

Summary Report:
Columbia Corridor
Scoping Project

Phase II

August 2008

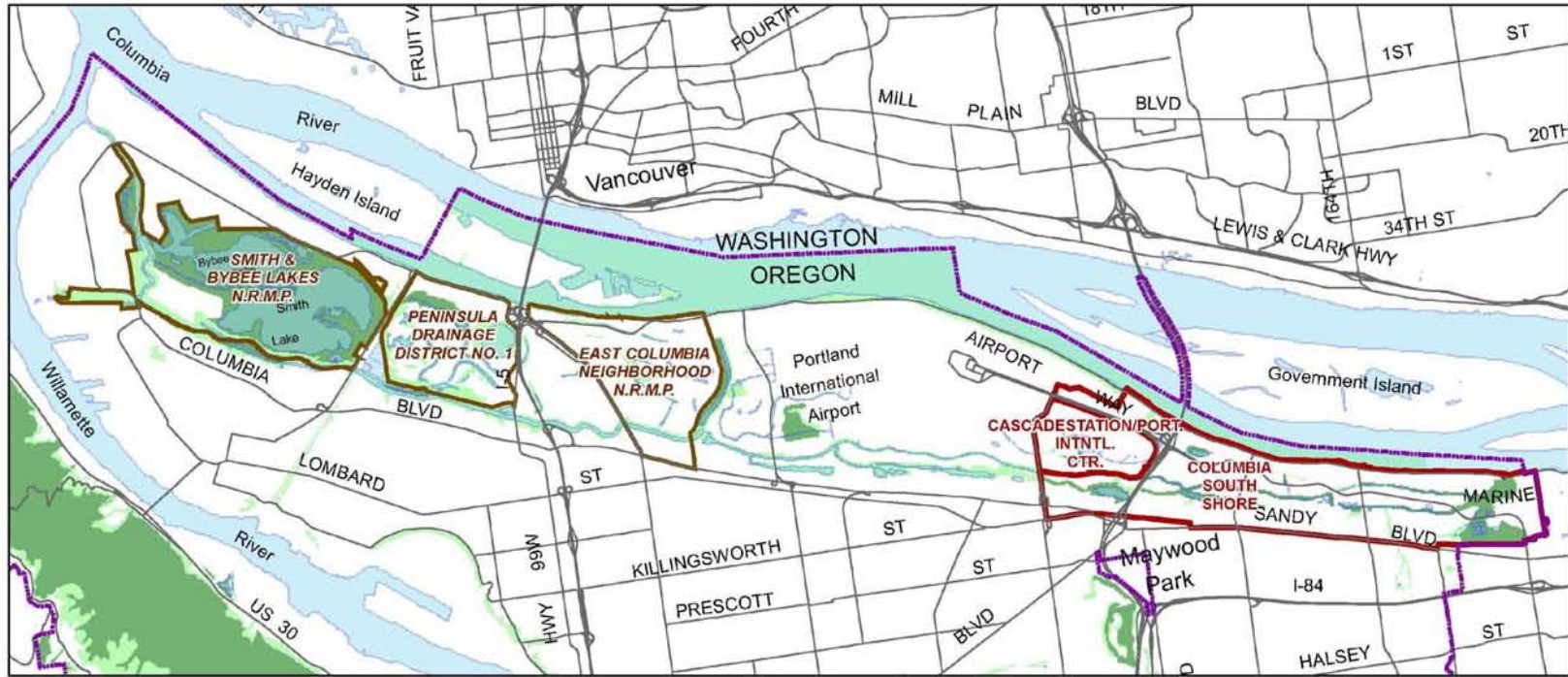


**1900 SW 4th Avenue, Suite 7100
Portland, OR 97201**

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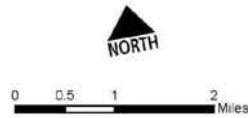
Columbia Corridor Plan Area



III:

Legend

- City Boundary
- Plan District
- NRMP
- Environmental Overlay Zones**
- 'c' Conservation
- 'p' Protection



INFORMATION SOURCES:

Zoning:
Digitized from bureau zoning maps by Roy F. Weston, Inc. for Portland Planning Bureau. Registered to taxlots. Updated by Planning through March 2007.

City Boundary:
Digitized by Portland Department of Transportation. Updated by PDCT and Bureau of Planning, August 2007. Registered to taxlot base maps.

All data compiled from source materials at different scales. For more detail, please refer to the source materials or City of Portland, Bureau of Planning.



CITY OF PORTLAND, OREGON
BUREAU OF
Planning

September 20, 2007

PREFACE

During 2005, the City of Portland Bureau of Planning and Multnomah County Drainage District co-sponsored an initial scoping process for an environmental regulatory improvement project in the Columbia Corridor. Stakeholders who participated in the scoping effort agreed that the City should seek to simplify and improve consistency among environmental regulations that apply within the Columbia Corridor. The 2005 scoping report is available on-line at:

<http://www.portlandonline.com/planning/index.cfm?c=39983>

The report recommended additional analysis of environmental regulatory improvement options, and actions to encourage environmentally friendly site design and resolve recreational trail-related issues in the corridor.

During the budget process for 2007-2008, the Bureau obtained funding to proceed on a portion of the work recommended during the 2005 scoping for the Columbia Corridor. The second phase has involved an in-depth review and evaluation of existing regulations and potential regulatory restructuring options. The evaluation also addressed potential options for achieving compliance with Title 13 (Nature in Neighborhoods) of Metro's Urban Growth Management Functional Plan.

The results of the 2008 Columbia Corridor Scoping Project are described in this summary report. This information will provide a significant starting point and contribution to a future project in the Corridor (currently unfunded but proposed in the Bureau of Planning 3-year work plan).

1.0 INTRODUCTION

This report provides a review and evaluation of existing environmental regulations in the Columbia Corridor within the City of Portland. The evaluation focuses primarily on City of Portland zoning regulations but including other City, state, or federal regulations as they relate to the zoning regulations. The report contributes to the analysis started in Phase I of the Columbia Corridor scoping process that will ultimately be used to inform any updates or changes to the environmental regulations in the Corridor. The Columbia Corridor for purposes of this project is defined by the Columbia River to the north, Columbia Boulevard and Sandy Boulevard to the south, Smith and Bybee Lakes to the west, and NE 185th Avenue to the east.

Background

The City of Portland Bureau of Planning (BOP) has been working with a variety of stakeholders in the Columbia Corridor over the last few years to explore ways to address the problems and issues related to the challenge of conserving, protecting, and restoring high value natural resources in the area. The Columbia Corridor area is complex in that it also includes some of the region's most valuable industrial and employment land and freight distribution facilities. Existing plans and regulations in the area are contained in multiple documents, and the different regulatory layers can be cumbersome and confusing.

Adding further complexity is the fact that much of the Columbia Corridor's hydrologic system (the Columbia Slough) is highly managed by the Multnomah County Drainage District (MCDD) with large areas of the floodplain controlled within a levee system, while other areas are not, such as the 8.5 miles of tidally influenced Lower Slough. The MCDD conducts a wide variety of maintenance operations on the levee system including removal of large wood to maintain flow in channels and vegetation management on federal levees. High-value and unique natural resources exist in both the managed and less managed floodplain areas.

In the summer of 2005, the BOP initiated a Scoping Project to begin to look for ways to address these issues. As part of this effort, a series of interviews were conducted with stakeholders—including agency partners, community residents, environmental advocates, large and small property owners, and business/industry representatives—to better understand issues, concerns, aspirations, opportunities, and challenges in this area. The discussions provided the groundwork for the scoping process and helped to focus and direct potential future planning efforts in the Corridor.

The area planning concepts that emerged from the scoping effort reflect the complex mix of industrial, employment, and freight distribution characteristics of the area, as well as its unique ecological and cultural resources, hydrology, and managed floodplain. Consistent with the principles of River Renaissance, each approach was developed to achieve multiple objectives simultaneously rather than pit one goal against another.

The Scoping Project recommended a project approach for completing the Corridor planning process that included a creative set of natural resource management tools to meet the multiple project objectives. Perhaps more importantly, the Scoping Project resulted in a set of guiding principles and project success criteria. ESA Adolfson and Bureau of Planning staff developed the project success criteria to guide the scoping process and the eventual area planning process for the Corridor. A project intent statement was also crafted in order to be clear with the public why the process is taking place. The project intent and guiding principles were reviewed and updated as part of this current effort and are stated as follows:

1.1 Project Intent

Simplify and improve consistency in environmental regulations, while seeking overall improvements to watershed conditions and regulatory compliance in the Columbia Corridor area.

1.2 Principles to Guide the Development of a Scope of Work

- Coordinate and integrate natural resource conservation approaches with the unique watershed, hydrological, economic, and transportation characteristics of the Columbia Corridor area (adapted from the River Renaissance Strategy, 2004).
- Facilitate development and operations (business, industry, facility and resource management, etc.) that are both ecologically sensitive and economically viable, consistent with River Renaissance Strategy principles
- Achieve or advance compliance with the Clean Water Act TMDLs for the Columbia Slough, Safe Drinking Water Act, and other regulatory requirements in a timely manner
- Achieve compliance with the Metro Title 13 Program within the Columbia Corridor in order to meet the compliance schedule.
- Identify and engage in partnerships to carry out the initial planning and long-term implementation
- Develop a set of replicable, cost-effective, and equitable approaches and tools that can be readily understood and implemented
- Focus the effort to address problems and issues specific to the Columbia Corridor area; use this project as an opportunity to test innovative approaches that may have broader watershed and/or citywide applicability as well
- Support partner cities and agencies in their efforts to comply with regional, state and federal requirements through creative, multi-objective strategies

1.3 Project Success Criteria

Six project success criteria were crafted to address both process and outcomes based on stakeholder interviews conducted in the summer of 2005. The first five criteria were mentioned fairly consistently among stakeholders. These are followed by a list of additional criteria that were expressed by individuals and do not represent a consensus among stakeholders, but are important to consider as Corridor planning

proceeds. The criteria are presented as they were stated in the Scoping Project and our assessment of their relevance follows each one individually.

1) Clearly defined project purpose that is understood by all parties involved.

If the Planning Bureau goes forward with a planning project in the Columbia Corridor they must be absolutely clear what the purpose and scope of the project is. The purpose and scope must be understood by all of the stakeholders involved in the Corridor. A successful plan will start with a clearly defined and understood purpose and need. Three issues that must be addressed are 1) motives for the project, 2) fear that environmental protections would be reduced, and 3) concern regarding adding more regulatory requirements to an already complex system.

The parameters of the scope must also be very clear. Several stakeholders have expressed concern that the project would take on too much, too many broad issues, and in trying to reach too far will fail to be successful. For example, many issues beyond environmental protection and the development review process have been discussed for inclusion in this planning process, including, transportation issues, economic development, recreation, better integration of City Bureau functions in the Corridor, and green infrastructure and sustainable development. A comprehensive planning process of the size necessary to include all of the issues facing the Corridor and address them fully and properly may be out of the realm of near-term projects for the Planning Bureau at this time, and would likely take several years to complete.

The following are examples of comments regarding a clear purpose for the planning project and clarity of the plan scope:

- The intent and outcomes of the proposed plan need to be well defined up front.
- If the plan is developed as a Plan District, the plan and its goals will be very successful. Landowner, agency, environmental groups, neighborhood associations and the Port will buy into the plan and would work collaboratively to meet the goals of the plan.
- The goal of the proposed plan needs to be clear; want to see more discussion of the value of the City's vision; stakeholders need to be involved in developing the vision and buy into it.

2) Stakeholder involvement early in the planning process and throughout the process.

All stakeholders were unanimous in commenting that any planning process in the Corridor must include extensive stakeholder input and involvement from the very beginning and all the way through the process. This is another must-achieve criterion for any success for the planning effort. Some of the supporting comments include:

- Buy-in from all of the stakeholders up front with what type of plan or projects would be best for this area.
- Need to get buy-in from stakeholders early on, and get many individual pockets of support. The City needs to have neighbors active in the planning process. Neighborhoods trust the information more if their representatives are involved. Avoid surprises.

- The City should involve the watershed councils and neighborhood associations.
- The City should invest some money and time in the outreach effort.

3) Regulatory simplicity and certainty and more efficient and effective tools for meeting the goals for the Corridor.

It is clear from the stakeholder interviews that one of the prime project success criteria has to be a clear simplification of the regulatory process within the Columbia Corridor without loss to the current level of resource protection. The complexity and inconsistency of regulations across the Corridor was mentioned many times as an existing problem and barrier in the area. It is a barrier to both effective review of development proposals and environmental restoration efforts. The details of this regulatory complexity varied among the stakeholders and the proposed solutions to the problem varied widely and even conflicted in some of the details but the underlying message is clear. It will also be critical to coordinate with the Airport Futures project, a joint City of Portland and Port of Portland planning effort, which has recently started and will potentially affect regulations within the Corridor around the airport. Whatever type of project the Planning Bureau proposes to go forward with must result in a simplification of the regulatory system in the Corridor without loss to the current level of resource protection.

The following are some of the most relevant comments that support these criteria:

- Establish a less complex process for review of development projects and environmental restoration applications.
- Provide additional flexibility in regulatory interpretation, streamlining of the system (especially for less complex projects), and more certainty (in the conditions of approval).
- Create a process that is streamlined and helps encourage more environmental restoration projects as well as the regular building permit process.
- Reconcile the different Plan Districts and get them all on same page.

4) Resolution of issues and uncertainty related to mitigation.

There was near unanimous consensus among stakeholders that the process of requiring, constructing, and monitoring mitigation efforts in the Corridor needs to be improved. Mitigation bank or fee-in-lieu program options were most often mentioned, but it is clear that some range of alternatives to the current mitigation process need to be developed. All agree that the current system does not necessarily lead to successful mitigation in terms of both replacement of lost resource values and cost effectiveness to the applicant. Mitigation success is perceived as low and monitoring and maintenance inadequate. The Corridor planning project will be a success if more efficient and effective alternative mitigation options are implemented within the Corridor.

5) Evaluation and integration of the good work that has already been done in the Corridor.

It was stressed by many stakeholders in the interviews that much good work has already been done in the Corridor toward meeting resource protection and restoration goals and in planning for economic development and business growth. This good work needs to be acknowledged, thoroughly evaluated, and the best elements brought forward in any new planning process for the Corridor. Some examples from the stakeholder comments include:

- Fully recognize and utilize the Columbia Slough Watershed Council Action Plan. It is a great document, borne of a collaborative effort.
- Do not want to see the good parts of the Smith-Bybee Lake Natural Resource Management Plan (NRMP) lost or superseded by a new plan.
- There are provisions of the Columbia South Shore Plan District that work well. Some projects can proceed under the South Shore district plan without need for a review; the group does not want to lose that flexibility through a new plan. (see Table 1 at end of document)

6) Other issues to consider.

Individual stakeholders mentioned specific success criteria that they considered necessary for a successful project. While these criteria were not consistently expressed by interviewees and do not represent a consensus among stakeholders, they are important to consider as the Planning Bureau moves forward in this scoping effort.

- Any resulting planning effort must include a process for making policy decisions that clarify direction and resolve inherent tensions between goals.
- Natural resource goals must be integrated with other public policy goals such as the State Airport Planning Rule and other FAA guidance and US Army Corps of Engineers levee requirements.
- Consistency with Metro Regional requirements (Titles 3 and 13).
- Recognize other state and federal regulatory requirements (TMDLs, MS4 permit, ESA, etc.) and coordinate with other agencies on overlapping permit and mitigation requirements.
- Remove barriers and provide incentives and partnership opportunities to promote resource enhancement (e.g., streamlined permitting, cost-sharing, resource enhancement credits, etc.) – aka “make it easier to do the right thing.”
- Completion of the designated segments of the 40-mile loop trail that are in the Corridor and resolve the trail designations issues on the zoning maps.
- Any resulting planning project must include a combination of regulatory and non-regulatory elements.
- Look at the range of constraints on developing vacant industrial land (e.g., brownfield clean-up requirements) to inform how to best target efforts.

Some interviewees identified criteria that are outcome-related and that raise policy questions that will likely be appropriate to address in any planning project that springs from this scoping effort. Examples include:

- No matter what, increase protected habitat (upland, secondary drainage ways and main slough).
- No-net-loss of natural resources.
- Recognize the Port's dedicated land use areas and MCDD's flood control mission.
- A process that works to create more jobs and economic opportunity; if these happen, the rest of what constitutes a desirable environment to live in will follow.
- Coordination and consolidation of federal and state general permits with requirements of local jurisdictions.
- Regulate to protect the high value natural resources; use incentives to protect lower value.

1.4 Work Program Identified in the Initial Scoping Project

The work program described in the initial Columbia Corridor Scoping Project report forms the core of the current phase of work. That work program prescribed a diagnostic analysis to determine how the existing City environmental regulations could best be streamlined, consolidated, or simplified. The work program focuses only on environmental regulations affecting for the Corridor, recognizing that various industrial or commercial issues exist within the Corridor as well.

The work program as defined in the Scoping Project was subdivided into the following project tasks:

- Assess the effectiveness and workability of City regulations that currently apply in the Columbia Corridor (diagnostic analysis) including the following:
 - Problem identification: codes, processes, interagency permitting
 - Analyze existing regulations and refine as needed. Include the south bank of Columbia River in analysis phase
 - Potential solutions at concept level
 - Isolate issues that could be piloted in the Corridor but may be expanded Citywide
- Develop a policy framework incorporating existing plan policies in the Corridor.
- Develop compliance strategy for Metro Nature in Neighborhoods program and TMDLs for the Columbia Slough watershed within Portland.
- Analyze the relationship among City, state, and federal regulations and permit review processes; cross-check the Zoning Code with other City codes and state and federal regulations to identify conflicts and to identify opportunities to streamline, consolidate, and simplify regulations and review procedures. Acknowledge the separate but parallel Airport area planning process and coordinate planning efforts with the Corridor project.
- Explore innovative approaches to optimize mitigation including evaluating mitigation prototypes, allowing off-site mitigation within the watershed, and developing a fee-in-lieu-of-mitigation strategy.
- Revise development regulations and review processes to provide regulatory incentives that encourage resource enhancement and discourage impacts.
- Provide simpler review option for projects that meet standards and/or include resource enhancement, where such option doesn't currently exist.

- Resolve any outstanding code issues related to balanced cut and fill, tree removal, vegetation requirements, and levee repair in the managed floodplain (drainage districts).

1.5 Purpose of This Project Phase

The core intent of this phase of the work is to analyze and assess the City's environmental regulations that currently apply in the Columbia Corridor, and identify potential regulatory restructuring and improvement options. . This phase of the work will also identify potential approaches for the City to comply with Title 13 Nature in Neighborhood requirements in the Columbia Corridor. This analysis will be used to inform the next phase s of planning in the Columbia Corridor, which . could focus on environmental regulatory improvement and compliance, or could be a more multi-faceted planning effort. These decisions have not been made, however a Columbia Corridor Planning effort remains on the Bureau of Planning's three-year work program.

2.0 THE COLUMBIA CORRIDOR

Home to nearly 160,000 residents and 60,000 jobs, the Columbia Slough Watershed drains 32,700 acres of land rich with natural resources, residential neighborhoods, industrial areas, transportation corridors and vegetable farms. The waterway comprises 19 miles of main channel, extending from Fairview Lake on the east to the Willamette River at Kelley Point Park on the west, as well as 30 miles of secondary waterways.

2.1 Physical Environment

Before construction of flood control levees in the watershed, the Columbia River spring freshets inundated the watershed, cutting new channels and depositing sediment. Today, there are remnants of what was once a large system of marshes, wetlands, lakes and side channels that historically formed part of the Columbia River floodplain.

The Lower Columbia Slough is still subject to tidal influences, while the Middle and Upper Slough are managed for flood control and drainage with piped surface water, levees, and a system of pumps. There are three drainage districts in Portland that are managed by the Multnomah County Drainage District: Peninsula Drainage District #1 (PEN 1), extending from approximately N Portland Road to I-5; Peninsula Drainage District #2 (PEN 2), extending from I-5 to NE 18th; and Multnomah County Drainage District #1 (MCDD 1) extending from NE 18th to NE 223rd and encompassing the Middle and Upper Slough. The Multnomah County Drainage District also manages the Sandy Drainage Improvement Company which begins at 223rd street, outside the Portland city limits.

The Columbia Slough Watershed provides critical local and regional fish and wildlife habitat. The Lower Slough, unlike the Middle and Upper Slough, is connected directly to the Willamette and Columbia River systems and provides refuge habitat for migrating Coho and Chinook salmon. The entire waterway provides a ribbon of habitat connectivity between high value natural resources in the upper watershed (e.g., Salish Ponds, Big Four Corners, Wilkes Creek), habitats in the middle section (e.g., Subaru Ponds) and resources in the lower sections of the watershed (e.g., Smith and Bybee Lakes). Wilkes Creek, springs, and other tributaries contribute to the natural resource values and functions in the watershed.

Although the natural resources in the watershed have been altered significantly, the habitats that remain support a diverse array of resident, wintering, and migrating wildlife. During the breeding season, the Columbia Slough watershed hosts a number of species listed as threatened or endangered by the state and federal government, including the willow flycatcher, painted turtle, and western pond turtle. The Slough serves as a critical habitat corridor connecting and supporting wildlife movement among habitats of the Columbia River Gorge and estuary systems, the Sandy River watershed, and Vancouver /Clark County.

Through its Nature in Neighborhoods program, Metro has identified approximately 4,233 acres of Habitat Conservation Areas in the watershed. Approximately 77 percent of these significant riparian corridor and wildlife habitat resource areas are currently within the City of Portland's environmental overlay zones.

The Columbia South Shore Wellhead Protection Area spans a significant portion of the watershed and contains much of the remaining buildable industrial land in the City of Portland. The groundwater resources within this protection area provide the primary drinking water source for Fairview and some Portland-area communities, and a secondary water source for Gresham, Portland and other communities that rely on surface water from the Bull Run River.

2.2 Industry in the Watershed

The Columbia Slough watershed is home to three industrial districts that are vital to the economic health of Portland, the State of Oregon, and the multi-state Columbia Basin. Rivergate, Oregon's primary gateway for international trade tonnage, contains about half of the marine terminals on Portland Harbor and 78 percent of their total acreage. The 5,700-acre Airport District is a regional freight hub, the center of which is the Portland International Airport. This district includes a mix of industries focused on distribution, including nearly a third of the metro area's transportation jobs. The Columbia Corridor East District is a mixed industrial/employment district, with a high concentration of service-related jobs and specialty industries. All three districts have room to grow, with a combination of vacant buildable land and lands that are constrained for development by floodplain, habitat, and brownfields.

These districts and the adjacent Portland Harbor area are a unique industrial location in Oregon at the convergence of the state's primary rail, road, water, pipeline, and air transportation systems. The industrial land supply in these districts is a basic part of the state's capacity for growth in distribution and some manufacturing industries, providing Oregon's primary gateway to expanding global trade. However, there is a limited amount of industrial land, particularly larger acreage parcels, in the corridor for growth of new or existing businesses.

2.3 Organizations in the Watershed

Sixteen neighborhood associations are located entirely within the Columbia Slough Watershed inside Portland's city limits, and another 14 neighborhood associations span portions of the Columbia Slough and Willamette River watersheds.

Several non-profit organizations provide education and outreach to the residents and businesses of the watershed. Three examples are worth highlighting:

- The Columbia Slough Watershed Council is a diverse group of neighbors, property owners, businesses, environmental groups, recreation advocates, and government agencies dedicated to restoring and enhancing the Columbia Slough through stewardship projects, public education campaigns, and planning efforts.
- The Columbia Corridor Association is a business association committed to promoting and enhancing the viability of the Corridor, benefiting its members and the local community, and assisting in the design and implementation of regulations.

- The Friends of Smith and Bybee Lakes is a community based group that advocates for the conservation, restoration and enhancement of the Smith and Bybee Wetlands Natural Area as an historical remnant of the Columbia River estuary system.

3.0 COLUMBIA CORRIDOR ENVIRONMENTAL REGULATIONS ASSESSMENT

This section of the report provides an assessment of the current environmental regulations in the Columbia Corridor and identifies gaps or deficiencies, conflicts, and obstacles/challenges with permit processes. The assessment includes information from past analysis of the Corridor regulations and incorporates comments received from the stakeholder interviews during the initial project phase (see Table 1 at end of report). This section is primarily focused on the City regulations administered through the Zoning Code. Other City, state, or federal environmental regulations are mentioned in this section only when relevant to the City zoning regulations.

The environmental regulations in the Corridor are multi-tiered and inconsistent geographically across the Corridor. Three types of City environmental zoning regulations are used in the Corridor - the Environmental Overlay Zone, Plan District, and Natural Resource Management Plans (NRMPs). Additionally, the Portland International Airport is subject to the conditions of approval established in their Conditional Use Master Plan approved in 2003. Each of these are discussed in detail below. These environmental regulations were approved through several different legislative projects beginning in 1989.

3.1 Environmental Overlay Zone

Overlay zones consist of regulations that address specific subjects in particular areas in the City. Overlay zone regulations apply in addition to regulations in the base zone and modify the regulations of the base zone. Environmental overlay zones are established to protect resources and functional values that have been identified by the City as providing benefits to the public. The intent of the environmental regulations is to encourage flexibility and innovation in site planning and provide for development that is carefully designed to be sensitive to natural resources contained with the site.. These regulations also help meet City goals to protect public health and safety, along with other regional, state, and federal goals and regulations.

There are two types of environmental overlay zones, an environmental protection overlay and an environmental conservation overlay. The environmental protection overlay provides the highest level of protection to the most important resources and functional values. Development is approved in the environmental protection overlay only in rare and unusual circumstances. The environmental conservation overlay conserves important resources and functional values in areas where the resources and functional values can be protected while allowing some environmentally sensitive urban development.

Each of the two environmental overlay zones is made up of both a resource area and a transition area. The resource areas contain the significant resources and functional values and are generally much larger than the transition areas. The transition areas surround the resource areas. Resources and functional

values within transition areas are not significant, but they provide a buffer for the significant resources and functional values within the resource area. The transition area is measured as the first 25 feet inward from an environmental zone boundary line. The remaining area is the resource area.

Both environmental conservation and environmental protection overlay zones are in place within the Corridor. The environmental overlays were first applied in the Corridor in 1989 through the Columbia Corridor Industrial/Environmental Mapping project. That was the first of an eventual seven environmental zoning efforts across the City. Resources and functional values are identified and assigned value in the inventory and economic, social, environmental, and energy (ESEE) analysis, which is specific for each study area within the City.

The environmental overlay zone regulations apply uniformly throughout the City except as modified by some plan districts or NRMPs. The regulations and the mapping have been modified several times over the years since first applied to the Corridor in 1989. The regulations went through substantial upgrades in 1995 and again in 2005. In 1995 the “two-track”, or standards track, system was created for the environmental zone. This was a substantial improvement that created a way to receive approval for development within the environmental zone without going through an environmental review. Specific development standards were created for multiple development situations. If an applicant’s proposed development was designed to meet all of the environmental development standards then they could get a building permit over the counter without environmental review.

Since 1995, many applicants have elected to take advantage of the standards option and have been approved for development within the environmental overlay without environmental review. In the 2005 Environmental Regulatory Improvement Project the standards were updated and improved to cover more development situations and to provide for a greater number of site enhancement/mitigation options. The development standards tend to be more useful to residential development than for commercial or industrial development.

The opportunity to use either the environmental review track or the standards track is not an option in much of the Corridor. It is not available in areas within the South Shore or Cascade Station Plan Districts or within the Smith Bybee NRMP area. This is also true of all of the other environmental zone reforms that have occurred since the 1995 update because only the environmental overlay zone regulations have been updated since adoption. None of the Natural Resource Management Plans or Plan District environmental regulations have been updated or revised since their adoption.

Issues

While many of the issues associated with the environmental overlay zones have been addressed through the various update projects there are some issues specific to the Corridor that are not adequately addressed. The stakeholder interviews specifically identified coordination and geographic scope of mitigation efforts within the Corridor as an issue that needed to be addressed within the Corridor. The inconsistency of the standards track system across the Corridor was also mentioned. However, many of the stakeholders indicated that the environmental overlays were working rather well.

Not many environmental overlay zone specific regulatory examples were mentioned by the stakeholders. Much of the frustration is with the inconsistent regulations across the Corridor and the perceived lack of coordination with state and federal regulations.

3.2 Plan Districts

Plan Districts address concerns unique to an area when other zoning mechanisms cannot achieve the desired results. An area may be unique based on natural, economic, or historic attributes; be subject to problems from rapid or severe transitions of land use; or contain public facilities that require specific land use regulations for their efficient operation. Plan Districts provide a means to modify zoning regulations for specific areas defined in special plans or studies. The Plan District provisions may supersede and/or modify any portion of the regulations of the base zone, overlay zone, or other regulations of the Zoning Code. The regulations of a Plan District may also apply additional requirements or allow exceptions to general regulations.

There are three Plan Districts within the Corridor, the Columbia South Shore Plan District, the Cascade Station / Portland International Center Plan District, and the Portland International Raceway Plan District. These Plan District regulations are discussed individually below.

The Columbia South Shore Plan District

The Columbia South Shore Plan District regulations encourage the development of the Columbia South Shore as an industrial employment center that is intended to attract a diversity of employment opportunities. The Plan District regulations also protect significant environmental and scenic resources and maintain the capacity of the area infrastructure to accommodate future development. This Plan District was adopted in September of 1993 and is applied to the eastern end of the Corridor, extending eastward roughly from the eastern border of the airport to the City of Portland's boundary with Gresham.

This plan generated intense interest from neighborhood and environmental groups in the area and resulted in a series of appeals that went eventually to the Oregon Supreme Court. The primary issue was the width of the riparian buffer along the main slough channel. The courts eventually upheld a minimum 50-foot buffer for the main slough channel, which resulted in a protection overlay zone being applied to the main slough with a minimum distance of 50 feet from top of bank. This was a change from the original application of the conservation overlay zone to the slough.

The Plan District's environmental regulations are a refinement of the original overlay zone with a more site-specific treatment of the properties and resources within the district. An effort was made to tie future industrial development and resource protection and restoration more closely. The restoration requirements are more focused on the specific resources within the district, especially the main slough and the "Big Four Corners" wetlands and forests.

The Plan District modifies the environmental overlay zone in a few fundamental ways. One of the most important deviation from the overlay zones is that within the Plan District, development on any portion of a lot that has environmental zoning on it will trigger the environmental regulations, even if the proposed development does not directly affect the portion of the lot within the environmental zone. At minimum,

this triggers the restoration standards, which require the developer/property owner to restore the portion of the environmental zone on their property with native vegetation.

The Plan District regulations also establish varied widths for the transition areas within the Plan District environmental overlays. In the standard (Chapter 33.430) environmental zones the transition area is always 25 feet in width but allow most activities and do not protect any resources or require any planting. Within the South Shore Plan District, the transition areas can be either 50 feet, 25 feet, or zero feet in width, depending on location. The Plan District environmental regulations place much greater restriction on activities allowed in the transition area than are allowed in the standard environmental transition area. Activities in the Plan District transition area are limited to planting native vegetation, installing a public trail, and overhead or underground utilities. One other way that the Plan District differs from the environmental overlays is that there is no formal two-track system within the Plan District but some development is allowed if it meets the development standards.

Issues

One of the requirements unique to the South Shore Plan District is the revegetation requirement mentioned above. Here, revegetation is required to take place within the environmental zone when development occurs anywhere on the property, regardless of whether the development impacts the environmental zone or not. There were no specific objections to this in the stakeholder interviews. However there has been no evaluation of the effectiveness of the requirement and no information to assess whether the revegetation that has taken place has been successful. This is something that should be evaluated in the next phase of the project.

One criticism of the Plan District is that it does not include a standards track system for development approval. However, as noted above, the environmental regulations of the Plan District do include a very limited set of development standards that allow for some development to occur without going through environmental review. These situations are not processed as formally as in the standards track of the Chapter 33.430 environmental overlay zone but does allow for some limited development types. The development standards are reviewed as part of the building permit and do not require an extra fee, neighborhood notification, site posting, or extra inspection like the Chapter 33.430 standards track system requires.

The mapping of the transition areas in the South Shore Plan District is not consistent with the general environmental overlay zone transition areas. Within the Plan District the transition areas can be 50, 25, or 0 feet in width. The regulations affecting the transition area also differ between the Plan District and the general environmental overlay regulations. The restrictions generally provide a more effective buffer in the Corridor than in the environmental overlay zone in other parts of the city.

The Cascade Station / Portland International Center Plan District

The Cascade Station/Portland International Center (CS/PIC) Plan District is intended to provide for the development of a commercially viable mix of office, retail, hotel, entertainment, and industrial employment uses while protecting significant environmental and archaeological features of the area. Development is to be clustered around the Plan District's two light rail stations, the Park Blocks and key

streets throughout the area. Requirements applicable to buildings along the Park Blocks and key focal intersections are intended to increase the activity level at those areas and provide an attractive pedestrian environment. The Plan District's proximity to the Columbia Slough is recognized by inclusion of special development guidelines that protect significant identified environmental and open space resources within the Plan District consistent with the requirements of airport operations.

The environmental regulations in the district are essentially the same as those in the Columbia South Shore Plan District with a few minor differences primarily having to do with plant species composition in planting areas. Because the CS/PIC Plan District is so close to the airport, the planting of vegetation that may attract wildlife species that may conflict with airport operations is prohibited.

Issues

The CS/PIC environmental regulations are nearly identical to the South Shore regulations; the one area of difference being the planting requirements. Within the CS/PIC Plan District the species and sizes of native vegetation are more limited to reduce potential of attracting certain bird species that may conflict with nearby airport operations. This requirement will have to be maintained in this area.

The Portland International Raceway Plan District

The purpose of the Portland International Raceway Plan District is to preserve and enhance the special character and opportunities of this part of West Delta Park. West Delta Park, and the Plan District in particular, has a unique and varied character. The natural setting of the Plan District is a broad open, natural area with unusual expansive vistas of the Columbia River flood plain.

Within West Delta Park, the character of the land changes as one moves from west to east: the Heron Lakes Golf Course has more wildlife and other environmental resources than the Portland International Raceway (PIR), while PIR is a more developed use and absorbs large crowds for special events. The regulatory framework for the PIR Plan District recognizes a mix of open space and major special event uses.

Within PIR the environmental resource areas accommodate a rich array of wildlife, providing opportunities for food, shelter, and breeding. Because these areas include many sloughs and wetlands they are particularly valuable to the region. The primary purpose of these areas within the Plan District is to support wildlife and protect habitat and allow only passive or unintrusive recreational uses.

The natural, grassy, open areas at PIR provide food and some shelter for wildlife, and also help to accommodate the occasional larger recreational events. Primarily, however, these areas provide a special experience of an open, undeveloped, and natural setting for those who are within it, or those who are viewing it from the racetrack core area.

The regulations of the Plan District create a master plan approval process for PIR. The PIR Master Plan must include proposed uses and possible future uses that might be proposed for at least 3 years and up to 10 years. The PIR Master Plan must be updated no more than 10 years after initial approval. The master plan approval process is modeled after the Conditional Use Master Plan process. The environmental regulations within the Plan District that affect day-to-day activities are primarily implemented through the

Natural Resources Management Plan for Peninsula Drainage District No. 1, which is discussed in the next section. The Plan District does however, include environmental guidance within the master planning process for PIR to follow as they develop and update their master plan.

Issues

The environmental regulatory issues for the PIR Plan District are discussed in the next section within the context of the Natural Resources Management Plan for Peninsula Drainage District No. 1. The environmental components of the Plan District are only intended to guide the PIR master planning process and these are so specific to that process and that single property owner that there is no need to revise them. The specificity of the environmental components to this single use on the site is not in conflict with other regulations and does not overlap with other levels of regulation.

3.3 Natural Resource Management Plans

Natural Resource Management Plans (NRMPs) are designed to provide an alternative to case-by-case environmental reviews. These plans provide the means to evaluate the cumulative effects of development and mitigation proposed at different times and in different places within the same large ecosystem. These plans also provide opportunities for coordination with, or joint adoption by, other local governments; special districts; and regional state, and federal agencies and are of particular value in areas of multiple ownership.

Natural Resource Management Plans are adopted legislatively and may contain regulations that supersede or supplement the other regulations of the base zones, overlay zones, or Plan Districts. They also contain general direction for project management and identified activities and improvements within the natural resource area. For example, the Smith and Bybee Lakes NRMP identifies “Habitat Enhancement and Restoration Projects” as a series of projects that would need further analysis, including the development of an inventory of degraded habitats and historic habitats in the area to guide restoration activities. The actual restoration work would be reviewed through a Type II environmental review, but the approval criteria used in the review are located in the NRMP to ensure compliance with NRMP goals and consistency with other NRMP identified projects.

NRMPs differ from Plan Districts in that their regulations are not in the Zoning Code but are found in separate stand alone documents. The NRMPs are also specifically focused on environmental issues and projects, while Plan Districts have a broader context—although Plan Districts could be single-issue focused. Unless specifically stated, NRMP regulations supersede the other regulations. Because the NRMP regulations are outside the Zoning Code they can cause much confusion. The NRMP documents include both the regulations that may apply to development and the general policies and objectives of the plans. This also causes confusion for the public, as the policies and objectives are aspirational only and do not apply directly to development. The NRMPs also tend to be inflexible and are difficult to amend or update because, depending on the size or scope of the amendment, any modification to the NRMP needs to be reviewed through the Type II or Type III Environmental Review process even if the proposed amendment is in keeping with the provisions of other zoning regulations including those in Chapter 33.430.

There are three NRMPs within the Corridor. Two of the NRMPs contain their own implementing regulations while the third is a policy plan only. The NRMPs are discussed individually below.

East Columbia Neighborhood Natural Resources Management Plan

The East Columbia Neighborhood Natural Resources Management Plan was adopted by Portland City Council on April 18, 1990. This NRMP is the oldest in the City. The plan provides policies and objectives for guiding development within the areas' natural spaces. This plan establishes policy only and contains no implementing regulations of its own. The East Columbia Neighborhood is located close to the Columbia River and Portland Airport in Northeast Portland. It includes primarily residential and industrial areas, and other large parcels in agricultural and pastoral uses. Two of the main natural characteristics of this area are its wetlands and waterways and its wildlife diversity.

The East Columbia Neighborhood Natural Resources Management Plan (ECNNRMP) establishes the following Neighborhood Goal:

Strengthen the East Columbia Neighborhood as a desirable place to live and work by building and preserving wetlands and wildlife habitats and promoting the educational value of the environmental resources within its boundaries.

To support this Goal the ECNNRMP has ten policies dealing with a variety of issues such as education, recreation, conservation, water quality, mitigation, and residential development. There are 22 objectives that support the ten policies.

Additionally, a section of the ECNNRMP discusses specific wetland values, enhancement practices, and vision statements. The discussion is divided into sections based on wetland values established in the NRMP: high, medium, and low.

Issues

This plan is aspirational with no implementing regulations. As such it does not conflict or overlap with other plans or overlays, although issues of land use compatibility associated with the State Airport Planning Rule should be considered with any future regulatory changes. The plan essentially acts like the other adopted neighborhood plans within the City and would be consulted in cases of Comprehensive Plan amendment requests or legislative actions that might affect the plan area, including the current work being done with the Portland Plan and updates to the City's Comprehensive Plan. There is no need to modify the plan or change its status. It functions well to provide additional aspirational guidance to development, mitigation, and restoration occurring within the plan area.

Natural Resources Management Plan for Smith and Bybee Lakes

The Natural Resources Management Plan for Smith and Bybee Lakes was adopted by Portland City Council on November 8, 1990. Its purpose is to provide a set of policies and actions that protect and enhance the natural resources at the lakes and compatible recreational uses. Smith and Bybee Lakes (now renamed Smith and Bybee Wetlands) is one of the few semi-natural remnants of the once extensive

bottomlands of the Columbia River. The area is located along the Columbia Slough near the confluence of the Willamette and Columbia Rivers. It consists of the remnants of two large, shallow lakes and a complex of sloughs and marshes.

The NRMP contains an environmental assessment of the area looking at the existing conditions and existing environmental impacts, as well as providing an ecosystem summary of the area. It also includes a recreation assessment that looks at the recreation needs and opportunities, education/research needs and opportunities, and development and management recommendations for the area.

Issues that were discussed as part of the development of the plan include those relating to: property agreements, management of the lakes, environmental and economic issues, landfill closure, St. Johns Landfill end use, adjacent industrial development, financing of restoration projects, balancing recreational use and environmental protection, and mitigation and monitoring programs.

The Smith Bybee NRMP lists 28 policies that provide the basis for implementation and management of the Lakes area in a manner consistent with and supportive of its goals and objectives. Nine specific management actions have been identified as guidance to implementing agencies.

The plan creates its own implementation procedures, actions, development standards, and approval criteria. The primary goal was to facilitate activities specifically evaluated and identified in the plan. Most of these activities have been completed. Unlike the Pen 1 NRMP, the procedures for evaluating unanticipated activities are very inflexible, time consuming, and expensive—often requiring a Type III review.

The majority of the plan area is publicly owned. The private development issues addressed in the plan are mostly concerned with activities occurring on the edge of the plan area and consist of standards for setbacks and buffer landscaping. Much of the private commercial land that is around the edge of the publicly owned land has now been developed but the setback and buffer issues could easily be addressed through the environmental overlay zone.

Issues

The plan has generally worked well for issues specifically addressed by the plan and the majority of the management actions and activities have been completed. The plan does not work well for unanticipated development projects because they have to be approved through a lengthy and expensive plan amendment process—often a Type III process. Additionally, the NRMP is over 15 years old and so the action items are either completed or out-of-date. Metro, which has jurisdiction over the management of the area, is increasingly frustrated with the inflexibility of the plan because many new actions or projects they may develop for improvement of the site would have to be approved through the plan amendment process.

Because most of the identified activities in the plan have been completed, the implementation requirements of this plan could be suspended with no appreciable impact to the Smith Bybee Lakes resources or management. In fact, this would positively benefit the area. Because much of the industrial development near the area has now been completed or consists of several feet of fill graded out to accommodate development, and because most of the resource areas are part of the publicly owned park, the majority of activities likely to occur here are related to resource enhancement and restoration.

Resource enhancement and restoration activities at the lakes could be more easily accommodated through the current environmental overlay zone regulations.

The relevant goals, policies, and objectives of the plan could continue to be used as policy guidance similar to the East Columbia Neighborhood NRMP. This would keep the plan policies and objectives in place and allow them to be used as guidance for future Comprehensive Plan amendments or legislative projects.

Natural Resources Management Plan for Peninsula Drainage District No. 1

The Peninsula Drainage District No. 1 (Pen 1) Natural Resources Management Plan was adopted by Portland City Council on June 12, 1997. Pen 1, on the west side of I5, includes the Portland International Raceway Plan District (southeast portion of the area), Heron Lakes Golf Course, and the Vanport Wetlands; the majority of the area is in public ownership. The purpose of the Natural Resources Management plan is to (1) manage the wetlands, wildlife habitat, and other natural resources located within Pen 1; (2) evaluate the Pen 1 ecosystem as a whole and provide specific direction for protection and enhancement of the natural resources; and (3) provide a level of certainty in the environmental review process by identifying primary areas for mitigation for approved development projects that are consistent with the protection of resources within Pen 1. The natural resources of Pen 1 provide habitat for wildlife, storage capacity for stormwater, water quality benefits, recreation opportunities, and visual relief from the adjacent industrial areas and freeways.

The plan is divided into four sections - the first three sections focus on specific resource areas and the last focuses on management plan implementation. The three resource areas are (1) hydrology and water quality, (2) wetlands, natural areas, and wildlife habitat, and (3) land use and recreation. Each of the three resource chapters provides an assessment and evaluation of the resources and policies and management objectives.

The Pen 1 Plan has five policies related to hydrology and water quality, four policies related to natural resources, and four policies related to land use and recreation. It also has five management objectives related to hydrology and water quality, eight management objectives related to natural resources, and five management objective related to land use and recreation.

The fourth chapter of the plan provides implementation actions to carry-out the policies and objectives of the plan and to provide a mechanism to facilitate the coordination of mitigation and enhancement activities within the Pen 1 area. The plan identifies specific target mitigation areas and provides specific mitigation ratios for those mitigation areas. The plan is designed to supersede the environmental overlay regulations for many of the implementation actions that were reviewed as part of the plan. For development and other issues not anticipated by the plan, the plan defers back to the environmental overlay zone. This mechanism has provided an easier and more focused path to approval for projects reviewed through the plan adoption and allows unanticipated development activities to be considered under the established environmental zone process.

Issues

The plan has worked well and met its desired intentions since many of the action items and identified mitigation/restoration projects have been completed. In particular, the Vanport Wetlands, a large site known formerly as the radio towers or Excell Communications site, has been fully restored by the Port of Portland as a mitigation site. Additionally, allowing unanticipated development projects to be reviewed through the overlay zones has worked well and avoided a lot of the process and time difficulties found with other NRMPs such as Smith Bybee and Forest Park where projects that are unanticipated in those plans have to go through lengthy and expensive plan amendment processes to be approved. Most of the projects specifically identified in the Pen1 plan that were evaluated as part of the plan development have been completed or are now obsolete for varying reasons and will not be completed. If the implementation requirements of this plan were to be suspended at this time there would be no appreciable impact.

Because the anticipated development projects and restoration actions are mostly completed, future development in the area could be just as easily accommodated through the environmental overlay zone regulations. The plan could also be used solely to provide policy guidance similar to the East Columbia Neighborhood NRMP. This would keep the plan polices and objectives in place and allow them to be used as guidance for future Comprehensive Plan amendments or legislative projects.

The map on Page iii illustrates the various NRMPs and Plan Districts in the corridor.

3.4 Portland International Airport Planning

The Port of Portland (Port) owns and manages the Portland International Airport (PDX) and surrounding airport support facilities. The Port has an approved Conditional Use Master Plan that covers current facilities and operations and is good for eight years after adoption. The current Master Plan was approved in 2003. Environmental zone issues are not addressed in the current Master Plan and the Port must address environmental zone issues on a case by case basis as they come up. The one exception is that within the *airside area*, which is the portion of the airport where planes are actively operating. To avoid potential conflicts between wildlife and safe operation of air traffic, the Federal Aviation Administration regulations allow the Port to impact natural resources without meeting most of the environmental zone requirements, however mitigation for impacts is still required.

During the 2003 approval process for the current Conditional Use Master Plan, the Port, City of Portland and members of the public recommended considering other planning tools to address PDX facilities and operations. The Port and City agreed to review alternatives to the Conditional Use Master Plan. The Airport Futures project is a collaborative effort between the City, the Port, surrounding jurisdictions including Vancouver and Gresham, and the public to create an integrated long-range development plan for PDX. Beginning in fall 2007 and concluding in spring 2010, the Port will update their 20-year airport master plan and the City will create a Plan District to address the unique needs and conditions at and surrounding PDX.

As part of Airport Futures, the City will be updating the natural resources inventory for PDX and surrounding lands. The current environmental overlay zones will be reviewed in context of existing resources, Metro's Title 13 Nature in Neighborhoods program and City policies and goals related to

natural resources. Any efforts to clarify, simplify, and otherwise improve the environmental regulations of the Corridor should be coordinated with the Airport Futures planning project.

3.5 Metro Title 3 and Title 13 Compliance

During the 1990s, Metro worked with local jurisdictions to develop the Urban Growth Management Functional Plan. The Urban Growth Management Functional Plan provides a regional approach to growth management, in part by tailoring several key state planning goals to meet regional population growth expectations. Metro developed the plan with input from the 24 cities and 3 counties within the regional Urban Growth Boundary. Metro's Urban Growth Management Functional Plan has been acknowledged by the Oregon Department of Land Conservation and Development and become law. Metro area cities and counties achieve compliance by updating comprehensive plans and land use ordinances to meet regional requirements. Cities and counties within the Metro Urban Growth Boundary must have comprehensive plans and ordinances that also comply with remaining state goals not covered by the Urban Growth Management Functional Plan. Nine titles in the Urban Growth Management Functional Plan are derived from or relate to State Planning Goals and the rest are procedural. Title 3 and Title 13 pertain most directly to natural resources and the environmental regulations discussed in this report.

Title 3 is derived from portions of State Goals 6 and 7, and establishes regional requirements relating to water quality, erosion control, and flood hazard management. In September 2002, the City completed a detailed report titled the Title 3 Water Quality Compliance Report. The report explains how the City complies with Title 3 requirements through the existing environmental overlay zoning program and newer regulations established by the Willamette River Title 3 Water Quality Compliance Project (adopted by City Council in August 2002). Metro found the City in substantial compliance with Title 3 in December 2002. Within the Corridor, Title 3 is implemented primarily through the existing environmental zone regulations.

Title 13, adopted by the Metro Council in September 2005, establishes the Nature in Neighborhoods program. The purpose of the program is to protect, conserve, and restore important riparian corridors and wildlife habitat areas in the region. Title 13 establishes provisions intended to prevent impacts or ensure mitigation of unavoidable impacts on identified habitat conservation areas within the region. Habitat conservation areas are comprised of high-value riparian corridors identified in Metro's inventory of regionally significant riparian corridors and wildlife habitat. In January 2007, the Oregon Department of Land Conservation and Development acknowledged the new Title 13 program, finding it in compliance with Goals 5 and 6. This acknowledgement establishes new Goal 5 and 6 requirements for cities and counties in the Metro area. Metro area cities and counties have until January 2009 to show that their local programs meet the requirements of the regional program.

The City is intending to incorporate Title 13 compliance into its efforts to clarify, simplify, and otherwise improve environmental regulations for the Columbia Corridor. Within the Corridor, 77 percent of the Title 13 Habitat Conservation Areas are already within the existing environmental zones. This project offers an opportunity to customize compliance with Title 13 through a variety of mechanisms that support the City's goals for the Corridor. These are discussed further in the next section.

3.6 Clean Water Act Total Maximum Daily Load Requirements

In 1994, the state Department of Environmental Quality (DEQ) listed the Columbia Slough as water quality limited because it did not meet standards for multiple 303(d) listed parameters including bacteria, temperature, dissolved oxygen, pH, phosphorus, chlorophyll a, and toxics (DDT/DDE, dieldrin, dioxins, PCBs and lead). The DEQ has the authority to establish Total Maximum Daily Loads (TMDLs) for these parameters. TMDLs identify the load capacity, which is the maximum amount of the parameter the water body can assimilate without violating water quality standards. In 1998, DEQ established TMDLs for all 303(d) listed parameters in the Columbia Slough, except temperature. In 2004, DEQ established a draft TMDL for temperature, which was finalized in 2006.

Total suspended solids (TSS) is a parameter of interest in the Columbia Slough. TSS has been proposed as a surrogate for hydrophobic pollutants that are not detected in the water column. Although no water quality standards have been established for TSS, the National Pollution Discharge Elimination System (NPDES) 1200-COLS stormwater discharge permit sets a benchmark of 50 mg/L.

Many of the tools that are under consideration by the City for addressing the TMDL requirements can also be used for habitat conservation such as, protection of riparian corridors and tree planting along stream edges. Any efforts to clarify, simplify, and otherwise improve the environmental regulations of the Corridor should be coordinated with the City's efforts to meet TMDL requirements to look for common tools and implementation mechanisms to increase efficiency and that avoid overlapping and redundant regulation.

4.0 EVALUATION OF OPTIONS FOR IMPROVING ENVIRONMENTAL REGULATIONS

ESA Adolfson has conducted an evaluation of potential options that could be applied toward resolving the issues, problems, and concerns identified with environmental regulations within the Corridor. ESA Adolfson also considered ways to incorporate mechanisms to achieve compliance with Metro's Title 13 and Clean Water Act Total Maximum Daily Load (TMDL) requirements for the Columbia Corridor.

This is a preliminary evaluation, taking the ideas and direction from the initial scoping process one step further. Any future project should expand on these options to provide additional levels of detail that cannot be accomplished within the timeframe of this scope. Examples include working more closely with the various land management groups, such as MCDD and Metro, to understand how regulatory changes will impact specific activities and on-going maintenance and restoration work; exploring corridor-specific tools that might be incorporated into the new regulations that address unique features (managed floodplain) or processes (mitigation banks); and how to incorporate compliance with Metro's Title 13 requirements.

4.1 Regulatory Options to Consider

Option 1. Consolidation of City environmental regulations affecting the Columbia Corridor into a single regulatory system. Apply standard environmental overlay zone (33.430) regulations throughout the Corridor.

This option would eliminate the Natural Resource Management Plans (NRMP) and the specific environmental regulations within the Zoning Code Plan District chapters, and only the environmental zone regulations (33.430) would apply throughout the entire Corridor. Other non-environmental Plan District regulations would remain in effect. The policy and intent of the existing NRMPs and Plan District environmental regulations would still need to be carried forward, either in the text of the Zoning Code or in the mapping of resources on official zoning maps. For example, the South Shore and CS/PIC Plan Districts have 0, 25, or 50-foot Transition Areas where very few activities are allowed, and planting requirements are applied each time a building permit is issued. Conversely, the Transition Area regulations of Chapter 33.430 allow most activities and do not protect any resources or require any planting. One way to implement the Plan District policy using the zoning maps would be to add a 25-foot-wide transition area around the resource areas in the Plan Districts where few activities would be allowed and resources would not be impacted (as is the case with the current Plan District regulations). Another would be to update the environmental zone chapter to provide more of a resource buffer to the resource area.

The Natural Resource Management Plan areas (NRMP) are legislatively-created (e.g., requires Planning Commission and City Council approval, and cannot be modified easily) are significantly out-of-date or

not effective. They could be replaced with a new quasi-judicial option (land use review similar to environmental review) or simply the two-track process options reviewed through the environmental zoning regulations of Chapter 33.430. Both reviews would be quasi-judicial and thus accessible to the public and other city bureaus. Exactly how this process would work and how it would actually affect resource protection would need to be studied and discussed in more detail.

Generally, using a single regulatory system would establish one set of code provisions and fewer procedures and types of review processes across the Corridor. This could reduce the time and expense for project applicants to understand and address regulations. There would also be public savings resulting from less staff time and cost to implement the code and review processes. The following presents some of the pros and cons of this strategy:

Pros

- This option would provide the greatest simplification and cleanest implementation by applying one single set of environmental regulations across the City
- This option would create a streamlined permitting option by allowing the standards track system option to apply throughout the entire Corridor
- This option would eliminate out-of-date NRMP regulations.
- Title 13 Habitat Conservation Areas could be incorporated into the environmental overlay zone. This would likely require some map changes and possibly some environmental zone code changes, such as new standards or approval criteria.

Cons

- This option would make it more difficult to add new Corridor-specific regulatory mechanisms such as mitigation bank or restoration fund (unless/until the standard environmental zoning program is modified to allow other mechanisms throughout the city (but within the same watershed as the developing site).
- This option could create conflicts among regulations. The environmental overlay zone regulations that would be applied within Plan Districts would potentially conflict with the regulations that remain unchanged in the Plan Districts. Because of the hierarchy of regulations in the code, if Plan District regulations conflict with the e-zone regulations the Plan District regulations would supersede the environmental regulations (unless otherwise stated).

Level of Effort

- Cost for completion of the project is estimated to be approximately \$ \$175,000 to \$225,000.
- Estimated staffing 1 FTE plus interbureau participation.

Option 2. Consolidate City environmental regulations in the Corridor under a single Corridor-wide Environmental Plan District.

This option would create one Environmental Plan District with environmental regulations specific to the Corridor. The NRMPs would be eliminated as would the environmental regulations in the three corridor plan districts. Since plan districts are created to address concerns unique to an area and have their own set of non-transferable regulations, the plan district model would work well for the Corridor. As stakeholders have noted, the slough is different than other streams and tributaries around the city, and the Corridor contains the only managed floodplain in the city. Part of the Columbia Corridor is regulated in this manner now through the Columbia South Shore and Cascade Station/Portland International Center Plan Districts (the Portland International Raceway Plan District does not include environmental regulations). These two Plan Districts include environmental regulations that differ from Chapter 33.430, however the regulations adopted with a Corridor-wide Plan District would not necessarily be the same as those contained in either of the two existing Plan Districts. Using Chapter 33.430 for the basic model, with some tailoring of the regulations to fit the special needs of the Corridor, could potentially work well.

For example, the existing Plan District environmental regulations have not been updated to include the development standards and associated streamlined permitting process that has been established for the environmental overlay zones elsewhere in the city in 1995. With the establishment of the standards-based process, there are now two permitting tracks available to development within environmental zones -- the environmental land use review process, in place since 1990, and the more recent environmental plan check process. The plan check is applied to the building permit review process and saves time and money, although it does not provide site design flexibility -- the environmental standards must be met otherwise an environmental review is required. The process has been a success but has been used mainly by residential developers; the existing plan check standards are harder for commercial and industrial development to meet as they do not provide the necessary flexibility that most intensive development requires. Identifying environmental development standards for industrial land would be challenging, although a related process is currently underway for the Willamette River Plan/North Reach project. The River Plan work could inform similar actions for the corridor and for other industrial areas in the city.

The non-environmental provisions of the Plan Districts and special subdistricts could be maintained as subdistricts within the overall Corridor-wide environmental Plan District. For example, specific regulations relating to commercial uses, etc could be placed within the subdistricts. Similarly, any special provisions developed through the Airport Futures planning work could be accommodated within a corridor-wide plan district.

The following presents some of the pros and cons of this strategy:

Pros

- As a Plan District that supersedes Title 33.430, this approach would provide a single layer/location for the environmental regulations that are customized for the Columbia Corridor.
- A single environmental regulatory system specific to the Corridor would make it easier to implement variations from standard environmental zone regulations, such as the variable-width transition areas of the South Shore Plan District or the limited native plant species list of the CS/PIC.

- This option could accommodate a Corridor-wide mitigation bank/restoration fund mechanism to complement or replace the current Plan District mitigation requirements.
- This option could accommodate separate/special Title 13 compliance regulations such as setback averaging or a variable width buffer.
- The Plan District approach could include establishment of clear purpose statements that include existing or updated NRMP policies that could apply corridor-wide and/or for subdistricts.
- This option would eliminate potential problem with the hierarchy of regulations. All Plan District regulations would continue to be on the same level as they are currently.

Cons

- This option would be less streamlined and more complex if multiple subdistricts were added.

Level of Effort

- Cost for completion of the project is estimated to be approximately \$200,000 to \$250,000.
- Estimated staffing 1.5 FTE plus interbureau participation.

Option 3. Consolidate the City environmental regulations in the Corridor under a Corridor-wide Natural Resource Management Plan.

Similar to the options above, this option would establish a single corridor-wide environmental regulatory framework. Under this option the single system would be an NRMP. The NRMP provides the means to evaluate the cumulative effects of proposed future development projects (if known), environmental restoration projects, and mitigation proposed at different times and in different places within the ecosystem, and provides opportunities for coordination with other local governments, special districts, and other agencies. This would differ from a corridor-wide Plan District in that the regulations would not be in the Zoning Code but contained in the NRMP plan document. The policies and objectives of the existing NRMPs could be retained (or updated) in the new NRMP document. The following presents some of the pros and cons of this strategy:

Pros

- This option, like the first two, would reduce complexity by having only one set of environmental regulations.
- This option could accommodate separate/special Title 13 compliance regulations such as setback averaging or a variable width buffer.
- It is possible to make minor amendments to an NRMP through a quasi-judicial process.

Cons

- NRMPs become out-of-date more quickly than a code approach as they are more project specific; updates require a legislative process.

- The NRMP is not as easy to integrate with other zoning regulations because the NRMP regulations are contained in separate reports that are cross-referenced in the Zoning Code.
- Future projects reviewed through the NRMP must include a relatively high level of detail, something that may be difficult for individual property owners to do.
- Having the NRMP goals, policies, and objectives within the same document as the implementing regulations can create confusion with the public and stakeholders over the role of the policies and goals.

Level of Effort

- Cost for completion of the project is estimated to be approximately \$170,000 to \$215,000.
- Estimated staffing 1.5 FTE plus interbureau participation.

Option 4. Mixed Elements Strategy.

In this option elements of the previous three options could be combined. For example, the NRMPs could be eliminated and the areas within the NRMPs would be subject to the environmental overlay zone regulations of Chapter 33.430. The mixed strategy could generally keep the environmental regulations of the two east end Plan Districts as they are. This would result in standard environmental zone regulations applied on the Lower and most of the Middle Slough watershed and separate, specialized environmental regulations in the Plan Districts in the east end. Title 13 would be addressed by Plan District environmental regulations in the eastern portions of the slough and environmental zone regulations at the western end.

Pros

- This option reduces some of the existing regulatory complexity by consolidating some but not all of the various implementation mechanisms -- they would be mutually exclusive with no geographic overlap.
- This option might require the least amount of effort and cost to achieve because it would involve the fewest changes to the existing regulatory system.

Cons

- The option would still lack a standards track system in the Plan District regulations to encourage environmentally sensitive development by providing a streamlined permitting option.
- This option does not create a completely uniform set of Corridor regulations.
- This option does not readily allow corridor-wide regulatory streamlining options because there would be multiple regulatory mechanisms still in place and each would have to be modified in some way to accommodate the new options.
- This option makes Title 13 compliance more complex because of the multiple regulatory mechanisms in place in the Corridor.

Level of Effort

- Cost for completion of the project is estimated to be approximately \$170,000 to \$215,000.
- Estimated staffing 1 FTE plus interbureau participation.

Option 5. Code “Text Only” Strategy.

For this option the mapped environmental overlay zones would be removed altogether to be replaced by Zoning Code regulations to achieve environmental objectives and guide planned development. Instead of the regulations being triggered by the overlay zone line location on a zone map, an unofficial "resource map" could be used as a reference to identify the likely presence of resources. At the time of development the applicant would include resource information in the application packet. The applicant could accept the resource map as-is, or could provide additional information to correct or update the map. The base zone or Plan District regulations would include environmental regulations applicable to specific resources, such as wetland and top-of-bank or centerline of slough set-backs, or maximum vegetation clearing. Proposed development in a resource area would continue to require environmental review unless objective development standards are met. Development proposed outside of code-defined resource areas would not be subject to a land use review process. For example, there might be code standards requiring a 50-foot setback from top-of-bank stream or wetland and tree preservation. Development proposals that meet the setbacks would not need to be reviewed through an additional process.

Pros

- This option could reduce complexity by eliminating the overlay zone lines and the confusion that sometimes occurs over their exact location, particularly as the location and extent of natural resources change over time.
- This option would foster the use of current natural resource information to inform land use decisions.

Cons

- This option would diverge considerably from the existing City map-based environmental zoning program which could generate concern among stakeholders.
- This option places additional responsibility on applicants to provide natural resource information and increases uncertainty by eliminating clear zone boundaries.
- This option could complicate Title 13 compliance more complex as Title 13 Habitat Conservation Areas are tied to mapped resources.

Level of Effort

- Cost for completion of the project is estimated to be approximately \$130,000 to \$180,000.
- Estimated staffing 1 FTE plus interbureau participation.

4.2 Title 13 Compliance Options

Note: Metro allows jurisdictions to comply with Title 13 using regulatory and/or non-regulatory methods. Any Title 13 Compliance Strategy for the Corridor is expected to include a mix of regulatory and non-regulatory tools. The City currently complies with existing mandates with a mix of regulatory and non-regulatory tools, such as the Clean Water Act stormwater requirements. The following options address potential regulatory tools that would be packaged with tools such as land acquisition, restoration, stewardship, and outreach and education.

Option 1. Use the Standard E-zone.

This option would expand the environmental overlay zone to address appropriate Title 13 areas. Details of which level of overlay to apply to what areas (conservation overlay vs. protection overlay) would have to be decided. Some environmental zone code changes may be necessary such as new standards or approval criteria.

Option 2. Create new setback standards to address high value unprotected riparian resources.

This would be similar to the City's former significant streams standards. Stream and wetland related Title 13 resources inside and outside existing e-zones would accrue some level of protection where practicable. New setback and other standards could be added to the base zone and Plan District regulations to cover select Title 13 areas outside of current environmental overlay zones. Examples of potential standards that could be used are a top-of-bank setback standard or a setback averaging. On and off-site mitigation options could be provided as well. This approach could be incorporated into a Corridor-specific Plan District, NRMP, or the base zone codes.

Option 3. Adopt Metro Model Ordinance.

The City could adopt the Metro Model Ordinance for select Title 13 areas beyond the current e-zone or could replace the e-zone regulations. The model code is more complex than the existing environmental code and this could potentially add a new level of complexity to the Corridor depending on how it was implemented.

Option 4. Customized compliance mechanisms within a Corridor-wide Environmental Plan District, Natural Resource Management Plan, or Mixed Elements Strategy.

If a Corridor-specific environmental regulatory framework were established, then mechanisms for Title 13 compliance could be customized to the area. A customized approach could be submitted to Metro under the auspices of a "district plan" as allowed by Title 13. For example, Title 13 compliance could be combined with a Corridor-wide mitigation strategy. The lower value Title 13 Habitat Conservation Areas that are isolated and fragmented could potentially be eliminated without review if the developer/property owner paid into the fee program or purchased credits from a Corridor restoration bank. Elements of the

other three Title 13 implementation options discussed above could be combined in various forms within a Corridor-specific approach.

4.3 Mechanisms That Could be Integrated with Most Options

Note: The following is not meant to be an exhaustive list, nor are the individual elements mutually exclusive - each could be utilized in combination with the others.

- **Corridor-wide Restoration Fund/Mitigation Bank.** This approach could combine riparian and wildlife habitat restoration with traditional wetland restoration. It could be based on a fee-in-lieu payment schedule or a more traditional bank credit purchase. One advantage of the wetland bank is that it could cover both local and state and federal wetland mitigation requirements. In-lieu fees could be earmarked for use by a designated party such as Portland's Watershed Revegetation program, the Columbia Slough Watershed Council, or a non-profit contractor. An appropriate fee mechanism would need to be determined.

Innovative mitigation approaches and fee-in-lieu strategies also increase certainty and flexibility for landowners and could potentially satisfy Oregon Department of State Lands (DSL) requirements. Mitigation prototypes can be developed that would reduce some of the cost of design of mitigation projects. A fee-in-lieu program would provide land owners with a more straight forward option for required mitigation/restoration and could concentrate mitigation/restoration into areas that would benefit most. Additionally the mitigation sites are more likely to be closely monitored and maintained by a designated mitigation provider. There are proven examples of successful mitigation programs in the Corridor including the Port of Portland's Vanport Wetlands site.

Mitigation banks are expensive and time consuming to set up. Initial planning and development could take up to two years. To get the bank fully up and running could take three to five years and cost from \$75,000 to \$300,000.

Proposed revisions to the state Removal Fill law (OAR 141-085) aimed partly at mitigation priorities, may lead to a major change in emphasis with a preference for the use of advance mitigation (distinct from mitigation banks). In Oregon, this may effectively end mitigation banking, as the banking process is expensive and takes a long time for approval of the bank prospectus, construction of the bank, and release of credits for sale. As a result of this potential rule change, the better strategy for the Corridor may be the development of advance mitigation sites within the Corridor and forego the expense of the formal banking process.

- **Environmental Master Plan Option.** An option to consider as an addition to Corridor-specific regulations or as an update to the environmental overlay zone chapter would be to allow large, long-term development projects and changes or modifications to the regulations to be considered and approved through a master plan type process. This could provide a reasonable alternative to the NRMP approach. Modifications to NRMP regulations are processed through a Type III review procedure, or more likely a legislative procedure. This has proved to be too limiting and

burdensome given the minor nature of the types of NRMP changes needed and requested. A master plan process allows modifications to be processed through a quasi-judicial forum, which is faster and less complex.

- **Variable setback buffer width option.** A variable buffer width is where encroachment is allowed into a protected area (buffer), usually along a stream or bank of a water body, in return for an extension of the protected area on a non-developed portion of the property. For example, if a property owner has a drainageway that runs the length of their property line, 1000 feet, and the protected area is 50 ft, then the total area is 50,000 sq ft of protection. The applicant could be allowed to reduce the width of the protected area down to 25 ft in one area and increase the protected area width in other areas, if the overall area of protection is still 50,000 sq ft. A restoration component could be included to ensure the resources are buffered from the development in the area where distance is decreased.
- **Land pooling.** Consider the Corridor or part of the Corridor for a land-pooling pilot project. Land pooling is where land is legally consolidated by the transfer of ownership of separate parcels of land to a designated public or private agency handling the transaction and redesign, with the later transfer of ownership of the new building lots back to the landowners as shown on a subdivision plan. Under a private land-pooling program, property owners form a partnership to unify planning for conservation and development across multiple parcels, providing a market-based mechanism for planning. This tool is used in Japan, South Korea, Taiwan, and some cities in Australia and Canada. The approach could reduce complexity by separating conflicting uses from resource areas and allow for greater improvement to the Slough system through habitat connection, consolidation, and restoration. That said, this concept is largely untried in the northwest and most of the US. It could be challenging for landowners and may be better suited for areas that are less developed, such as Pleasant Valley or South Waterfront.

5.0 CONCLUSION

Through this second phase of the Columbia Corridor Scoping Project, the City has refined the project success criteria, assessed existing policies, environmental regulations, and compliance obligations, and identified options to help clarify, simplify, and streamline the regulations. Corridor stakeholders have been updated and invited to provide comment at various stages of the project.

This work identifies several regulatory improvement options for further analysis. The various regulatory tools and mechanisms reviewed include those that are currently in use in the corridor, and some that are not, including some new innovative tools used elsewhere. This assessment outlines an initial set of the pros and cons for each of options. . Additional analysis of how the might be used singly, or in conjunction with other tools is warranted. Final decisions should be based on how well the options meet project success criteria. Making this determination is the recommended first step for the next phase, described below.

Next Steps

If the =next phase of this project were to focus on environmental regulatory improvement and compliance, the work is anticipated to take 2 years. The first year of the project would include:

- Refining the project scope
- Development of a stakeholder involvement strategy
- Conducting a strategic economic assessment to inform the regulatory improvement strategies and identify practical ways to encourage environmentally sensitive industrial development in the corridor
- Developing and evaluating possible regulatory improvement/compliance concepts (the next level of analysis discussed above)

The second year of the project would involve:

- Development of a draft recommendation for stakeholder review
- Drafting amended codes and procedures to implement recommended solutions
- Completion of the legislative process
- Establishment of partnership and funding agreements as appropriate

Projected resource requirements for the 2-year project include approximately 1.5 FTE of dedicated staff and/or consultant services, plus assistance and collaboration with staff from the Bureaus of Development Services, Environmental Services, and others. .

Table 1. Stakeholder Comments on Existing Tools

Zoning Mechanism	Pros	Cons	Comments
<p>Overlay zone (400's). Overlay zones modify the regulations of base zone chapters (100's and 200's) of the zoning code by providing more specific regulation; overlay zones are for use throughout the city and not in single cases or limited areas or neighborhoods.</p>	<ul style="list-style-type: none"> • Overlay zones, specifically the environmental overlay, is used throughout the city and many people are familiar with its application and processes. • The e-zone is already in use in the corridor, it's somewhat modified by the other more complex tools in some areas - NRMP or Plan District. If those other tools go away and just the e-zone is used, would greatly simplify things (especially if corridor-specific provisions are written into the exemptions and standards sections) 	<ul style="list-style-type: none"> • E-zone setbacks are inflexible; when MCDD moves the top of bank to increase flood storage area, the environmental zone moves with it (where the setback is defined from the top of bank) - essentially widening the e-zone. • Currently does not address mitigation very well. • Columbia South Shore environmental zone regulations (found in the Plan District) do not include standards such as those found in 33.430. - this is inconsistent. 	<p>The e-zone would likely still apply to resources in the CC.</p>
<p>Plan District (500's) modify the regulations of base zone and overlay zone chapters (100's, 200's, and 400's) of the zoning code with regulations that have been tailored to a specific area of the city</p>	<ul style="list-style-type: none"> • PD can address unique characteristics of the area - environmental, economic, transportation, industrial, commercial, residential, managed floodplain • PD or district plan can be used to meet specific objectives for the area 	<ul style="list-style-type: none"> • PDs tend to address too many things - and the more complex an area, the harder it is to craft a PD that does justice to all elements • Developing a PD for the entire corridor would take too long • PD is legislative/ inflexible 	
<p>NRMP provide a means to evaluate cumulative effects of development and mitigation proposed at different times/ locations within the same ecosystem.</p>	<ul style="list-style-type: none"> • The NRMP for the CC can address the unique characteristics of the natural resources in the CC, but probably just the natural resources (eg, not as broad a tool as the Plan District) 	<ul style="list-style-type: none"> • The NRMP must list time table for development, mitigation, and enhancement - can this be done for the whole corridor? • East Columbia NRMP is not effective like the other NRMPs, not project-specific, does not help NA • Unanticipated projects need major land use review • Changes to the NRMP are legislative; NRMP becomes inflexible/outdated. 	<p>The current NRMP is like a very large master plan, except it covers environmental resources and is infrequently updated due to the legislative process requirement</p>