oppose efforts at the federal level to roll back the public health protections of the Clean Air Act and other environmental laws. I might add that these rollbacks have been vigorously promoted by some of the interests represented here today.

OSPIRG has also long advocated the use of oxygenated fuel as a significant means of improving air quality and public health. In our view, oxygenated fuel offers one of the most efficient, most cost-effective, and least intrusive ways of protecting air quality. By boosting octane without increasing noxious emissions, oxy fuels provide a clear public health benefit at virtually no cost to the consumer.

The oxy fuels program that has been in place in the Portland area for the last few years has a clear track record of success at reducing carbon monoxide emissions. The public is accustomed to this program and has embraced the benefits that it provides in air quality. The Oregon Department of Environmental Quality estimates that eliminating the program would lead to a one-time 30% increase in CO emissions. We see no reason to sacrifice the gains we have made now that our air quality has arguably improved enough to comply with EPA standards.

The region should seek not merely to comply with those minimal standards, but to exceed them. This is especially important in light of the rapid growth we are currently experiencing; as you well know, this growth is projected to continue into the foreseeable future. Given these projections, the most prudent course would be to aim for the largest possible reductions in pollution within the realm of technical, economic, and political feasibility. The oxygenated fuel program is a proven success and we see no compelling reason to needlessly discard it.

In addition to its demonstrated role in reducing carbon monoxide emissions, recent studies have documented the benefits of oxygenated fuel in reducing emissions of air toxics like benzene. Moreover, unlike gasoline, oxygenated fuel can be made by local firms using agricultural and forest wastes that often otherwise end up in sewers or landfills. In the interest of promoting local economic development, we should not disrupt or eliminate the market for firms who are investing in environmentally responsible technologies.

During a time of unprecedented population growth and increases in vehicle miles traveled, it makes sense for us to use whatever means we can to ensure that our air remains clean and safe. OSPIRG urges you to retain the oxygenated fuels program and to demonstrate your continued commitment to this clean, cost-effective means of fighting pollution and protecting public health.

Thank you.

February 28, 1996

MTOX0014

Ms. Chris Hartley
Metro Regional Parks and Greenspaces
500 N.E. Grand Avenue
Portland, Oregon 97232

SUBJECT: SUMMARY OF SUKI FAMILY TRUST PROPERTY FEASIBILITY STUDY



Dear Chris:

The following summarizes our findings regarding potential development of the Suki Family Trust Property in Clackamas County, Oregon. Per your instructions, this analysis is limited to our investigative work completed through our meeting of March 23, 1996. The following outlines our findings for each of the tasks listed in our work scope:

DEVELOPMENT FEASIBILITY

Work Scope

1. **“Provide research into zoning and planning issues to determine the feasibility of developing housing on the site.”**

The following outlines the zoning and planning issues identified by our research and subsequent meeting with Bob Patterson, Senior Planner with the Clackamas County Planning Department.

Site Visit Findings-

The site visit completed by the site designer and myself revealed significant property constraints not clearly identified on the concept plan prepared by Abass Bazeghi in November 15, 1995. The key constraints include the steep slopes, unstable soils, a natural resource area including an osprey nest (in use for at least the last 23 years) and access issues on to Highway 224.

The slope and soils issue is discussed in further detail in #3 below and in the attached geologist's memo. The osprey nest is located in the center of the 12 acre site and constrains any development within 1/4 of a mile from it under the Clackamas County Comprehensive Plan. Oregon Fish and Wildlife would likely support the relocation of this nest along the Clackamas River however the more restrictive county restriction.

DAVID EVANS AND ASSOCIATES, INC.
A PROFESSIONAL SERVICES CONSULTING FIRM
OFFICES IN OREGON, WASHINGTON, CALIFORNIA AND ARIZONA
2828 S.W. CORBETT AVENUE
PORTLAND, OREGON 97201-4830
(503) 223-6663 FAX (503) 223-2701

Zoning - Medium Density Residential (MR-1)

Allowed uses include low- and mid-rise multifamily residential buildings. The allowed residential density is 12 units to the acre.

Zoning Overlay - F.F. (Area of 100 year flood)

The 100 year flood area is located on Rock Creek and extends to the base of the steepest slope on the site (below the terrace, adjacent to the highway).

Comprehensive Plan Land Use Designation - Medium Density Residential

The Comprehensive Plan and zoning are consistent indicating that medium density residential use is allowed on the site.



Comprehensive Plan Land Use Overlay - Open Space - Resource Protection

The Open Space - Resource Protection designation on this site covers the natural area creek area and steep slopes leading to the terrace area. This designation protects open space resources but in itself does not prohibit development. Development can *only* occur if essential open space elements and the function of the natural system are preserved.

This site qualifies for Open Space - Resource Protection because it falls within a number of the qualifying categories; the flood fringe of 100-year floodplains, areas within 100 feet of mean low water on all major rivers and 50 feet of any other permanent stream, distinctive urban forests, hillsides of more than 20 percent slope, etc.

All residential development is limited to Planned Unit Developments and must protect open space features by clustering development away from the more sensitive areas within the site. Our site analysis and the mapped County resource protection area clearly indicate that the site's sensitive area begins somewhere on the terrace. The limit of this resource sensitive area is located away from the edge of the terrace, out of the area that has been oversteepened. We recommend additional geotechnical study to determine the natural top of bank and possible design solutions to evaluate the remaining terrace area for buildability (see #3 below).

Access -

Due to this site's frontage on Highway 224/212, any development associated with this site will be limited and require review and approval by ODOT as well as Clackamas County. In the recent past ODOT has had plans to realign the intersection of Highways 224 and 212 northeast of the site. These plans appear to have been tabled due to budget constraints and a recent project developed east of the intersection. The .5 acre triangular shaped parcel which follows the right-of-way in front of the site is owned by ODOT and could be needed for future highway improvements.

Utilities -

Sewer and water services are currently located on the north side of Highway 224.

- 2. Provide estimated costs to extend sewer, water and storm sewer (if applicable) to the site's property line with a separate additional cost to extend them to the site's building back area.**

Given our findings pertaining to site's significant constraints listed above and your direction at the (2/23) meeting, we did not complete a cost estimate for utility services relating to the site. If Metro were to pursue this further we suggested that a geotechnical study and additional engineering design be developed to properly determine the site's infrastructure needs.

- 3. "Conduct further research analysis to determine the site's feasibility in terms of seismic/landslide concerns."**

Our geologist reviewed the site's seismic/landslide concerns by a site visit and review of available background reports (see the attached memo). As mentioned above, significant site constraints are associated with the unstable and steep slopes on this site. I have attached the geologist's summary of findings. Additional geotechnical study is needed to establish development feasibility in the terrace area near the highway including information on safe setbacks and necessary foundation design due to wet soils in the terrace area, oversteepened hillside (60 to 100% slopes) and soil instability. At best, the development may be left with approximately one and one-half acres of this site to work with. In the worst case, the site could be unbuildable due to the soils issues.

- 4. "Provide an overall site analysis with preliminary conceptual drawing(s) to assist in quantifying the number of units (with associated parking, landscaping, ingress/egress, etc.) that may be feasible on the site's buildable area."**

Clackamas County offices had limited access to existing file record maps given the flood problems which closed the planning offices for two weeks. We were able to locate an existing aerial photo which approximates this site's boundary and included a portion of the site's topography. This plan helped confirm the properties site features and approximate property boundaries.

Given the conclusions of our 2/23/96 meeting, we stopped our site analysis after determining that the site development area will be limited to a smaller portion of the terrace. Any possible development area will be confined to the terrace and will require additional study by a geotechnical engineer to determine the safe setbacks, limits of construction and construction techniques within unstable soils.

DAVID EVANS AND ASSOCIATES, INC.
A PROFESSIONAL SERVICES CONSULTING FIRM



5. "Provide information from any prior site analysis conducted on the site."

A review of prior site analyses was not available due to the recent flood problem incurred by Clackamas County. Bob Patterson indicated that the property had been zoned Medium Density Residential at some point in anticipation of some mobile homes being placed on the site. Bob said that the applicant had never followed through on the application.

6. "Provide any additional consultation necessary by the appraiser."

DEA staff met with Larry Ofner and Matthew Larrabee, Moscato Ofner and Associates, Inc., on two occasions, including the last meeting with you. I believe we answered all pertinent questions posed by your appraisers.

7. "Estimate feasibility of crossing the creek which bisects the property in order to build on the other side of the creek."

Site features and constraints make it clear that crossing the creek to develop on the south side of the site is not feasible and does not meet the open space requirements of Clackamas County.

Development within the natural resource area is limited due to steep, unstable slopes and the wildlife habitat (osprey nest). Wetlands do not contribute to the property development constraints.

In summary, this site is severely constrained by steep, unstable slopes, natural resource constraints (wildlife habitat and flood areas) and limited access from Highway 224/212. To further pinpoint any possible building area on this site will require additional engineering analysis including geotechnical feasibility work.

Sincerely,

DAVID EVANS AND ASSOCIATES, INC.



Chris Cocker
Staff Planner

c. Nancy Chase
Will Werner

Enclosure

CJCO:clm:sukisum.doc

DAVID EVANS AND ASSOCIATES, INC.
A PROFESSIONAL SERVICES CONSULTING FIRM



TO: Chris Cocker
Staff Planner, David Evans and Associates, Inc.

MTOX0014

FROM: Jeanne Fromm
Geologist, David Evans and Associates, Inc.

DATE: February 28, 1996

**SUBJECT: ASSESSMENT OF SEISMIC/LANDSLIDE CONCERNS ON SUKI
FAMILY TRUST PROPERTY**

Purpose:



Assess the seismic and landslide concerns on the subject property by a review of available background reports and a site visit. In addition, vegetation, soils, and hydrology were also examined for the presence of jurisdictional wetlands.

Background Information:

As a part of a development feasibility study for the Suki Family Trust Property in Clackamas County, the site geology was examined, and background information was reviewed, to ascertain the landslide and seismic hazards. During the field visit, the site was also examined for the presence of jurisdictional wetlands. This memorandum summarizes these findings and includes selected photographs of the site and field data.

The study area is located about two miles east of Clackamas, Oregon, in Clackamas County (Section 12, Township 2 South, Range 2 East, Willamette Meridian). The site is easily accessed by going east of the City of Clackamas on Highway 212/224. The site is on the south side of the highway between S.E. 142nd Avenue and Rock Creek Bridge. Surrounding land uses are a mix of residential, agricultural, and industrial types. Extensive gravel mining operations occur in the area south of Rock Creek.

Site topography ranges from flat terraces (0-3% slopes) along the highway, to the extremely steep escarpments (60-100% slopes) comprising the sidehill slopes. Bottomland along Rock Creek is flat and about 150 feet wide. The Clackamas River and Rock Creek are aggressively incising older river terraces in this area. Elevation ranges from approximately 90 to 160 feet. Rock Creek drains Pleasant and Sunshine Valleys, and flows in a southwesterly course towards its confluence with the Clackamas River near the west boundary of the Suki Family Trust Property.

Mapped geology is shown in Figure 1 and summarized in Table 1 (Madin, 1990). The upper, flat surfaces next to Highway 212/224 are Clackamas River terraces, and the escarpments and slopes occur in the Troutdale Formation and the Sandy River Mudstone. Bottomland materials are a mix of recent alluvium and colluvium.

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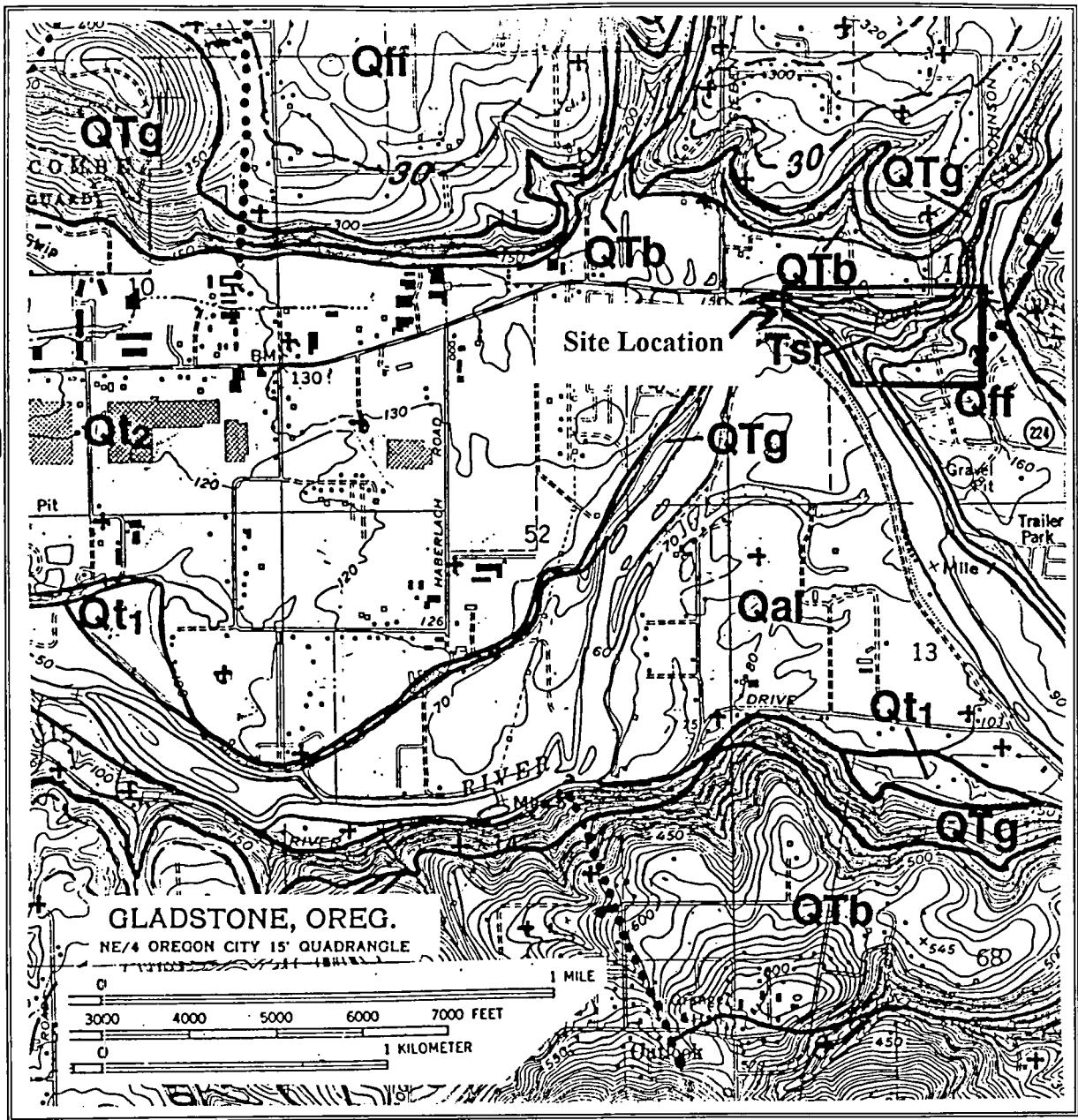


Figure 1. Site geology (Madin, 1990)

TABLE 1. SITE GEOLOGIC UNITS

Unit Name	Map Symbol	Age (years)	Description
Clackamas River Terrace Surfaces	Qt ₂	10,000 to 1.6 million	Erosional terrace surfaces cut into the Troutdale Formation gravels and capped by 1 to 5 feet of fine silt- and sand-sized materials.
Troutdale Formation	QTg	1.6 to 4 million	Well-rounded pebbles and gravels of mostly volcanic rock type with some exotic metamorphic and plutonic rocks. Moderately- to well-lithified materials.
Sandy River Mudstone	Tsr	3.4 to 5.3 million	Moderately to poorly lithified siltstone, sandstone, mudstone, and claystone of mostly quartz and mica.



Mapped geologic hazards for the site include wet soils and a high water table on the upper terrace area, flooding in the creek and river bottomlands, stream bank erosion at the confluence of Rock Creek and Clackamas River, and steep slopes (35 to 50%) (Schlicker and Finlayson, 1979). Site observations suggest that slopes range from 60 to 100%.

Mapped relative seismic hazard for the property is Zone C, where Zone A is the highest and Zone D is the lowest rating (Mabey and others, 1995). This rating is based on low relative amplification hazard (materials' ability to change ground shaking behavior during an earthquake), no relative liquefaction hazard (materials' tendency to behave more like a liquid than a solid), and high relative slope instability (materials' tendency for mass movement) hazard assessments.

Soils on the site were observed and background information was reviewed to supplement the assessment of geologic hazards, and as a part of the wetland reconnaissance. Mapped soils are Aloha (mapping unit 1A, 0-3% slopes); and Xerochrepts and Haploxerolls (mapping unit 92F, very steep). Field examination of soils and background research suggested that the soil mapped as Aloha is Clackamas silt loam (mapping unit 17, 0-3% slopes). These soils are not listed as hydric soils by the Clackamas County Natural Resources Conservation Service (NRCS) but can contain inclusions of hydric soils (Dayton, Huberly, and Conser). Clackamas silt loam has moderately slow permeability with a high water table (0.5 above to 1.5 feet below ground surface) from November through May due to less permeable layers in the subsurface that impede the infiltration of precipitation. Additional drainage is needed when homes and roads are located on the Clackamas soil and septic systems do not function well during wet periods. Xerochrepts and Haploxerolls have moderate to moderately slow permeability. These soils are prone to slumping. Homesite development, and septic system and road installation, are limited by slope steepness and soil instability.

The National Wetlands Inventory (NWI) suggests that palustrine forested (PFO) wetlands may occur in the Rock Creek drainage (Gladstone Quadrangle), but the exact location is uncertain due to poor map quality.

On-Site Observations:

A switchback road recently cut into the sidehill slopes, recent slumps in escarpment materials, and down cutting by Rock Creek provided good exposures of site geology. Surficial deposits of aggregate on the upper terrace area suggest some grading and fill has occurred. Cuts in native soils expose about 5 feet of silt loam between 0 to 12 inches depth, sandy loam with common redoximorphic features between 12 to 25 inches depth, and sandy loam with many redoximorphic features below 25 inches depth (Photo 1). Observations of hydric soils below 12 inches depth concur with the mapped high water tables for the area (Schlicker and Finlayson, 1979) and suggest that this soil is Clackamas silt loam.

The escarpment slopes are very steep (60 to 100%) and may have been oversteepened by the placement of fill material, held partially in place by the buttressing effect of old-growth Douglas-fir (*Pseudotsuga menziesii*) stumps (Photo 2). A slide occurred recently along the escarpment. The head of the scarp is about 30 feet wide and the toe of the feature is located in a lower terrace about 20 feet above the stream channel (Photo 3). Underlying the surficial material are unconsolidated to poorly-lithified, poorly sorted gravel to cobble sized materials; mapped as the Clackamas River Terrace Surface Unit/Troutdale Formation (Madin, 1990). Alders growing on the slide slopes have curved trunks indicating slope instability (Photo 4) and terrace slopes in these geologic materials throughout Clackamas County have failed by landslide (Schlicker and Finlayson, 1979). Another small slide was noted near the lower contact of this unit (Photo 5). Underlying the Troutdale Formation, exposed along the Rock Creek channel, are layers of poorly indurated sandstone and moderately indurated mudstone (Photo 6). This unit corresponds with the description and mapped location of the Sandy River Mudstone (Madin, 1990). In places, the creek is eroding into the less indurated portions of this unit, undercutting the slope and initiating headward erosion. Seeps were noted at the contact between the Troutdale Formation and the Sandy River Mudstone (Photo 6). Natural slopes in the Sandy River Mudstone were near vertical (Photo 7). Recent alluvium deposits are gravel to cobble sized materials, composed primarily of volcanic rocks.


-Vegetation on the hillside is composed of Douglas-fir, red alder (*Alnus rubra*), bigleaf maple (*Acer macrophyllum*), bitter cherry (*Prunus emarginata*), English holly (*Ilex aquifolium*), Indian plum (*Oemeleria cerasiformis*), Himalayan blackberry (*Rubus discolor*), sword fern (*Polystichum munitum*), and English ivy (*Helix hedera*) (Photo 4). Vegetation, soils, and hydrology for the bottomlands are characterized by Plot 1 (Appendix A, Photo 8). Vegetation was dominated by upland species. Bottomland sediments are coarse, permeable materials exhibiting very little soil profile development and no hydric characteristics. The water table was deeper than 15 inches and soils were saturated at 15 inches depth. All parameters failed to meet the wetland criteria.

Conclusions:

On-site observations and background research indicate wet soils on the upper terrace area, high slope instability hazards for the escarpment and side slope areas, and a likelihood of

flooding and receipt of mass wasting materials in the bottomlands along Rock Creek. Slope instability hazards are due to steep (possibly oversteepened) slopes, seeps at the contact between the Troutdale Formation and Sandy River Mudstone, active channel erosion into the Sandy River Mudstone which undercuts the slope, and unconsolidated materials underlying the sideslopes. Relative seismic hazards are mapped as low to moderate. No jurisdictional wetlands occur on this property. These characteristics strongly limit site development potential and all development should include carefully designed roads and drainage systems based on additional geotechnical information. This site is best suited for recreational uses and/or small projects.

References

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- Gerig, A. 1985. Soil Survey of Clackamas County. Oregon: U.S. Department of Agriculture, Soil Conservation Survey.
- Mabey, M.; Madin, I.; and Meier, D. 1995. Relative Hazard Map of the Gladstone Quadrangle, Clackamas and Multnomah Counties, Oregon. State of Oregon Department of Geology and Mineral Industries. Geological Map Series 92 (GMS-92).
- Madin, I. 1990. Earthquake -Hazard Geology Maps of the Portland Metropolitan Area, Oregon: Text and Map Explanation. State of Oregon Department of Geology and Mineral Industries. Open-File Report 0-90-2.
- Schlicker, H. and Finlayson, C. 1979. Geology and Geologic Hazards of Northwestern Clackamas County, Oregon. State of Oregon Department of Geology and Mineral Industries. Bulletin 99.

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APPENDIX A
Site Photographs

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Assessment of Seismic and Landslide Hazards, Clackamas County Site, Oregon

DCN



Photo 1. Redoximorphic features indicating a high water table in upper terrace soils.



Photo 2. Top of the slide area, note Douglas-fir stump (right side of photo) covered by fill.

Assessment of Seismic and Landslide Hazards, Clackamas County Site, Oregon



Photo 3. View of the slide area from toe of slump. Unconsolidated gravels are well exposed.



Photo 4. Alder with j-shaped trunk on side hill slopes.

Assessment of Seismic and Landslide Hazards, Clackamas County Site, Oregon

DCN



Photo 5. Smaller mass wasting feature near the contact of the Troutdale Formation and Sandy River Mudstone.



Photo 6. View of the Sandy River Mudstone and groundwater seeps

Assessment of Seismic and Landslide Hazards, Clackamas County Site, Oregon

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Photo 7. View showing the near vertical slopes of the Sandy River Mudstone and the overlying gravels of the Troutdale formation.



Photo 8. View of bottomland vegetation in Plot 1

APPENDIX B
Plot Data

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Wetland Routine Onsite Determination Data Sheet

Project Location Suki Family Trust Property Feasibility Study
Field Investigators Jeanne Fromm **Plot or Pit No.** 1
Applicant/Owner Suki Family **Date** 02/21/96
County Clackamas **State** OR
Plot or Pit Location About 40' north of Rock Creek.
Prevailing Weather Conditions Partly cloudy, showers; 40-50 degrees Farenheit.
General Site Conditions: Plot was on very gravelly deposits from colluvial and fluvial processes.

Is there noticeable disturbance of this site's native vegetation, soils, and/or hydrology?

None

Vegetation:

Dominant Plant Species:	Indicator Status	Stratum	% Cover	Dominant?
Acer macrophyllum	FACU	T	45.00	Yes
Pseudotsuga menziesii	FACU*	T	40.00	Yes
Prunus emarginata	FACU*	T	25.00	Yes
Oemleria cerasiformis	FACU	S	50.00	Yes
Rubus discolor	FACU-	S	15.00	Yes
Polystichum munitum	FACU	H	30.00	Yes

Percent of dominant species that are OBL, FACW and/or FAC: 0.00 %

Soils:

Series/Phase: Riverwash **Hydic Soil Indicators:**
Soil Profile: 15 7.5YR 3/2 very gravelly sand **None**

Comments:

None

Hydrology:

Primary Hydrologic Indicators: None **Secondary Hydrologic Indicators:** None
Depth of Surface Water: None **Depth to Saturated Soil:** 15"
Depth to Free Standing Water: >15"

Comments:

None

Wetland Determination:

Is the hydrophytic vegetation criterion met?	No	Prepared by: David Evans and Associates, Inc. 2828 SW Corbett Avenue Portland, Oregon 97201-4830 (503) 223-6663
Is the hydric soil criterion met?	No	
Is the specific hydrology criterion met?	No	
Is this plant community a wetland?	No	

Comments:

About half of this plot has sediment deposits and water stains indicating inundation due to previous flooding.