



City of Portland
Bureau of
**Planning and
Sustainability**

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EXHIBIT C

January 21, 2009

Michael Jordan
Metro Chief Operating Officer
600 Grand Ave.
Portland OR, 97232-2736

Dear Mr. Jordan:

Please consider the attached request for extension of the Metro Title 13 compliance deadline. The attached document outlines our rationale, and presents a phased strategy for Portland to achieve substantial compliance with Title 13 within two years.

As was communicated to you earlier this month, the City's Title 13 compliance strategy relies on:

- Strong existing regulatory programs that apply protections to approximately 80 percent of the Title 13 Habitat Conservation Areas;
- Active non-regulatory programs including willing-seller land acquisition, restoration, and education;
- Adoption in fall 2009 of a new resource inventory and baseline standards to protect all streams and wetlands;
- A series of area-specific projects to update the City's existing environmental program for the Willamette Corridor, Portland International Airport, and Hayden Island (East and West) by FY 2010-11; and,
- A series of future projects to update the program in tributary watersheds.

It is important to note that the City used an "area-by-area" approach to establish the current environmental overlay zoning program during the 1990s. This approach was necessary given the size of the city, and the amount of citizen interest generated proposals to apply the map-based overlay zoning and regulations. Updating the program using a similar approach will allow the City to focus on watershed-specific issues and work more closely with citizens. This approach, we believe, offers the best chances for community support and a successful outcome.

By granting this extension Metro can demonstrate support for the Portland's programs, our upcoming program updates. Granting the extension will also support the City's efforts to meet state periodic review requirements and to complete a more extensive update of the Comprehensive Plan through the Portland Plan project. The updated policies and priorities generated through the Portland Plan will help inform and direct the City's environmental program updates and the Title 13 compliance effort.

We are now developing a proposed budget the consolidated Bureau of Planning and Sustainability. This year's budget decisions will allow us to firm up the specifics and timing of the Title 13 compliance strategy. We will have more information starting in late February and throughout the spring. On March 10th, we will brief the Portland Planning Commission on the environmental program and the proposed Title 13 compliance strategy. I will ensure that Metro representatives are invited to attend and participate in this briefing.

Thank you for considering our request

Sincerely,

Susan Anderson
Director

cc: Tim O'Brien, Metro
Mayor Sam Adams
Lisa Libby, Mayor Adams' office
Amy, Ruiz, Mayor Adams' office
Dean Marriott, Bureau of Environmental Services
Zari Santner, Bureau of Parks and Recreation
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Extension of Compliance Deadlines

Jurisdiction: City of Portland

Date: January 21, 2009

Contact: Roberta Jortner, Environmental Program Manager

Telephone: (503) 823-7855

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Requests for extensions of compliance deadlines set in the Urban Growth Management Functional Plan, as authorized in Title 8 of the plan, must be filed with Metro's Chief Operating Officer on this application form.

Metro Code 3.07.850 sets forth the criteria and procedure for Metro Council consideration of extensions of compliance deadlines. The criteria, from Metro Code 3.07.850B, are as follows:

The Council may grant an extension if it finds that: (1) the city or county is making progress toward accomplishment of its compliance work program; or (2) there is good cause for failure to meet the deadline for compliance.

Please complete this application and submit it to

Sherry Oeser
Metro
600 NE Grand Avenue
Portland, OR 97232

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Part I (to be completed by the local government)

- a. Describe progress made toward compliance with the Functional Plan requirement(s) for which the local government needs more time.
- b. Or, explain why the local government has not been able to meet the deadline set for compliance with the Functional Plan requirement(s).

Note: Part I, section a. and b. (above) are addressed in the explanation provided below.

REQUEST:

The City of Portland requests an extension of the Title 13 Nature in Neighborhoods compliance deadline until June 30, 2011.

BACKGROUND

The City of Portland has always been a strong proponent of Metro's Title 13 Nature in Neighborhoods program. Title 13 establishes critical policy direction and guidelines intended to protect and restore the significant riparian corridors and wildlife habitat through the region. Portland is largely in compliance with Title 13 based on existing programs and is committed to achieving substantial compliance within the next two fiscal years.

The City respectfully requests that Metro extend the Title 13 compliance deadline so that Portland may pursue a phased environmental program update process. This extension will also support the City's efforts to complete the state-required periodic review process and a more extensive update of Portland's Comprehensive Plan through the Portland Plan project. The Portland Plan will generate updated city policies and priorities that will inform and guide the Title 13 compliance strategy.

This report describes: 1) existing City programs and projects that contribute toward Title 13 compliance, and 2) near-term and future projects that will bring the City into compliance.

EXISTING CITY PROGRAMS AND PROJECTS

The City of Portland's existing environmental overlay zones apply protections to approximately 80 percent of the 12,000 acres of Title 13 Habitat Conservation Areas (HCA) in Portland. The environmental zones and other resource overlay zones apply several thousand more acres of significant resource area outside the Title 13 HCAs. The City also implements a number of programs that help meet the intent of Title 13. These programs and projects are presented below.

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Regulatory programs

- The City first adopted environmental regulations to comply with Goal 5 in the early 1980's. The program was updated substantially in the late 1980's and 1990s to comply with updated state rules. Due to the size and diversity of Portland's landscape, the current program was established through a series of area-specific planning efforts (for example, the Fanno Creek Conservation Plan, the Johnson Creek Basin Protection Plan, etc.). Portland's Goal 5 program was fully acknowledged by the Oregon Land Conservation and Development Commission in January 2000.
- Portland's main tool for achieving compliance with Goal 5 is the City's environmental overlay zoning program. The environmental overlay zoning program establishes a regulatory framework that emphasizes (like Title 13) the principle of "avoid, minimize, mitigate". The environmental overlay zones apply to 19,907 acres of land, streams, and wetlands, and 2,576 acres within the channel of the Columbia Rivers. The environmental overlay zoning program is also the City's main tool for compliance with the water quality related requirements of Metro Title 3.
- The City has also established greenway overlay zones intended to protect and conserve natural resources in the Willamette greenway and to help meet Title 3 requirements to protect water quality. These overlay zones currently apply to 492 acres, and to some additional area within the Willamette river channel. The greenway overlay zones are currently being updated to comply with Title 13 through the River Plan project (see below)
- Currently 22 miles of streams (~10 percent of the total mapped stream miles in Portland) and 115 acres of mapped wetlands (~5 percent of total mapped wetland area) are located outside the existing environmental and other resource overlay zones. The City's existing resource overlay zones address approximately 80 percent of the 11,765 acres of Title 13 Habitat Conservation Areas (regionally significant riparian corridors) in Portland (excluding areas within the Willamette and Columbia rivers. Notably, about 70 percent of the HCAs in Portland are High HCAs, and the existing resource overlay zones apply to 90 percent of the High HCAs. The existing resource overlay zones apply to approximately 66 percent of the Moderate HCAs and 28 percent of the Low HCAs in the city, respectively.
- To summarize, 2,254 acres of Habitat Conservation Area (HCA) are not within the City's existing resource overlay zone; this represents about 19 percent of the HCAs within the City as shown in Attachment 1. The distribution of Title 13 Habitat Conservation Areas (HCAs) and city resource overlay zones is presented by major local watershed in the table below (note: "other" includes urbanizing pockets of Multnomah County and the area along the Columbia River).

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HCA	City Resource Overlay Zone	Columbia Slough Watershed (acres)	Fanno Creek Watershed (acres)	Johnson Creek Watershed (acres)	Tryon Creek Watershed (acres)	Willamette River Watershed (acres)	Other (acres)	Total (acres)	Total (%)
High	c	183	147	318	187	706	253	1,793	22%
	n					4		4	0%
	p	1,541	224	578	343	2,151	377	5,214	63%
	q	38				185	11	233	3%
	qn					208	14	222	3%
	v			20				20	0%
	none	149	129	98	63	233	103	774	9%
Total High		1,910	500	1,013	593	3,487	758	8,261	100%
Moderate	c	722	71	97	26	59	128	1,104	40%
	n					3		3	0%
	p	448	44	56	10	29	39	626	23%
	q					51	2	52	2%
	qn					9	0	9	0%
	v			16				16	1%
	none	490	93	107	30	165	47	931	34%
Total Moderate		1,660	208	275	66	316	216	2,741	100%
Low	c	99	7	16	1	9	26	157	21%
	n					2		2	0%
	p	34	1	5		2		42	6%
	q					10		10	1%
	qn					0		0	0%
	v			3				3	0%
	none	307	7	13	1	211	11	549	72%
Total Low		440	14	36	2	234	38	763	100%
Total High, Medium and Low HCA		4,009	722	1,325	661	4,037	1,011	11,765	100%
Total HCA with Overlay Zoning		3,064	493	1,108	567	3,429	850	9,510	81%
Total HCA without Overlay Zoning		946	229	217	94	608	161	2,255	19%

*Excludes open water of Willamette and Columbia Rivers

The City has also applied resource overlay zoning to some areas that are outside Title 13 HCAs (acres):

Environmental Protection (p):	130.1
Environmental Conservation (c):	1,130.1
Scenic (v):	29.2
Willamette Greenway Water Quality (q):	73.3
Willamette Greenway Natural (n)	10.6
Combination n and q	12.4

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Other contributing programs and projects

- Title 13 compliance alternatives allow local jurisdictions to demonstrate substantial compliance using both regulatory and non-regulatory approaches.
- Additional City programs that help protect, conserve and restore Title 13 Habitat Conservation Areas, include willing-seller land acquisition, Watershed Revegetation, and other stewardship activities. These programs are required elements of City efforts to comply with multiple state and federal regulations, including the Clean Water Act, Endangered Species Act, and FEMA regulations, although they do not regulate activities in natural resource areas
- The City reported to Metro on the status of these programs in March 2008 as directed by Title 13. This report is provided in Attachment 2.

NEAR-TERM AND FUTURE PROJECTS AND PROGRAM UPDATES

The following section outlines the City's strategy for achieving full compliance with Title 13. The strategy contains several key components:

- Natural Resource Inventory update and adoption (projected completion: 2009)
- Baseline standards to protect streams and wetlands outside City resource overlay zones (projected completion: 2009)
- Area-specific program updates – projects underway (Willamette Corridor, Portland International Airport, Hayden Island) (projected completion: 2009 - 2011)
- Other projects underway (Citywide Tree Project, Portland Plan – Periodic Review; Comprehensive Plan Update (projected completion: 2009-2011)
- Area-specific program updates – future (projected completion – timeline to be determined)

Natural Resource Inventory update and adoption

The City has taken substantial steps to update Metro's Title 13 natural resource inventories for application in Portland. Portland has continued to update the stream, vegetation and floodplain data, and is undertaking a strategic update of the City's wetland data, as part of our Periodic Review obligations. The City worked with Metro staff and other local experts to refine inventory modeling criteria and habitats of concern to reflect more current research and city-specific conditions. The draft inventory has been used to inform the Portland Watershed Management Plan and local acquisition strategy, and a further refined inventory is currently informing the River Plan project for the Willamette North Reach. The project approach is documented in Attachment 3. In fall 2009 City Council will be asked to adopt the updated citywide natural resource inventory to inform the new buildable lands inventory (for periodic review), and implementation of the current environmental zoning. The inventory will continue to be honed through future area-specific projects (see below).

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Baseline protections for streams and wetlands outside City resource overlay zones

Today, Portland contains 21 miles of streams, 115 acres of wetlands (does not include 43 acres on West Hayden Island) and approximately 2,250 acres of Title 13 HCAs that are not within existing resource overlay zones. Many of these streams, drainages, wetlands and riparian resource areas are located in the Columbia Corridor (the portion of the Columbia Slough watershed north of Columbia Blvd to the Columbia River), or in the headwaters of the Tryon, Fanno and Johnson Creek Watersheds. Most of these features had not been identified at the time the City applied the environmental overlay zone.

For streams located outside existing resource overlay zones, the City currently requires a drainage reserve to maintain hydraulic conveyance capacity along these unprotected streams when developed is proposed. The drainage reserve requirement is typically 15 feet on either side of the stream which is not sufficient to protect the diverse array of significant riparian functions represented by Title 13 HCAs. (Note: Within the Columbia Corridor the Multnomah County Drainage District has jurisdiction to maintain hydraulic conveyance capacity of the mainstem slough and secondary channels.)

To address this deficiency, the Bureau of Planning intends to request the City Council to adopt baseline standards to protect streams and wetlands, and riparian areas located outside existing resource overlay zones. The baseline standards are envisioned as development setbacks on either side of streams and along wetlands. The setback distances under consideration are consistent with those applied through the City's existing environmental overlay zoning program to ensure program continuity, consistency and equity.

The standards would be applied to streams and wetlands identified in the City's updated Natural Resource Inventory. The Bureau will request City Council to adopt a new stream and wetland map to support implementation of the baseline standards as well as the existing resource overlay zoning program. When streams or wetlands are identified in the future through a development project or other means, the newly documented feature will be added to the inventory map.

The adoption of the baseline stream and wetland setback standards will establish protections for an additional 492 acres of Title 13 HCA. The baseline standards will also bolster the City's program to comply with Title 3, Clean Water Act Temperature Total Maximum Daily Loads (TMDLs) and the Endangered Species Act. The standards will apply primarily to the higher ranked HCAs located adjacent to streams and wetlands. The standards will be designed to prevent impacts from development where practicable, and require mitigation of unavoidable impacts.

The Bureau of Planning will be working with other City bureaus and consulting with stakeholders while developing the baseline protections proposal. The Bureau intends to submit the proposal, along with the updated Natural Resources Inventory, to the City Council in fall of 2009. This will coincide with submittal of the City's updated Buildable Lands Inventory which is required as part of the Periodic Review process.

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Area-specific program updates – projects underway

The City is updating and further improve its existing natural resource inventories and protections through a series of area-specific plans. The City used an “area-by-area” approach to establish the current environmental overlay zoning program during the 1990s. This approach was necessary given the size of the city, and the amount of citizen interest generated proposals to apply the map-based overlay zoning and regulations. Updating the program using a similar approach will allow the City to focus on watershed-specific issues and work more closely with citizens. This approach, we believe, offers the best chances for community support and a successful outcome. The updated plans and programs will be submitted to Metro as “district plans” in accordance with Title 13 provisions. Projects underway include the following:

River Plan for the Willamette Corridor: The City is currently working on a phased River Plan project to update plans and regulations for the Willamette Greenway and adjacent lands. The entire River Plan project area contains approximately 1000 acres of Title 13 Habitat Conservation Area, not including the river itself. Of this, the area currently outside existing resource overlay zones is 363 acres. The River Plan will products will include development of a policy/plan document, zoning maps, new/updated code; updated Natural Resource Inventory and ESEE Analysis. The River Plan will address Title 13 Habitat Conservation Areas in the Willamette corridor, taking into account unique aspects and multiple goals for the river and surrounding lands.

The first phase of this project is addressing the North Reach of the Willamette corridor. The planning area is 6,470 acres in size, including the Willamette River (2,173 acres) and contains 478 acres of Title 13 Habitat Conservation Area (excluding the river channel). The draft River Plan/North Reach program would apply several resource overlay zones to protect and conserve almost 80 percent of the Title 13 Habitat Conservation Areas in the North Reach. The draft plan also proposes overlay zones be updated or newly applied to a number of regionally significant resource areas that are identified in Metro’s and/or the City’s Natural Resource Inventories but are outside the HCAs (e.g., upland wildlife habitat areas). A document describing how the draft River Plan/North Reach proposal addresses Title 13 is provided in Attachment 4.

The North Reach planning process is scheduled to be completed by July 2009. The South and Central Reach plans are scheduled to be completed in 2010 - 2011. They too will be designed to meet the intent and requirements of the Title 13 district plan compliance option.

Airport Futures: The City and the Port of Portland are undertaking a joint planning effort to establish the Portland International Airport (PDX) as a conforming use; currently PDX is a conditional use and must update its Conditional Use Master Plan every seven years. The City will develop a plan district that addresses the unique issues at and surrounding PDX. As part of this planning process, the City will update the existing environmental overlay zoning program within the plan district.

The Airport Futures planning area contains approximately 11 miles of open stream, including portions of the Columbia Slough, Whitaker Slough, and Buffalo Slough. The planning area also contains approximately 115 acres of wetlands, including Broadmoor wetlands and Whitaker

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Ponds. Vegetated areas greater than ½ acre in size comprise approximately 770 acres within the planning area, less than 10 percent of which is wooded. The primary planning area contains 584 acres of Title 13 Habitat Conservation Areas, which are comprised of the sloughs, secondary channels, wetlands and associated riparian areas. Of this area, 298 acres are located outside existing resource overlay zones. Title 13 requirements to protect, conserve and restore these areas, and potentially some additional HCA in a secondary planning area will be addressed through the Airport Futures project. Regional provisions recognizing limitations imposed by the Federal Aviation Administration approved Wildlife Hazard Management Plan will be taken into consideration. Airport Futures is scheduled to be completed in the spring of 2010.

Hayden Island: The City is undertaking planning processes for the east and west sides of Hayden Island. East Hayden Island is within the city limits and contains approximately 23 acres of Title 13 Habitat Conservation Area that are currently outside existing environmental zones. The City is currently completing an area-specific plan for East Hayden Island.

West Hayden Island is currently outside of the City limits but within the Urban Services Boundary. West Hayden Island is roughly 820 acres, all of which are designated Title 13 Habitat Conservation Area and regional Habitat of Concern. West Hayden Island contains substantial areas of bottomland hardwood forest and more than 40 acres of wetlands. West Hayden Island is currently within the Multnomah County Sensitive Environmental Concern overlay zone.

Title 13 directs the City of Portland, in cooperation with the Port of Portland, to develop of a “district plan” for West Hayden Island (WHI) to meet compliance obligations. The City is partnering with the Port of Portland to conduct a WHI planning process to inform decisions regarding annexation of WHI to the City. Through the WHI planning process Title 13 requirements will be addressed for the island as a whole. The City will review and update the natural resources inventory and the environmental overlay zoning for East and West Hayden Island, and will design the program to address Title 13 compliance requirements. The updates are scheduled to be completed by winter of 2010. The City may be able to adopt environmental program updates for East Hayden Island prior to annexing and applying the environmental program to West Hayden Island.

Other projects underway

A number of citywide and area-specific projects will also help address Title 13 requirements. For example, the Bureau of Planning is leading a multi-bureau effort to improve Portland’s tree-related policies and regulations (see overview below). The Citywide Tree Project and additional examples of projects that help meet Title 13 goals are outlined in the City’s latest Portland Watershed Management Plan – Action Plan report - Attachment 5.

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Citywide Tree Project

The *Citywide Tree Policy Review and Regulatory Improvement Project* is a 2-year effort to clarify, simplify, and improve the effectiveness of Portland's regulations pertaining to trees. The project is also charged with seeking ways to improve Portland's urban forest through development and redevelopment. This can be achieved by modifying the city's land use, development, and tree removal permitting procedures to address tree preservation, removal and replacement more consistently and comprehensively. The Bureau of Planning is working closely with the bureaus of Development Services, Parks and Recreation, and Environmental Services and other City bureaus to evaluate key issues and potential solutions. The project has also included extensive involvement with a broad-based community stakeholder discussion group. Solutions under consideration would, if adopted, enhance tree preservation, including protection of large mature trees and important tree species, and replenishment of Portland's urban forest in riparian corridors and uplands. The project is expected to be completed in late 2009.

Portland Plan - Periodic Review; Comprehensive Plan update

The Bureau of Planning is leading a comprehensive, long-range planning effort called the 'Portland Plan.' The Portland Plan project is a citywide effort to update the Comprehensive Plan and the Central City Plan. The Portland Plan will guide the economic, physical, social, and environmental development of Portland for the next 30 years. Key products of the Portland Plan will include: 1) a physical plan, 2) an economic plan, 3) a social – cultural – public health plan, 4) a governance plan, and 5) a central Portland plan. The critical issues are: 1) climate change and energy, 2) affordability and accessibility, 3) cultural diversity and inclusivity, 4) human health and safety, 5) economic prosperity and creative vitality 6) distinctive and well-designed places, 7) high-performing natural systems, and 8) new ways and means.

Scheduled for completion in 2010 - 2011, the Portland Plan will help inform and guide the City's overall environmental and watershed health agenda, including setting priorities and timelines for future Environmental Program updates in other areas of the city (see next section).

Area-specific program updates - future

Anticipated future area-specific projects are expected to address the Columbia Corridor area, the west hills and southeast Portland. Approximately 1,320 acres of Title 13 HCAs are located within these planning areas and are outside the City's existing resource overlay zones. A portion of these areas are currently in public ownership, such as the St Johns Landfill, and may not be subject to development. In the meantime, protection of HCAs closest to streams and wetlands would be enhanced through the adoption of the baseline stream and wetland setback standards described above.

These future projects would enable the City to refine the baseline standards and could potentially serve as Title 13 district plans by establishing approaches more tailored to the specific kinds of resources and land uses within each plan area. An area-specific plan for the Columbia Corridor will be undertaken once Willamette River Plans are complete. The Columbia Corridor planning project

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(currently included in the Bureau of Planning's three-year workplan) contains a portion of the Columbia River channel, and many drainageways, wetlands and important habitat areas. West hills oriented projects would revisit existing protections for riparian corridors, including recently mapped headwater streams, and for upland resources in the Fanno Creek, Tryon Creek, Balch Creek, and Forest Park watersheds. A southeast Portland oriented project would address the Johnson Creek watershed and other areas in the Willamette watershed. The sequencing, scoping and timeline for these efforts will be determined in the context the Portland Plan project.

CONCLUSION

Based on the information and proposed strategy presented above, we anticipate the City of Portland will be able to achieve substantial compliance with Title 13 within the next two years. Existing City resource overlay zones apply to approximately 80 percent of the Title 13 Habitat Conservation Area in Portland. The adoption of additional baseline standards for streams and wetlands, combined with area-specific projects currently underway will update or apply appropriate regulations or non-regulatory tools to protect, conserve and restore an additional 10 percent of the unprotected HCAs in Portland. Additional City programs will continue during this period, including willing-seller land acquisition, restoration projects, and public education and outreach.

Future area-specific projects will be implemented sequentially to update the City's environmental program, and help the City achieve its watershed goals and meet regulatory obligations. The phasing for this work will be informed and guided by the Portland Plan. The City is willing to discuss this proposal further, and to explore the possibility of entering into a compliance agreement with Metro.

Part II (to be completed by Metro)

a. Metro staff recommendation

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