

River Plan / North Reach

Responses to comments on the Proposed Draft
February 24, 2009

TOPIC: Other Watershed Health

1. BRIEF SUMMARY OF COMMENTS ON THE TOPIC: Comments in this section relate to watershed health topics not addressed in other topic areas. Two comments request information about the local implications of the recent NOAA biological opinion regarding FEMA practices in the Puget Sound region. Other comments encourage staff to address tree protection outside environmental zones, address the use of herbicides, refine watershed health progress indicators, reference other environmental protection implementation measures, protect recent investments in watershed health riverwide and ensure that the Plan balances development and watershed health goals.

2. STAFF PROPOSED AMENDMENTS IN RESPONSE TO COMMENTS

a. Amendments for Discussion with Planning Commission

No amendments are proposed that staff believes Planning Commission needs to discuss.

b. Minor Amendments

Comments and responses are attached. Minor amendments are included in the staff response section of each comment.

c. Technical Amendments

Comments and responses are attached. Technical amendments are included in the staff response section of each comment.

3. COMMENTS THAT DO NOT REQUIRE AMENDMENTS

Comments and responses are attached.



2. b. PUBLIC COMMENTS RELATED TO MINOR AMENDMENTS

Report of River Plan Comments

Topic 1: Other watershed health Topic 2: All Topic 3: All Comment Type: Minor policy
Comment ID: All Staff Entered: All Commentor: All Hearing Date: All
Geo Area: All Volume: All TOC Section: All
Staff Assigned: All Comment Addressed?: All Document Edited?: All Individual Review: All

Topic 1: Other watershed health

<u>Comment ID:</u>	38	<u>Commentor:</u>	Audubon Society - Bob Sallinger
<u>Comment:</u>	<p>In September, 2008 NOAA Fisheries issued a biological opinion regarding floodplain development in Puget Sound, that determined that FEMA's current approach to issuing floodplain insurance is causing illegal take of listed salmonid species. We encourage the City to be proactive and analyze the North Reach Plan for consistency with the NOAA Fisheries Puget Sound Biological Opinion.</p>		
<u>Response:</u>	<p>The Science, Fish and Wildlife Program in the Bureau of Environmental Services has been following the Puget Sound FEMA case very closely. The ruling doesn't currently affect Portland, but the City is preparing for similar litigation in Oregon. BES studied the Reasonable and Prudent Alternatives (RPAs) for the Puget Sound case, which are essentially suggestions for how to move the program forward in a way that would not violate the ESA, and concluded the following:</p> <p>RPA 3 is the most applicable to Portland and prohibits certain natural resource impacts in the floodway and the floodplain. It also requires that all construction must be low-impact development. These conditions apply to existing improvements and repairs that are greater than 10% of the existing footprint. Elements of River Plan / North Reach that address this RPA are balanced cut and fill regulations; the updated NRI, which is critical to understanding the existing floodplain functions; proposed overlay zones, which help protect and restore some of the existing functions; standardized restoration outlined in the greenway code update; and the restoration program, which will increase natural resource function along the river.</p> <p>RPA 4 criticized the community rating system used in the Puget Sound for not providing incentives, and they specifically cited the Portland Watershed Management Plan as a good example to follow. The River Plan helps implement the Watershed Management Plan in the North Reach.</p> <p>Aspects of the biological opinion and other RPAs that are not addressed in River Plan / North Reach but are addressed through other means include low impact development in industrial areas, which will potentially be addressed through the Green Building policy, and stormwater, which is addressed through the Stormwater Management Manual.</p> <p>Amend Volume 1A to include a text box that describes the FEMA case and associated assessment of the River Plan / North Reach.</p>		

Comment ID:	167	Commentor:	Department of Environmental Quality - Keith Johnson
Comment:	Has there been any re-evaluation of the impacts of the recent Puget Sound FEMA floodplain - NOAA BiOp, which would potentially put additional restrictions on development and encourage Stormwater Low Impact Development? DEQ would expect that fall-out from the ESA driven decision could ultimately effect Columbia and Willamette systems.		
Response:	The Science, Fish and Wildlife Program in the Bureau of Environmental Services has been following the Puget Sound FEMA case very closely. BES studied the Reasonable and Prudent Alternatives (RPAs) for the Puget Sound case, which are essentially suggestions for how to move the program forward in a way that would not violate the ESA. Low impact development in an industrial area will potentially be addressed through the Green Building policy, and stormwater is addressed through the Stormwater Management Manual. Please see comment #38 for more information about the implication of the FEMA case for Portland. Staff proposes to amend Volume 1A to include a description of the FEMA case and how the River Plan/North Reach addresses similar issues.		
Comment ID:	414	Commentor:	River Plan Team
Comment:	Development on steep slopes is a public safety issue.		
Response:	River Plan staff propose to amend the Watershed Health section of Volume 1A to clarify that protecting public health and safety is one of the justifications for recommending application of the river environmental, environmental protection and environmental conservation overlay zones to high and medium value natural resource areas, particularly when the zones are applied to steep slopes where there is a propensity for landslides and erosion.		

2. c. PUBLIC COMMENTS RELATED TO TECHNICAL AMENDMENTS

Report of River Plan Comments

Topic 1: Other watershed health Topic 2: All Topic 3: All Comment Type: Editorial/technical edit
Comment ID: All Staff Entered: All Commentor: All Hearing Date: All
Geo Area: All Volume: All TOC Section: All
Staff Assigned: All Comment Addressed?: All Document Edited?: All Individual Review: All

Topic 1: Other watershed health

Comment ID:	31	Commentor:	Audubon Society - Bob Sallinger
Comment:	<p>The Plan provides significant new protections for trees within areas that are covered by environmental zoning, but fails to address tree protection outside environmental zones. While we believe this omission is appropriate while the City continues to develop comprehensive protections for tree canopy citywide, protection of tree canopy in the North Reach is essential. A place holder should be inserted to allow for incorporation of tree protection on lands that were not designated as e-zones once the City completes work in its tree code revisions.</p>		
Response:	<p>Most of the initial proposals emerging from the Citywide Tree Project would apply across the city, including in the North Reach. Any final recommendations from the Citywide Tree Project would also apply to the North Reach.</p> <p>Amend Volume 1A to clarify that the tree project may propose additional mechanisms to maintain and enhance tree canopy in the North Reach and citywide.</p>		

Comment ID:	241	Commentor:	Bureau of Environmental Services
Comment:	<p>The City has responded with policies, program and staff to help recover the salmon (Resolution 35715 (1998) and clean up the harbor (Resolution 35894 (2000)). The City adopted the Portland Watershed Management Plan (Resolution 36384, 2006) to help fix hydrologic, habitat, and water quality conditions necessary to protect human health and maintain viable ecological functions and processes, including self-sustaining populations of native fish and wildlife species whose natural ranges include the Portland area. With this context in mind, we recommend inclusion of the following narrative in the introduction or Background sections of the Plan:</p> <p>"The North Reach Plan is not intended, nor should it be interpreted as the last word or as representing the ultimate extent of expected environmental protection and improvement actions to restore an appropriate level of ecological function in the Lower Willamette River. Other important steps - including the cleanup of Portland Harbor under CERCLA, compensation for contaminant-related damages under the Natural Resources Damages Assessment process, the full implementation of the Portland Watershed Management Plan, the federal salmon recovery plan for the Lower Columbia, and others - will be needed to achieve that goal. It is anticipated that various public and private entities will assist in this effort by taking these and other actions to help in the accomplishment of that broader and important goal".</p>		

Response:	<p>Staff agrees that it is important to acknowledge steps that still need to be taken for environmental protection and restoration. Toward that end, page 1 of Volume 1A contains the following language: "While the River Plan / North Reach will go a long way toward addressing the challenges in the North Reach, additional steps to support the environment, economy, access to the river and riverfront communities will be taken as part of other efforts such as the cleanup of the Portland Harbor superfund site, compensation for contaminant-related damages under the Natural Resources Damages Assessment process and other important initiatives."</p> <p>Add reference to implementation of the Portland Watershed Management Plan and the federal salmon recovery plan for the Lower Columbia. Also note that these actions will be undertaken by various public and private entities.</p>		
------------------	--	--	--

3. PUBLIC COMMENTS THAT DO NOT REQUIRE AMENDMENTS

Report of River Plan Comments

<u>Topic 1:</u>	Other watershed health	<u>Topic 2:</u>	All	<u>Topic 3:</u>	All	<u>Comment Type:</u>	No edit required
<u>Comment ID:</u>	All	<u>Staff Entered:</u>	All	<u>Commentor:</u>	All	<u>Hearing Date:</u>	All
<u>Geo Area:</u>	All	<u>Volume:</u>	All	<u>Document Edited?:</u>	All	<u>TOC Section:</u>	All
<u>Staff Assigned:</u>	All	<u>Comment Addressed?:</u>	All	<u>Individual Review:</u>	All		

Topic 1: Other watershed health

<u>Comment ID:</u>	182	<u>Commentor:</u>	Department of Environmental Quality - Keith Johnson
<u>Comment:</u>	DEQ encourages the City to include herbicides in IPM/Policy 19 Standards.		
<u>Response:</u>	Herbicides are currently covered by Portland Parks and Recreation's Integrated Pest Management Strategy. Parks pests consist primarily of unwanted vegetation and invasive weeds, but can also include insects, disease organisms, rodents and other organisms. The term "pesticide" includes herbicides.		
<u>Comment ID:</u>	186	<u>Commentor:</u>	Department of Environmental Quality - Keith Johnson
<u>Comment:</u>	The set of general measures and indicators is good. DEQ would like to see targets for indicators and some sense of how the analysis (statistical tests) will be performed. For example, an increase of 1% in acres of floodplain enhanced meets the goal of "an increase," but may do nothing to restore functionality.		
<u>Response:</u>	City staff have more work to do to define targets and performance measures to gauge success. However BES does not think this work will be completed quickly.		
<u>Comment ID:</u>	247	<u>Commentor:</u>	Bureau of Environmental Services
<u>Comment:</u>	Some statements in the proposed plan are counter productive and imply that development will trump all instances of environmental protection. Page 29 states, "Due to the importance of maritime shipping to the state and local economy, imposing limitations on the amount of land that can be developed is counter productive to economic development." The intent of greenway planning is to evaluate the quality of resources and prioritize areas for protection and then ensure that development avoids and minimizes impacts and then mitigates for unavoidable impacts. There will be some limitations that need to be placed on economic development if the City intends to uphold the intent of the Portland Watershed Management Plan and support goals for endangered species recovery. Statements such as the one above make it difficult to hold applicants to a thorough alternatives analysis and to request avoidance and minimization of impacts.		
<u>Response:</u>	Thank you for your comment. Staff disagrees that the text implies that development will trump all instances of environmental protection. The narrative quoted goes on to state that the conditions in the north reach make "the environmental zoning approaches used elsewhere in the city more challenging to apply in the North Reach. Given these circumstances, a new e-overlay specific to the North Reach is proposed as a way to maintain and improve riparian and upland habitat connectivity along the river. This will be critically important to avoid further deterioration of watershed health as businesses continue to expand and redevelop in the North Reach." The River Plan needs to balance the requirements of State Planning Goal 15 and Goal 9 (economic development). The e-overlay is intended to maintain natural resources in the North Reach, while also allowing flexibility for river-dependent development.		

Comment ID:	347	Commentor:	Urban Greenspaces Institute - Mike Houck
Comment:	<p>The point I want to make, given all of the work that's gone on elsewhere in the city, especially the tributaries. The City of Portland has spent millions upon millions of dollars improving habitat, on restoration in the South Reach - \$1.6 billion on the Big Pipe. It is essential to protect those investments to ensure that the North Reach - the lower portion of the river also receives the attention some of these other areas have had. It's really a matter of economics. It's a matter of protecting those investments and, of course, ensuring the entire Portland harbor is functional from a fish and wildlife habitat perspective as well as a working landscape.</p> <p>Thank you for your comment.</p>		
Response:			
Comment ID:	400	Commentor:	Jan Secunda
Comment:	<p>The River Plan's design promotes pollution while the State is trying to stop pollution. Most offensive to Linnton is that the River Plan stops us from carrying out our on-going work of creating a prosperous, viable, environmentally healthy community.</p>		
Response:	<p>Staff believes that the proposed River Plan / North Reach optimizes natural resource protection and restoration and economic development within the North Reach and the Linnton area. It is unclear what aspects of the plan the author believes promote pollution.</p>		