

PARKS AND NATURE

PARKS AND NATURE Director

Kathleen Brennan-Hunter

Administrative
Supervisor
Linda Lechler

Assistant to
Directors
Marybeth Halbu

HISTORIC CEMETERIES Manager Melisa McDonald

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Administrative
Supervisor
Noel Sears
Emma Williams

Cemetery Analyst
Kim Palmero

Historic Cemeteries
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Seasonal Gardeners

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Guest Relations and
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Sue Lowe

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Rod Wojanik

Senior Regional
Planners
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Alex Perovic
Karen Vitay (Iwuz)

Associate Regional
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Tanner Piniz
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Olivia Turula

Parks Planning
Program Assistant
Carrle Belding

Volunteer Program
Manager
vacant

Volunteer
Coordinators
Lupine Desjardier
Bonnie Shoffner

Volunteer Program
Analyst
Catherine Moore

Volunteer Program
Assistant (5)
vacant

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Science Manager
Jonathan Sol

Science and
Stewardship Analyst
Katy Weil

Senior Natural
Resource Scientists
Peter Gullocci
Lori Hennings
Katie Holman
Elaine Stewart
Brian Vaughn
Curt Zonick

Associate Natural
Resource Scientists
Jeff Merritt

GIS Coordinator
Tommy Albo

Native Plant
Materials Scientist
Martha Holt-Kingley

Native Plant Center
Assistant
Jennifer Wilson

Interim Natural
Areas Land Manager
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Natural Areas
Supervisor
Austin Toldeman

Lead Natural
Resource Specialists
Chris Hagel
Adam Steinhilber

Natural Resource
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Natural Resource
Technicians
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Walter H. Marquis
Mary Meier
Ariel Whitacre

Temporary Natural
Resource Technicians
Temporary Laborers

Land, Science and
Conservation
Program Assistant
Cheryl Carovillano

Acquisition
Supervisor
Barbara Edmondson

Real Estate
Negotiators
Tom Henckle
Ryan Ruggerio

Natural Areas
Analyst
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Intertribal Cultural
Resource Specialist
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Property
Management
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Ryan Hixon
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Laurie Wolf

Local Share and
Capital Grants
Coordinator
Mary Rose Navarro

Levy Grants
Coordinator
Crista Gardner

Community
Partnerships Project
Manager
Sheelagh Diaz

Events Planner (5)
vacant

Grants Program
Assistant
Olivia Quinterbach

Nature
Communications
Supervisor
Laura Olson

Senior Nature
Communications
Coordinators
George Wilborn
Ellen Wyoming
Yueling Zheng

Associate Nature
Communications
Coordinator
Julie Cash

Nature Outreach
Assistant
Sofia Bano

Conservation
Education Manager
John Sheehan

Naturalists
Ashley Conley
Dani Daly
Alice Froehlich
vacant

Naturalist Assistant
Yulija Kikhova (12/25)

Conservation Ed
Program Assistant
Sandy Jamison

Seasonal Naturalists

Finance Manager
Marta Roberts

Management
Analysts

Currently reports to a different department

Reports to Linda Lechler, Administrative Services

10/26/2015



Document Library

This page contains documents filed for Metro's land use applications for its North Tualatin Mountains Access Master Plan (<http://multco.us/landuse/north-tualatin-master-plan>). Copies of any documents may also be purchased at the rate of 30 cents per page.

You may submit your own testimony (<http://multco.us/landuse/webform/comment-form>) before the hearing (date and time TBA).

Application Materials

Updated April 10, 2018.

- Comprehensive Plan Amendment Request: January 2018 (<http://multco.us/file/69690/download>) (47.44 MB)
- Permit Applications: January 2018 (<http://multco.us/file/69691/download>) (88.08 MB)
- Completeness Response Letter: January 3, 2018 (<http://multco.us/file/69692/download>) (2.14 MB)
- Septic Review Certification and Authorization: January 29, 2018 (<http://multco.us/file/69693/download>) (3.64 MB)
- Response to Request for Additional Information: March 22, 2018 (<http://multco.us/file/71268/download>) (6.99 MB)







Staff Materials

Updated May 1, 2018.

Address of "document library."

<http://multco.us/landuse/document-library>

Point #10

-  ~~Hearing Notice - Canceled~~ (<http://multco.us/file/72317/download>) (79.56 KB)
-  ~~Incomplete Letter October 27, 2017~~ (<http://multco.us/file/69695/download>) (95.11 KB)
-  Letter from County Staff to Applicant: March 8, 2018 (<http://multco.us/file/71269/download>) (551.23 KB)
-  Memo from County Transportation to Applicant: March 14, 2018 (<http://multco.us/file/71270/download>) (1.02 MB)
-  Transportation Comments for Feasibility Study: March 19, 2018 (<http://multco.us/file/71271/download>) (94.66 KB)
-  Email from County Staff to Applicant: April 2, 2018 (<http://multco.us/file/71272/download>) (93.84 KB)

Public Comment

Updated April 25, 2018. Public comments will be updated weekly when there are new comments to post.

-  Yeoman Testimony: April 24, 2018 (<http://multco.us/file/72318/download>) (73.41 KB)
-  Laughlin Testimony: April 15, 2018 (<http://multco.us/file/71701/download>) (1.19 MB)
-  Laughlin Testimony: April 12, 2018 (<http://multco.us/file/71700/download>) (1.65 MB)
-  Reid Testimony: April 9, 2018 (<http://multco.us/file/71275/download>) (80.53 KB)
-  Reid Testimony: April 4, 2018 (includes staff response) (<http://multco.us/file/71274/download>) (136.1 KB)
-  Luethe Testimony: April 4, 2018 (<http://multco.us/file/71273/download>) (376.22 KB)
-  Luethe Testimony: March 26, 2018 (<http://multco.us/file/70130/download>) (80.54 KB)
-  Baker Testimony: March 21, 2018 (<http://multco.us/file/70129/download>) (111.76 KB)
-  Houle Testimony: March 21, 2018 (<http://multco.us/file/70127/download>) (78.17 KB)
-  Presley Testimony: March 5, 2018 (<http://multco.us/file/69696/download>) (769.81 KB)
-  Jacobson Testimony: March 5, 2018 (<http://multco.us/file/69697/download>) (85.35 KB)
-  Houle Testimony: March 5, 2018 (<http://multco.us/file/69698/download>) (1.77 MB)
-  Leiser Testimony: March 2, 2018 (<http://multco.us/file/69699/download>) (73.76 KB)
-  ~~McCurdy Testimony: February 14, 2018 (including memo, appendices and exhibits)~~ (<http://multco.us/file/69701/download>) (51.32 MB)
-  Chesarek Testimony: February 7, 2018 (<http://multco.us/file/69700/download>) (104.36 KB)
-  McCurdy Testimony: December 18, 2017 (<http://multco.us/file/69702/download>) (4.56 MB)
-  Thompson Testimony: November 7, 2017 (<http://multco.us/file/69704/download>) (1.59 MB)
-  Chesarek Testimony: November 7, 2017 (<http://multco.us/file/69706/download>) (1.87 MB)

Key Elements

Preserve the Ennis Creel sites as relatively undisturbed planned improvements, other Pacific Greenway Trail through

Focus access at Burlington which has the most existing use core habitat.

Provide access on east side Forest (Phase 2), while preserving western part of the site. This takes views while preserving core habitat to see McCarthy Creek from multiple

Maximize protection of urban 30 acres or greater and regional

Provide opportunities to enjoy settings and views at Burlington Forests.

Provide a variety of trail experiences



**BURLINGTON
CREEK
FOREST**
(339 acres)
(Phase 1)

**BURLINGTON
BOTTOMS**

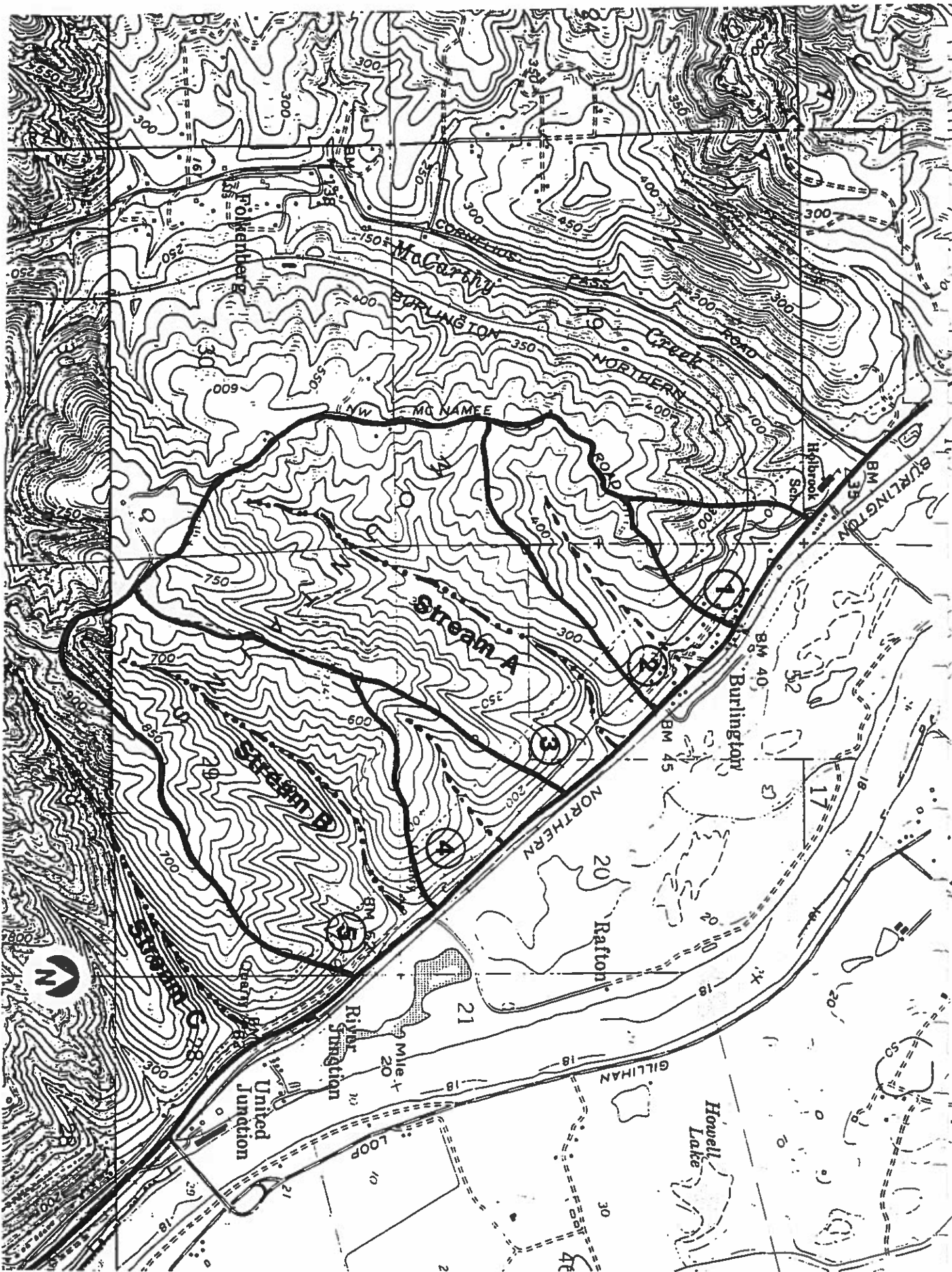
**ANCIENT
FOREST
PRESERVE**

**ENNIS
CREEK
FOREST**
(350 acres)

**MCCARTHY
CREEK
FOREST**
(403 acres)
(Phase 2)

**NORTH
ABBEY
CREEK
FOREST**
(211 acres)

- Legend**
- Existing Gravel Road - shared use
 - Decommission Gravel Road
 - Shared Trail
 - Off-road Cycling Trail
 - Pedestrian Trail
 - Future Pacific Greenway Tr.
 - Existing trail (non-Metro)
 - Entrance with parking area
 - Trail head
 - View



Oregon's Statewide Planning Goals & Guidelines

GOAL 1: CITIZEN INVOLVEMENT

OAR 660-015-0000(1)

To develop a citizen involvement program that insures the opportunity for citizens to be involved in all phases of the planning process.

The governing body charged with preparing and adopting a comprehensive plan shall adopt and publicize a program for citizen involvement that clearly defines the procedures by which the general public will be involved in the on-going land-use planning process.

The citizen involvement program shall be appropriate to the scale of the planning effort. The program shall provide for continuity of citizen participation and of information that enables citizens to identify and comprehend the issues.

Federal, state and regional agencies, and special- purpose districts shall coordinate their planning efforts with the affected governing bodies and make use of existing local citizen involvement programs established by counties and cities.

The citizen involvement program shall incorporate the following components:

1. Citizen Involvement -- To provide for widespread citizen involvement.

The citizen involvement program shall involve a cross-section of affected citizens in all phases of the planning process. As a component, the program for citizen involvement shall include an officially recognized committee for

citizen involvement (CCI) broadly representative of geographic areas and interests related to land use and land-use decisions. Committee members shall be selected by an open, well-publicized public process.

The committee for citizen involvement shall be responsible for assisting the governing body with the development of a program that promotes and enhances citizen involvement in land-use planning, assisting in the implementation of the citizen involvement program, and evaluating the process being used for citizen involvement.

If the governing body wishes to assume the responsibility for development as well as adoption and implementation of the citizen involvement program or to assign such responsibilities to a planning commission, a letter shall be submitted to the Land Conservation and Development Commission for the state Citizen Involvement Advisory Committee's review and recommendation stating the rationale for selecting this option, as well as indicating the mechanism to be used for an evaluation of the citizen involvement program. If the planning commission is to be used in lieu of an independent CCI, its members shall be selected by an open, well-publicized public process.

2. Communication -- To assure effective two-way communication with citizens.

Mechanisms shall be established which provide for effective communication between citizens and elected and appointed officials.

3. Citizen Influence -- To provide the opportunity for citizens to be involved in all phases of the planning process.

Citizens shall have the opportunity to be involved in the phases of the planning process as set forth and defined in the goals and guidelines for Land Use Planning, including Preparation of Plans and Implementation Measures, Plan Content, Plan Adoption, Minor Changes and Major Revisions in the Plan, and Implementation Measures.

4. Technical Information -- To assure that technical information is available in an understandable form.

Information necessary to reach policy decisions shall be available in a simplified, understandable form. Assistance shall be provided to interpret and effectively use technical information. A copy of all technical information shall be available at a local public library or other location open to the public.

5. Feedback Mechanisms -- To assure that citizens will receive a response from policy-makers.

Recommendations resulting from the citizen involvement program shall be retained and made available for public assessment. Citizens who have participated in this program shall receive a response from policy-makers. The rationale used to reach land-use policy

decisions shall be available in the form of a written record.

6. Financial Support -- To insure funding for the citizen involvement program.

Adequate human, financial, and informational resources shall be allocated for the citizen involvement program. These allocations shall be an integral component of the planning budget. The governing body shall be responsible for obtaining and providing these resources.

A. CITIZEN INVOLVEMENT

1. A program for stimulating citizen involvement should be developed using a range of available media (including television, radio, newspapers, mailings and meetings).

2. Universities, colleges, community colleges, secondary and primary educational institutions and other agencies and institutions with interests in land-use planning should provide information on land-use education to citizens, as well as develop and offer courses in land-use education which provide for a diversity of educational backgrounds in land-use planning.

3. In the selection of members for the committee for citizen involvement, the following selection process should be observed: citizens should receive notice they can understand of the opportunity to serve on the CCI; committee appointees should receive official notification of their selection; and committee appointments should be well publicized.

B. COMMUNICATION

Newsletters, mailings, posters, mail-back questionnaires, and other

available media should be used in the citizen involvement program.

C. CITIZEN INFLUENCE

1. Data Collection - The general public through the local citizen involvement programs should have the opportunity to be involved in inventorying, recording, mapping, describing, analyzing and evaluating the elements necessary for the development of the plans.

2. Plan Preparation - The general public, through the local citizen involvement programs, should have the opportunity to participate in developing a body of sound information to identify public goals, develop policy guidelines, and evaluate alternative land conservation and development plans for the preparation of the comprehensive land-use plans.

3. Adoption Process - The general public, through the local citizen involvement programs, should have the opportunity to review and recommend changes to the proposed comprehensive land-use plans prior to the public hearing process to adopt comprehensive land-use plans.

4. Implementation - The general public, through the local citizen involvement programs, should have the opportunity to participate in the development, adoption, and application of legislation that is needed to carry out a comprehensive land-use plan.

The general public, through the local citizen involvement programs, should have the opportunity to review each proposal and application for a land conservation and development action prior to the formal consideration of such proposal and application.

5. Evaluation - The general public, through the local citizen

involvement programs, should have the opportunity to be involved in the evaluation of the comprehensive land use plans.

6. Revision - The general public, through the local citizen involvement programs, should have the opportunity to review and make recommendations on proposed changes in comprehensive land-use plans prior to the public hearing process to formally consider the proposed changes.

D. TECHNICAL INFORMATION

1. Agencies that either evaluate or implement public projects or programs (such as, but not limited to, road, sewer, and water construction, transportation, subdivision studies, and zone changes) should provide assistance to the citizen involvement program. The roles, responsibilities and timeline in the planning process of these agencies should be clearly defined and publicized.


2. Technical information should include, but not be limited to, energy, natural environment, political, legal, economic and social data, and places of cultural significance, as well as those maps and photos necessary for effective planning.

E. FEEDBACK MECHANISM

1. At the onset of the citizen involvement program, the governing body should clearly state the mechanism through which the citizens will receive a response from the policy-makers.

2. A process for quantifying and synthesizing citizens' attitudes should be developed and reported to the general public.

F. FINANCIAL SUPPORT



1. The level of funding and human resources allocated to the citizen involvement program should be sufficient to make citizen involvement an integral part of the planning process.

The Carlson report addresses a September 5, 2017 trails map. Its report is itself a revision of a report that had addressed an August 31, 2017 BCF map plan. (Permit Submissions, Exh. 2, p. 2). Since then there has been at least three more BCF trails maps that Metro has put forward. The fact that Metro's plan is in constant flux is not an idle "nit-pick." Below is a table of Metro's various plans maps for the BCF with some pertinent information gathered from them.

Table A: Comparison of Metro's BCF Trails Plans

Map Date	Citation	Trails Length	Trail Width	Stream Crossings	Perennial Stream Crossings
4/2016	Access Plan, p. 28	4.85 miles	30"	4	2
4/26/ 2017	Exh. 2, pp. 28-31	5.2	24" to 48"	4	1

4/2017	Appendix B, p. 22	5	24" to 42"	2	1
6/2017	Permit Submissions, Exh. 19, p. 19	5.2	24" to 42"	6	2
9/5/2017	Permit Submissions, Exh. 2, Figure 2	5.1	24" to 48"	6	2
9/28/2017	Permit Submissions, Exh. 22, p. 2	6.4	Not shown	7	2
10/17/2017	Appendix B, p. 23	5.1	24" to 48"	5	1
12/15/2107	2 nd Permit Submissions, Exh.22, p.2	6.7	24" to 48"	8	2

Metro has made various statements about trail length at one point saying the new trails would be as much as 7 miles. (Exh. 2, p.24). While the length of the new trails in Metro's various versions for the BCF is important so too are the stream crossings because they are such significant generators of sediment both during and after construction. Metro's proposed stream crossings, repositioning of some trails, removal of others and insertion of other trails are very important. This is certainly the case with the trail that is labeled AA in the October 2017 plan and the addition of a new segment linking trails E and G in the December 2017 plan, which includes a new headwaters stream crossing, # 7, out of a total of eight stream crossing, the highest in any BCF trails map Metro has proposed thus far.

The other difference is in the width of the trails. The slopes where the trails will be constructed are the most

important factor because the greater the slope the closer the trail surface comes to the fragipan. The slope, in combination with the width of a trail, is key to assessing the erosion risk because those two factors dictate how deep the cut must be to build the trail. Again, the depth of the cut determines how close to, or whether it will, pierce either the fragipan or the seasonal water table or both of them.

Unfortunately, Metro does not provide much information in the form of trails maps with slopes noted on them. It would certainly be helpful if Metro had superimposed its various trails maps onto the County slope map. The County slope map would be accepted as accurate. Metro does, however, in its June 2017 BCF trails map give an average slope for all of its proposed trails, although not in the form of contour lines on the trail map. It simply states the slope for each run of trails it proposes. (Permit Submissions, Exh. 19, p.19). Metro's June

2017 map is part of the Sikiyou Biosurvey report Metro submitted in support of a SEC-h and SEC-v permits.

Conflict between Metro and Carlson Geotechnical regarding slopes where trails will be located

Metro's June 2017 trail map looks to be very similar, if not exactly the same as, the one which Carlson Geotechnical's report analyzed. Metro and Carlson Geotechnical both made trail slope assessments of what appears to be the same plan. In comparing these two BCF trails maps the number of stream crossings is the same in each and the width of the trails on both maps differs only by a few inches at the widest dimension. The location and configuration of the trails in both maps is quite similar, if not exactly the same. And finally, the length of each trail is identical.

Below is a table showing what Metro says is the average slope for each trail in its June 2017 map and what Carlson

Geotechnical determined were the slopes. The contrast is stark. Moreover Metro's finding such mild slopes for its trails is remarkable if one looks at the Multnomah County zoning code's slope map.

There are very few places in the BCF, according to the County's slope map, where the slopes are as moderate as where Metro's June 2017 map states it places the trails. It takes good eyesight (a magnifying glass helps) to see the faint line in the County's slope map showing stream locations. The easiest to spot is Burlington Creek, the largest stream in the BCF.

On the County's slope map there is one short stretch of Burlington Creek that has a 0-10% slope, but that is negligible when compared to the rest of the stream's slope. There are some areas where the slope is 10-25%, but most of the stream's slope is 25-40% with significant portions of the stream having a slope of 40% and greater. So, along the largest stream in the BCF, where one would expect the most moderate

slopes they are in fact quite steep. It appears from the County's slope map that the only places in the BCF where slopes are about 10%, aside from the negligible stretch of Burlington Creek, are on a few ridge tops.

A comparison of the Carlson Geotech Report slopes' findings (Permit Submissions, Exh. 2, Appendix B,) with that of Metro's June 2017 trails map makes Metro's slopes claims look suspect. A review of the County's slope map, as discussed above, makes Metro's slopes claim for its trails even more so. Metro appears to be making a gross understatement of the slopes where it wants to install trails. See Table B below for a summary of Metro and Carlson Geotech's differing slope findings.

Metro's inaccuracies and misstatements surrounding the character of the areas where the trails are proposed are not limited to the question of what the slopes really are. At Permit Submissions, page 65, Metro states that the "*vast majority* of

this development will take place in already cleared areas such as in the power line right of way and a cleared area near existing roads,” (emphasis added). Metro points to Permit Submissions, Exh. 19, (see “Burlington Creek Forest Natural Surface Trails”) as support for this contention.⁴⁹ Exh. 19, however, shows this statement too is inaccurate.

This inaccuracy can be seen more clearly on the much larger trails map, spread over three pages that Metro provides. (Exh. 22, Permit Submissions). The location of all the trails appears to be the same, or nearly so on both exhibits. Permit Submissions Exh. 22, shows both the loop road and the PGE and BPA easements much more clearly in relation to Metro’s proposed trails than does Permit Submissions Exh.19. These two exhibits show that the vast majority of the proposed trails are not within the easement corridor and are not close enough to the loop road to make the claim that they are in the

⁴⁹ As the context of Metro’s memo makes clear “this development” refers to its entirety, parking lot and amenities as well as trails.

equivalent of cleared areas plausible. The exact opposite is the case. Indeed, as pointed out earlier in its Full Funding Application Metro said that its proposed trails are not located in already cleared areas in order to limit the erosion effects of sun and wind. Because of that Metro is specifically avoiding putting trails in the power company easement corridor. (Exh. 2, p. 38).

Here it should be noted that while, on the one hand, Metro claims that the vast majority of its proposed trails are in the cleared areas provided by the utility corridors and equivalent cleared areas hugging the loop road, on the other hand, Metro claims that it cannot meet the requirements necessary to obtain an SEC permit because of “the lack of previously cleared areas.” In addition to that Metro claims the “cleared areas include the areas...within the utility corridor [which] can not be planted in trees or otherwise developed.” (Permit Submissions, Exh. 19, pp. 6 and 3).

Metro does not explain why, if the power company easement corridor cannot be developed, it claims to be running trails through it, apparently to meet the MCC requirement that development take place in cleared areas? Metro's proposed trails in all versions of its BCF trails maps cross the power company easements many times. This raises the question that if Metro believes development is prohibited in the power easement corridor why is it doing so anyhow?

So, what can be believed of Metro claims, if anything? One thing is clear: many of Metro's various factual claims in support of the various criteria do not amount to substantial evidence. That is why Metro relies so heavily on its claim for an SEC permit exemption. Even if it could obtain such an exemption it is not entitled to a Hillside Development permit.

Table B: Difference in Slope Assessment between Metro and Carlson Geotech for Same BCF Trails Plan Map

trail	JUNE 2017 SLOPE (Metro)	JUNE 2017 LENGTH (Metro) (in miles)	SEPTEMBER 5, 2017 SLOPE (Carlson)	SEPTEMBER 5, 2017 LENGTH (in miles) (Carlson)
A	8%	.9	33%-50%	.9
AA	10%	.7	20%-33%	.7
B	10%	.4	33%-50%	.4
C	8%	.1	8%	.1
D	10%	.1	33%-66%	.1
E	8%	.8	10%-25%	.8
F	10%	.3	20%	.3
G	10%	1.2	10%-40% ⁵⁰	1.2
H	10%	.6	33%	.6

Conclusion

⁵⁰ The Carlson Report also says "At its northern most end, the trail will descend a 10 foot tall cut slope with gradients up to about 1H: 1V to the gravel access road." This is a vertical or nearly vertical, 100% slope, Exh.2, Appendix B, p. B-9).

Metro stated in July 2017, a year and three months after getting the Metro Council to approve its April 2016 Access Plan the following:

Now at 30% design Metro plans to submit its land use application in August 2017 to receive approval needed to proceed with construction. The land use decision is expected in January 2018, *followed by finalizing the design of the trails, crossing structures, information kiosk and way finding as well as design engineering for the separately funded trailhead and roadway improvements.* (Exh. 2, p.8). (emphasis added)

Metro has structured the Access Plan so that it creates an opportunity for those so inclined to violate state Land Use Planning Goal 1, which in turn creates a greater opportunity to violate others, in this case, Goals 4 and 5. Unfortunately Metro has taken that opportunity and violates Goals 4 and 5.

Land Use Planning Goal 1 requires an open engagement of the public at all times in the planning process during which useable, comprehensible information is to be provided so that decisions can be vetted by citizens as well as agencies charged

with upholding state, local and federal environmental laws.

The open process envisioned by Goal 1 is to prevent the kind of abuse that is now occurring.

Metro has continued to try to shape plans according to its own illegal aim and that is to sacrifice habitat, which ODFW has determined is critical habitat, category three in a six level scale, where there is, according to Oregon Administrative Rule to be “no net loss of either habitat quantity or quality.” (Appendix B, p.3). It has promoted the Access Plan as visionary framework to use as the instrument of its illegal aim. The Access Plan is not a plan. In Metro’s own words it is only a guide.

In the Access Plan Metro mouthed lofty environmental ideals and methods, which it has falsely pledged to follow. The result has been, for the BCF in particular, a series of plans over a time period now approaching two years since Metro’s planners convinced the Metro Council to adopt the Access Plan in April of 2016. During this time, out of the public eye, Metro

has been trying to install a mountain biking park in the BCF especially, contrary to the policies embodied in Goals 4 and 5. Metro's aim has been to elevate recreation over the preservation of water, wildlife and habitat illegally.

Metro has, however ineptly, been engaged in a pattern of deception, expending tremendous amounts of public resources in its efforts to claim that it is doing what it is not. It now seeks to bring in the County as an unwitting accomplice, exposing the County to liability.

ODFW is empowered by law to perform an environmental watchdog role. While Metro created a new plan, December 15, 2017, before Metro had the opportunity to review ODFW's instructions dated that same date, its latest plan does the opposite of what ODFW had instructed it to do. That is, Metro's latest plan does not reduce the length of trails and instead increases them, as well as increasing the number of stream crossings. It has not conducted *bona fide* wildlife studies, in the

BCF to determine wildlife presence and patterns, but has instead disturbed the habitat and its wildlife there so that it will be some time until past wildlife patterns are reestablished and valid study completed. It has not decommissioned any part of the loop road or reduced the number of parking spaces. It has not confronted the serious erosion problem and has in general not otherwise protected water, wild life and habitat as Goals 4 and 5 require, including that of Burlington Bottoms a well known *refugia* for state and federally listed salmonoids. In addition to the foregoing Metro has not engaged with the National Marine Fisheries Service, as it is required to do.

The pattern of deception that Metro has engaged in is most unfortunate. It has tarnished Metro's reputation as a guardian of the environmental values Oregonians hold dear, and it tars with the same brush those within Metro who may have been brave enough to refuse to go along with what is clearly a violation of state, local and probably federal law.

Metro has it wrong. While there is a high demand for mountain biking in the Portland area there is not an “urgent and compelling need” to create mountain biking trails as the author of Metro’s Full Funding Application stated. Exh. 2, p.14).⁵¹

This case demonstrates that there is an urgent and compelling need for integrity in government; an urgent and compelling need to thwart the manipulation of necessary governmental bureaucracy; and an urgent and compelling need husband precious public resources from abuse.

Those inside and outside Metro who are passionate about mountain biking have plenty of choices, but violating the law is not one of them unless we choose to look the other way.

Respectfully submitted

⁵¹ This is the same person who also stated there were no listed species in or near the BCF.