

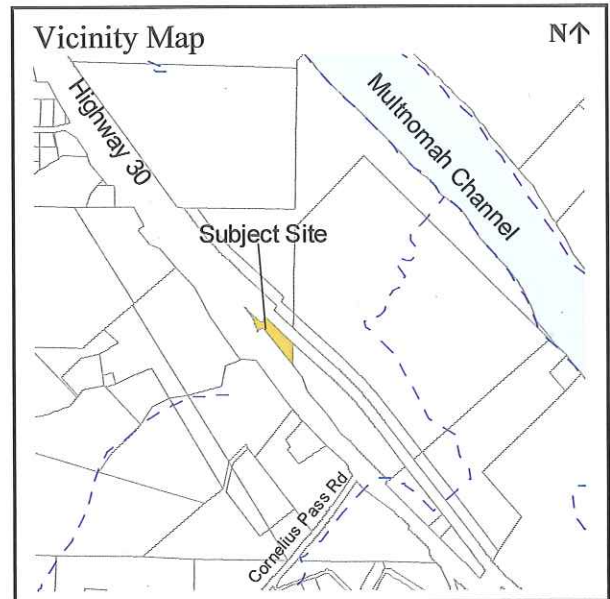


**MULTNOMAH COUNTY**  
**LAND USE AND TRANSPORTATION PROGRAM**  
1600 SE 190<sup>TH</sup> Avenue Portland, OR 97233  
PH: 503-988-3043 FAX: 503-988-3389  
<http://www.co.multnomah.or.us/landuse>

## NOTICE OF DECISION

This notice concerns a Planning Director Decision on the land use case(s) cited and described below.

**Case File:** T2-2011-1436  
**Permit:** Willamette River Greenway and Design Review  
**Location:** ODOT Right of Way, Mile Point 13.5 on Highway 30, Near The intersection of Cornelius Pass Road  
Sec 18D, T2N, R1W, W.M.  
**Applicant:** WHPacific, Inc.  
**Owner:** Oregon Department of Transportation  
**Base Zone:** Multiple Use Agriculture 20 (MUA-20)  
**Overlays:** Willamette River Greenway, National Wetland Inventory Wetlands



**Summary:** Demolish an existing structure and replace with a new scoop shed and De-Icer holding facility for use by the Oregon Department of Transportation.

**Decision:** Approved With Conditions

Unless appealed, this decision is effective Monday, May 16, 2011, at 4:00 PM.

Issued by:

By:   
Don Kienholz, Planner

For: Karen Schilling- Planning Director

Date: Monday, May 02, 2011

**Opportunity to Review the Record:** A copy of the Planning Director Decision, and all evidence submitted associated with this application, is available for inspection, at no cost, at the Land Use Planning office during normal business hours. Copies of all documents may be purchased at the rate of 30-cents per page. The Planning Director Decision contains the findings and conclusions upon which the decision is based, along with any conditions of approval. For further information on this case, contact Don Kienholz, Staff Planner at 503-988-3043, ext. 29270.

**Opportunity to Appeal:** This decision may be appealed within 14 days of the date it was rendered, pursuant to the provisions of MCC 37.0640. An appeal requires a \$250.00 fee and must state the specific legal grounds on which it is based. To obtain appeal forms or information on the procedure, contact the Land Use Planning offices at 1600 SE 190th Avenue (Phone: 503-988-3043). This decision cannot be appealed to the Land Use Board of Appeals until all local appeals are exhausted.

**This decision is final at the close of the appeal period, unless appealed. The deadline for filing an appeal is Monday, May 16th at 4:00 pm.**

**Applicable Approval Criteria:** Multnomah County Code (MCC): MCC 34.2820 Allowed Uses, 34.2855 Dimensional Requirements, 34.2870 Lot of Record, 34.2885 Access, 34.5855 Greenway Design Plan, 34.7030 Design Review Plan Contents, 34.7040 Final Design Review Plan, 34.7050 Design Review Criteria, 34.7055 Required Minimum Standards.

Copies of the referenced Multnomah County Code (MCC) and Multnomah County Road Rules (MCRR) sections can be obtained by contacting our office at 503-988-3043 or by visiting our website at <http://www.co.multnomah.or.us/landuse> or <http://web.multco.us/transportation-planning>.

### **Scope of Approval**

1. Approval of this land use permit is based on the submitted written narrative(s) and plan(s). No work shall occur under this permit other than that which is specified within these documents. It shall be the responsibility of the property owner(s) to comply with these documents and the limitations of approval described herein.
2. **This land use permit expires two years from the date the decision is final pursuant to MCC 37.0690(B) as applicable. The property owner may request to extend the timeframe within which this permit is valid, as provided under MCC 37.0695, as applicable. The request for a permit extension must be submitted prior to the expiration of the approval period.**

### **Conditions of Approval**

The conditions listed are necessary to ensure that approval criteria for this land use permit are satisfied. Where a condition relates to a specific approval criterion, the code citation for that criterion follows in parenthesis.

1. **All new structures associated with this application shall be under 35-feet in height [MCC 34.2855(C)].**
2. **The Property owner is responsible for continuous maintenance of the landscaping to ensure survival [34.7055(C)(4) & (5)]**

**Note:** Once this decision is final, application for building permits may be made with the City of Portland. When ready to have building permits signed off, the applicant shall call the Staff Planner, Don Kienholz, at (503) 988-3043 ext. 29270, for an appointment for review and approval of the conditions and to sign the building permit plans. Please note, Multnomah County must review and sign off the building permits before the applicant submits building plans to the City of Portland. Five (5) sets each of the site plan and building plans are needed for building permit sign off. At the time of building permit review, a fee of \$53.00 will be collected. In addition, an erosion control inspection fee of \$77.00 may be required.

**Notice to Mortgagee, Lien Holder, Vendor, or Seller:**

ORS Chapter 215 requires that if you receive this notice it must be promptly forwarded to the purchaser.

## **Findings of Fact**

**FINDINGS:** Written findings are contained herein. The Multnomah County Code (MCC) criteria and Comprehensive Plan Policies are in **bold** font. Staff analysis and comments are identified as ‘**Staff:**’ and address the applicable criteria. Staff comments may include a conclusionary statement in *italic*.

### **1.00 Project Description:**

**Staff:** The applicant is seeking approval for the demolition of an existing structure on site, then the construction of a scoop shed and de-icer structure used for the maintenance of Oregon State Highway 30 by the Department of Transportation. The easternmost segment of the linear property is within a wetland and the applicant is proposing a mitigation project to ensure the new buildings and activities on site will not adversely impact the wetland.

### **2.00 Property Description, History and Zoning.**

**Staff:** The area of the project is now Right-of-Way for the State of Oregon. It was previously a portion of the parcel zoned Multiple Use Agriculture-20 that is directly east and owned by Joshua Enyart. The property is completely covered by the Willamette River Greenway overlay (WRG) and has a NWI wetland on a small portion of the eastern tip. The property was purchased by the State through the Department of Transportation in 2008 and included in their road right-of-way. The immediate area within the right-of-way appears to have been used by ODOT for maintenance purposes for some time as seen from air photos.

#### **A. MCC 34.2820 ALLOWED USES**

**(I) Transportation facilities and improvements that serve local needs or are part of the adopted Multnomah County Functional Classification of Trafficways plan, except that transit stations and park and ride lots shall be subject to the provisions of Community Service Uses.**

**Staff:** The proposed scoop shed and de-icer facility are transportation facilities used by the Department of Transportation for the maintenance of Highway 30 between the City of Portland and Scappoose. The proposed structures will house gravel and sand for inclement weather and de-icer to place on the during freezing conditions. Since the resources are used in the local area as described and serve the needs of the local residents, the facility and structures are an allowed use under the above provision.

*Criterion met.*

### **3.00 Base Zone Dimensional Criteria**

#### **MCC 34.2855 DIMENSIONAL REQUIREMENTS**

**(A) Except as provided in MCC 34.2860, 34.2870, 34.2875 and 34.4300 through 34.4360, the minimum lot size for new parcels or lots shall be 20 acres.**

**(B) That portion of a street which would accrue to an adjacent lot if the street were vacated shall be included in calculating the area of such lot.**

**(C) Minimum Yard Dimensions - Feet**

Front	Side	Street Side	Rear
30	10	30	30

**Maximum Structure Height – 35 feet**

**Minimum Front Lot Line Length – 50 feet.**

**(D) The minimum yard requirement shall be increased where the yard abuts a street having necessary right-of-way widths based upon the county “Design and Construction Manual” and the Planning Director shall determine any additional yard requirements in consultation with the Road Official.**

**(E) Structures such as barns, silos, windmills, antennae, chimneys or similar structures may exceed the height requirement if located at least 30 feet from any property line.**

**Staff:** The subject site is not a parcel as used under the dimensional requirements above. Because the State Department of Transportation purchased the property and absorbed it into the Highway 30 Right-of-Way, the property does not have ‘yards’ or ‘property lines’ typical of a parcel. Additionally, state law does not require a minimum lot size for right-of-way property. As such, the minimum lot size requirements, setbacks, and lot line length do not apply to the property. Scoop shed elevation plans show the structure will be under 35-feet in height (Exhibit A.9). The concrete de-icer structures will also be required to be under 35-feet in height as a condition of approval.

*Criterion met.*

**4.00 Willamette River Greenway – Design Plan**

**MCC 34.5855 GREENWAY DESIGN PLAN**

**The elements of the Greenway Design Plan are:**

- A. (A) The maximum possible landscaped area, scenic and aesthetic enhancement, open space or vegetation shall be provided between any use and the river.**

**Staff:** The Multnomah Channel, the water body the Willamette River Greenway (WRG) is protecting in this case, is over 1900 feet from the development site. The open space and intervening vegetation between the site and the channel are not under the control of ODOT (Oregon Department of Transportation). However, because the site is within ODOT right-of-way, there is a very limited area that ODOT can site such facilities since the right-of-way is along the highway. Taking that into consideration, the maximum possible landscaped area, open space and vegetation is located between the site and Multnomah Channel. ODOT is proposing a wetland project enhancement on site that will improve the aesthetic enhancement of the right-of-way.

*Criterion met.*

- B. (B) Reasonable public access to and along the river shall be provided by appropriate legal means to the greatest possible degree and with emphasis on urban and urbanizable areas.**

**Staff:** The location of the Right-of-Way does not afford access to the river. Railroad tracks and private property are located between the proposed site and the river, which ODOT does not control.

*Criterion met.*

- C. **(C) Developments shall be directed away from the river to the greatest possible degree, provided, however, that lands in other than rural and natural resource districts may continue in urban uses.**

**Staff:** The proposed development is more than 1900 feet from the river, which considering the location, is directed away from the river as far as possible.

*Criterion met.*

- D. **(D) Agricultural lands shall be preserved and maintained for farm use.**

**Staff:** The subject property does not contain any agricultural lands, nor any farm use.

*Criterion met.*

- E. **(E) The harvesting of timber, beyond the vegetative fringes, shall be conducted in a manner which shall insure that the natural scenic qualities of the Greenway will be maintained to the greatest extent practicable or will be restored within a brief period of time on those lands inside the Urban Growth Boundary.**

**Staff:** No timber harvests are proposed. No timber stands exist on property.

*Criterion met.*

- F. **(F) Recreational needs shall be satisfied by public and private means in a manner consistent with the carrying capacity of the land and with minimum conflicts with farm uses.**

**Staff:** No recreational uses exist on site nor are proposed for the property. The use of the property benefits the public by providing materials necessary for the maintenance of Highway 30 between Portland and Scappoose.

*Criterion met.*

- G. **(G) Significant fish and wildlife habitats shall be protected.**

**Staff:** The subject property is more than 1900-feet from the river or channel and is not near any fish or wildlife habitat. The property does not contain vegetation or trees that would facilitate the presence of wildlife or fish on site.

*Criterion met.*

- H. **(H) Significant natural and scenic areas and viewpoints and vistas shall be preserved.**

**Staff:** The West Hills on the other side of Highway 30 are a protected scenic resource in the West Hills Rural Plan Area as seen from key viewing areas such as Highway 30, Multnomah Channel, and public roads on Sauvie Island. However, the subject property is not an identified viewpoint or scenic area and therefore the proposed development will not diminish the scenic quality of the subject site and will not impact viewpoints or vistas.

*Criterion met.*

- I. **(I) Maintenance of public safety and protection of public and private property, especially from vandalism and trespass, shall be provided to the maximum extent practicable.**

**Staff:** The property is off of the Highway 30 shoulder and is accessed only by ODOT staff. A partial fence will be placed on the property to help discourage use of the facility by the general public. However, due to the location of the property and lack of restroom facilities, it is highly unlikely that the public would attempt to trespass.

*Criterion met.*

- J. **(J) The natural vegetation along the river, lakes, wetlands and streams shall be enhanced and protected to the maximum extent practicable to assure scenic quality, protection from erosion, screening of uses from the river, and continuous riparian corridors.**

**Staff:** The subject site sits between Highway 30 and railroad right-of-way and therefore is not adjacent to Multnomah Channel. It is over 1900-feet from the river. A small wetland occupies roughly 8 square feet of the eastern tip of the site with the main body to the east. The proposed project includes wetland enhancement and mitigation including constructing a vegetated buffer area on the property.

*Criterion met.*

- K. **(K) Extraction of known aggregate deposits may be permitted, pursuant to the provisions of MCC 34.6300 through 34.6535, when economically feasible and when conducted in a manner designed to minimize adverse effects on water quality, fish and wildlife, vegetation, bank stabilization, stream flow, visual quality, noise, safety, and to guarantee necessary reclamation.**

**Staff:** No extraction of aggregate deposits takes place on site.

*Criterion met.*

- L. **(L) Areas of annual flooding, flood plains, water areas and wetlands shall be preserved in their natural state to the maximum possible extent to protect the water retention, overflow and natural functions.**

**Staff:** The subject site is not identified as being within the 100-year flood plain. A small wetland occupies 8 square feet of the the eastern most portion of the subject site and part of the proposal is to improve the wetland and provide a vegetative buffer as seen on the site plan (Exhibit A.8). The vegetative buffer will provide water retention and protection from runoff and sedimentation.

*Criterion met.*

- M. **(M) Significant wetland areas shall be protected as provided in MCC 34.5865.**

**Staff:** The applicant conducted a delineation of the wetland on site and that delineation showed that there are approximately 8 square feet of wetland on the subject site. The delineations are included with the applicant's materials (Exhibits A.14). Part of the proposal includes providing a vegetated buffer between the new structures and the wetland as seen on the site plan (Exhibit A.8). While a small wetland does exist on the subject property, the wetland is not identified on the maps adopted by the Comprehensive Plan as being significant.

*Criterion met.*

- N. **(N) Areas of ecological, scientific, historical or archaeological significance shall be protected, preserved, restored, or enhanced to the maximum extent possible.**

**Staff:** There are no known ecological, scientific, historical or archeological areas identified on site.

*Criterion met.*

- O. **(O) Areas of erosion or potential erosion shall be protected from loss by appropriate means which are compatible with the character of the Greenway.**

**Staff:** A Grading and Erosion Control Permit has been submitted concurrently with this application to take into account erosion control measures during construction. However, in general, there are no known active areas of erosion or concern on site.

*Criterion met.*

- P. **(P) The quality of the air, water and land resources in and adjacent to the Greenway shall be preserved in development, change of use, or intensification of use of land designated WRG.**

**Staff:** The property will see an intensification of use as a result of the project. However, there is no foreseeable adverse impact to the quality of the resources in and adjacent to the greenway by virtue of the limited duration of use of the site, the small size of the parcel, and distance from the river and resource being protected under the WRG provisions.

*Criterion met.*

- Q. **(Q) A building setback line of 150 feet from the ordinary low waterline of the Willamette River shall be provided in all rural and natural resource districts, except for non-dwellings provided in conjunction with farm use and except for buildings and structures in conjunction with a water-related or a water dependent use.**

**Staff:** The proposed buildings are more than 1900-feet from the low waterline of the Willamette River.

*Criterion met.*



- R. **(R) Any development, change of use or intensification of use of land classified WRG, shall be subject to design review, pursuant to MCC 34.7000 through 34.7070, to the extent that such design review is consistent with the elements of the Greenway Design Plan.**

**Staff:** The applicant has applied for a Design Review permit concurrently with the WRG permit. Findings are made under Section 6 below.

- S. **(S) The applicable policies of the Comprehensive Plan are satisfied.**

**Staff:** The necessary policies of the Comprehensive Plan that are applicable have been adopted and addressed through the zoning code.

*Criterion met.*

## **5.00 Willamette River Greenway – Significant Wetlands**

### **MCC 34.5865 SIGNIFICANT WETLANDS**

**Significant wetlands consist of those areas designated as Significant on aerial photographs of a scale of 1"=200' made a part of the supporting documentation of the Comprehensive Framework Plan. Any proposed activity or use requiring an WRG permit which would impact those wetlands shall be subject to the following:**

**Staff:** A wetland has been identified on site and delineated by the applicant (Exhibit A.14). However, the map is not shown as “significant” on the maps adopted by the Comprehensive Plan. As such, the approval criteria of this section are not required to be satisfied. Staff notes that while not required, the applicant still chose to address the approval criteria.

## **6.00 Design Review**

### **MCC 34.7050 DESIGN REVIEW CRITERIA**

- A. **(A) Approval of a final design review plan shall be based on the following criteria:**

1. **(1) Relation of Design Review Plan Elements to Environment.**

**(a) The elements of the design review plan shall relate harmoniously to the natural environment and existing buildings and structures having a visual relationship with the site.**

**(b) The elements of the design review plan should promote energy conservation and provide protection from adverse climatic conditions, noise, and air pollution.**

**(c) Each element of the design review plan shall effectively, efficiently, and attractively serve its function. The elements shall be on a human scale, inter-related, and shall provide spatial variety and order.**

**Staff:** The proposed use of the property is unusual in that it is not a commercial use for which Design Review is typically required. Rather, it is a public works use for the maintenance of Highway 30 for the segment between Portland and Scappoose. Normalized traffic and pedestrian patterns are not seen on the property. Typical traffic will consist of ODOT crews entering the unmanned site, loading vehicles with gravel from the shed or de-icer from the containers for the highway, and then exiting. In so far as the property and proposed structures can be designed to relate harmoniously to the existing buildings and structures of the site, it has. There are no adjacent buildings that can be seen cumulatively with the proposed structures – so there will not be any discord or disharmony in the visual appearance of structures. To help improve the relationship between the built environment and natural environment, the project includes a vegetative buffer to be created between the use and the small wetland on the eastern extent of the property. The proposal includes barriers to keep the gravel on site and since it is gravel, will not become airborne and adversely impact the air. The de-icer is completely contained in its containers and will not leak into the wetland. The site is compact and thus will not promote inefficient use of energy sources when filling ODOT vehicles with the gravel and de-icer. Overall, the proposal relates harmoniously with the natural environment to the extent it can.

*Criteria met.*

2. **(2) Safety and Privacy – The design review plan shall be designed to provide a safe environment, while offering appropriate opportunities for privacy and transitions from public to private spaces.**

**Staff:** The location of the property is adjacent to the right-of-way of Highway 30 – a public highway. There is no transition from public to private because the only transition is from public to public. The access point can be seen for over 1000-feet in either direction without obstruction or curve, providing a safe distance for slow down and avoidance by other vehicles if necessary.

*Criterion met.*

3. **(3) Special Needs of Handicapped – Where appropriate, the design review plan shall provide for the special needs of handicapped persons, such as ramps for wheelchairs and braille signs.**

**Staff:** The property is not used for the public. ODOT vehicles load gravel and de-icer into maintenance vehicles, then exit the site. There are no special needs requirements on site.

*Criterion met.*

4. **(4) Preservation of Natural Landscape – The landscape and existing grade shall be preserved to the maximum practical degree, considering development constraints and suitability of the landscape or grade to serve their functions. Preserved trees and shrubs shall be protected during construction.**

**Staff:** The subject property is 0.32-acres – small for any development. The only significant grading to be done other than foundation work is the re-contouring and vegetation placement for the slope near the wetland. The de-icer containers and all maneuvering areas already exist. An old scoop shed is on site but will be demolished as

part of this project and the new scoop shed will be located near the de-icer containers in an already cleared area.

*Criterion met.*

5. **(5) Pedestrian and Vehicular circulation and Parking – The location and number of points of access to the site, the interior circulation patterns, the separations between pedestrians and moving and parked vehicles, and the arrangement of parking areas in relation to buildings and structures, shall be designed to maximize safety and convenience and shall be harmonious with proposed and neighboring buildings and structures.**

**Staff:** The proposal is for a public use to be used by ODOT agency employees and contractors. There is no public use either existing or proposed for the site. ODOT has designed the site circulations for their vehicles to be used harmoniously in relation to the scoop shed and de-icer containers. There are no neighboring buildings that could be impacted by the on-site operations.

*Criterion met.*

6. **(6) Drainage – Surface drainage systems shall be designed so as not to adversely affect neighboring properties or streets.**

**Staff:** A stormwater certificate has been included (Exhibit A.16) that demonstrates runoff generated from new impervious surfaces will be handled on site for a 10-year/24-hour storm event, which is the County's minimum requirement.

*Criterion met.*

7. **(7) Buffering and Screening – Areas, structures and facilities for storage, machinery and equipment, services (mail, refuse, utility wires, and the like), loading and parking, and similar accessory areas and structures shall be designed, located, buffered or screened to minimize adverse impacts on the site and neighboring properties.**

**Staff:** The development site is within the State's Right-of-Way for Highway 30, adjacent to the railroad right-of-way, and adjacent to a small portion of one parcel held in private ownership. The location of the facilities is hundreds of feet from the nearest structure under private ownership. Since the site is adjacent to other public properties, there is no anticipated adverse impact on neighboring properties.

*Criterion met.*

8. **(8) Utilities – All utility installations above ground shall be located so as to minimize adverse impacts on the site and neighboring properties.**

**Staff:** No utilities are proposed as part of the project.

*Criterion met.*

9. **(9) Signs and Graphics – The location, texture, lighting, movement, and materials of all exterior signs, graphics or other informational or directional features shall be compatible with the other elements of the design review plan and surrounding properties.**

**Staff:** No signs or graphics are proposed for the site as part of the project.

*Criterion met.*

**B. MCC 34.7055 Required Minimum Standards**

**1. (A) Private and Shared Outdoor Recreation Areas in Residential Developments:**

**(1) Private Areas – Each ground level living unit in a residential development subject to design review plan approval shall have an accessible outdoor private space of not less than 48 square feet in area. The area shall be enclosed, screened or otherwise designed to provide privacy for unit residents and their guests.**

**(2) Shared Areas – Usable outdoor recreation space shall be provided for the shared use of residents and their guests in any apartment residential development, as follows:**

**(a) One or two-bedroom units: 200 square feet per unit.**

**(b) Three or more bed-room units: 300 square feet per unit.**

**Staff:** A residential development is not proposed. The site will not contain any recreational areas or facilities.

*Criterion met.*

**2. (B) Storage**

**Residential Developments – Convenient areas shall be provided in residential developments for the storage of articles such as bicycles, barbecues, luggage, outdoor furniture, etc. These areas shall be entirely enclosed.**

**Staff:** No residential development is proposed.

*Criterion met.*

**3. (C) Required Landscape Areas**

**The following landscape requirements are established for developments subject to design review plan approval:**

- a. **(1) A minimum of 15% of the lot area shall be landscaped; provided, however, that computation of this minimum may include areas landscaped under subpart 3 of this subsection.**

**(2) All areas subject to the final design review plan and not otherwise improved shall be landscaped.**

**(3) The following landscape requirements shall apply to parking and loading areas:**

**(a) A parking or loading area providing ten or more spaces shall be improved with defined landscaped areas totaling no less than 25 square feet per parking space.**

**(b) A parking or loading area shall be separated from any lot line adjacent to a street by a landscaped strip at least 10 feet in width, and any other lot line by a landscaped strip at least 5 feet in width.**

**(c) A landscaped strip separating a parking or loading area from a street shall contain:**

- 1. Street trees spaces as appropriate to the species, not to exceed 50 feet apart, on the average;**
- 2. Low shrubs, not to reach a height greater than 3'0", spaced no more than 5 feet apart, on the average; and**
- 3. Vegetative ground cover.**

**(d) Landscaping in a parking or loading area shall be located in defined landscaped areas which are uniformly distributed throughout the parking or loading area.**

**(e) A parking landscape area shall have a width of not less than 5 feet.**

**Staff:** The development site is unusual in that it is not a regular parcel as defined by state law or Multnomah County Code – it is part of the right-of-way of a public road; in this case, Highway 30. Applying standards that take into account the total area of a parcel or lot are problematic in situations such as this because there is no baseline data for the size of the property. As seen on the applicant's site plan (Exhibit A.6) and past tax lot maps from the County (Exhibit B.4), the overall project does not fall within the boundaries of what was once private property sold to the State for the right-of-way currently making up the project site, which was 0.32-acres in size. That being said, the applicant is proposing a wetland mitigation plan that contains extensive plantings and landscaping. The area proposed to be in the planting plan is comprised of an 'L' shaped area that covers roughly 5700 square feet. If calculated using the area of land obtained for right-of-way purposes, landscaping would comprise nearly 40% of the area – going well beyond the 15% requirement.

The proposed site plan calls for two parking spots on site. Since less than 10 are proposed, MCC 34.7050(C)(3)(a) above is not required to be addressed. The parking spaces are interior spaces and not adjacent to the highway, railroad right-of-way or any private property. Therefore, intervening landscaping is not required for the parking spaces. Loading areas for the maintenance vehicles are also interior spaces and not adjacent to private property or the rights-of-way for the highway or railroad.

*Criteria met.*

- b. **(4) Provision shall be made for watering planting areas where such care is required.**

**Staff:** ODOT shall be responsible for the maintenance of the planting areas.

*Criterion met with Condition of Approval.*

- c. **(5) Required landscaping shall be continuously maintained.**

**Staff:** ODOT shall be responsible for the maintenance of the planting areas.

*Criterion met with Condition of Approval.*

- d. **(6) Maximum height of tree species shall be considered when planting under overhead utility lines.**

**Staff:** No overhead utilities are located over the landscaped area.

*Criterion met.*

## **7.00 Transportation Standards**

**Staff:** Multnomah County Transportation does not have jurisdiction over the transportation standards and requirements for the site since access to the site is from Highway 30, a State Highway. ODOT, the owner of the site subject to this application also presides over Highway 30. County transportation standards are not applicable.

## **8.00 Conclusion**

Based on the findings and other information provided above, the applicant has carried the burden necessary for the Willamette River Greenway and Design Review to establish a scoop shed and de-icer facility in the Multiple Use Agriculture-20 zone. This approval is subject to the conditions of approval established in this report.

## **9.00 Exhibits**

- 'A' Applicant's Exhibits
- 'B' Staff Exhibits

Exhibits with a "\*" after the exhibit # have been included as part of the mailed decision. All other exhibits are available for review in Case File T2-2011-1436 at the Land Use Planning office.

Exhibit #	# of Pages	Description of Exhibit
A.1	81	Applicant's Narrative
A.2	1	Vicinity Map
A.3*	1	Regional Context Aerial Photo
A.4	1	Site Analysis Plan
A.5	1	Existing Conditions Plan
A.6*	1	Preliminary Site Development Plan
A.7	1	Grading and Erosion Control Plan
A.8*	1	Preliminary Landscape/Mitigation Plan
A.9*	1	Scoop Shed Elevation and Floor Plans
A.10	5	Deed and Contributing Documents Conveying Property to ODOT
A.11	2	Fire District Review (Non-Residential) and Attached Site Plan
A.12	14	Site Photos
A.13	2	ODOT Road Maintenance Locations
A.14*	30	Wetland Delineation, Site Plans, Data Sheets and Photos (Partially Included In Decision Mailing)
A.15	1	DSL Notification Statement
A.16	3	Stormwater Certificate and Calculations
A.17	14	Completed WRG Work Sheet
A.18	2	Flood Insurance Maps of Site
'B'	#	Staff Exhibits
B.1	1	Completeness Letter
B.2	7	Opportunity to Comment Notice
B.3	1	Comprehensive Framework Plan Maps Showing Significant Wetlands
B.4	1	1998 Zoning and Tax Lot Map





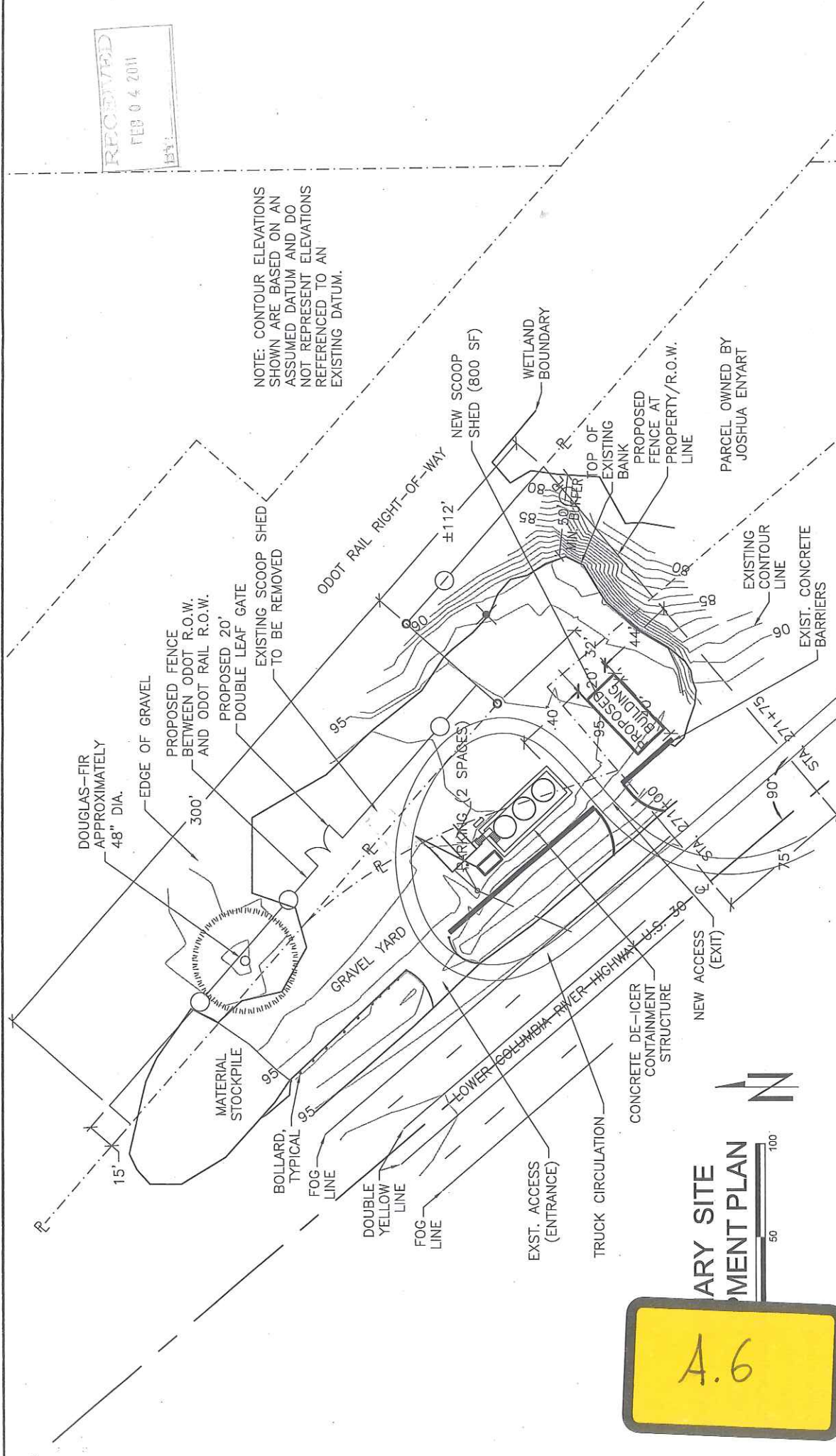
3		BY		DESIGNED: JON DOUGHTON, P.E.		PRELIMINARY		 OREGON DEPARTMENT OF TRANSPORTATION FACILITIES MANAGEMENT SECTION 885 AIRPORT RD SE, SALEM, OR 97301 503-986-5777		FACILITY NO. F2400701		ODOT CORNELIUS PASS STOCKPILE SITE U.S. HIGHWAY 30, MILE POINT 13.5		SHEET 1 OF 1	
										DATE 12-8-09				DRAWING C1.0	
										CALC. BOOK ~		REGIONAL CONTEXT AERIAL PHOTO			
</															

A.3



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BY:

NOTE: CONTOUR ELEVATIONS SHOWN ARE BASED ON AN ASSUMED DATUM AND DO NOT REPRESENT ELEVATIONS REFERENCED TO AN EXISTING DATUM.



# ARY SITE MENT PLAN

A.6

DATE		DESIGNED: JON DOUGHTON, P.E.	BY	REVISION
DATE		DRAFTED: JD		
DATE		CHECKED:		
DATE		APPROVED:		
FACILITY NO. F2400701		ODOT CORNELIUS PASS STOCKPILE SITE		
DATE 12-8-09		U.S. HIGHWAY 30, MILE POINT 13.5		
CALC. 800K		PRELIMINARY SITE DEVELOPMENT PLAN		
SHEET 1 OF 1		DRAWING C4.0		

OREGON DEPARTMENT OF TRANSPORTATION  
FACILITIES MANAGEMENT SECTION  
885 AIRPORT RD SE, SALEM, OR 97301  
503.946.8777



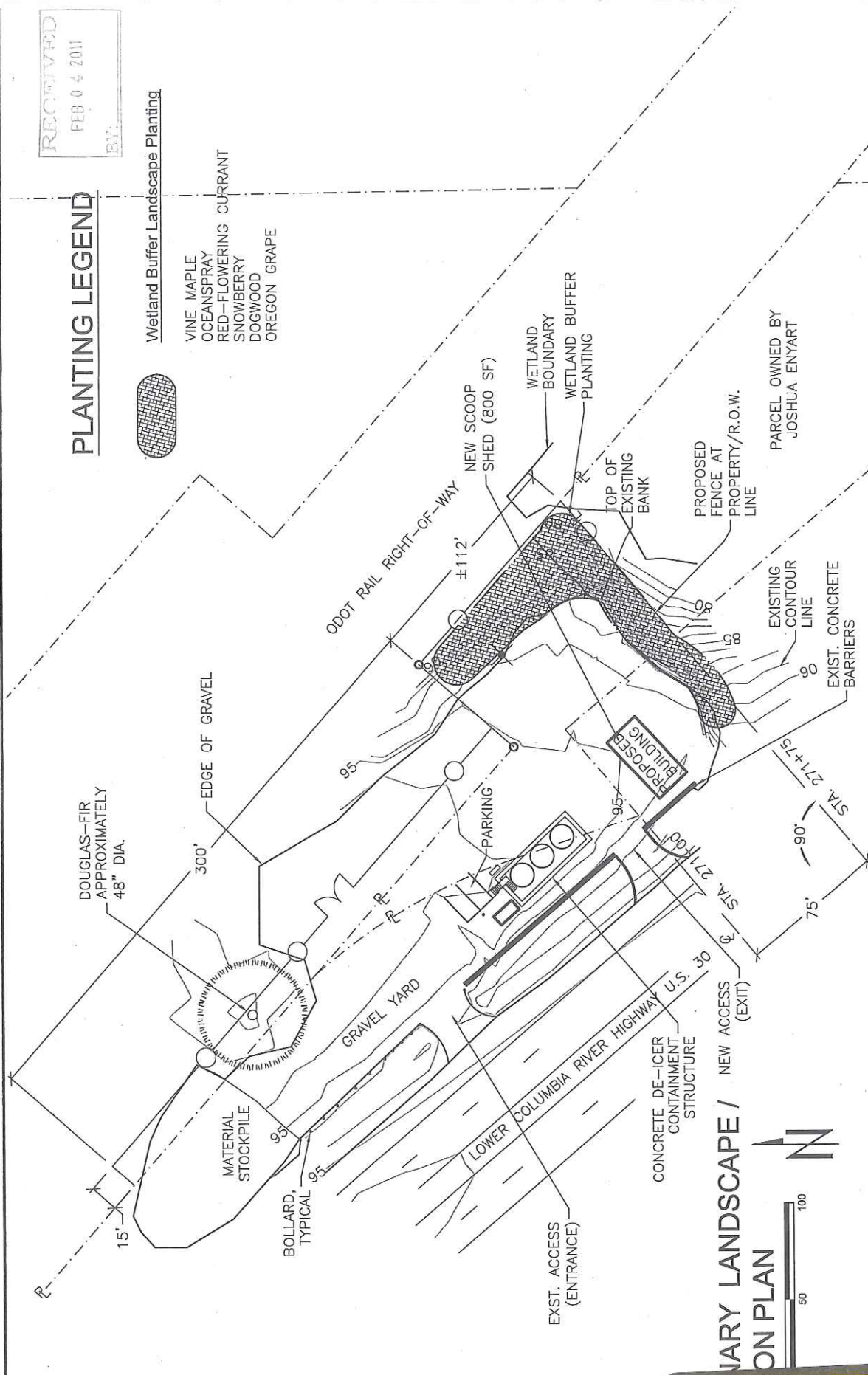
PRELIMINARY

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BY:

# PLANTING LEGEND

## Wetland Buffer Landscape Planting

- VINE MAPLE
- OCEANSPRAY
- RED-FLOWERING CURRANT
- SNOWBERRY
- DOGWOOD
- OREGON GRAPE

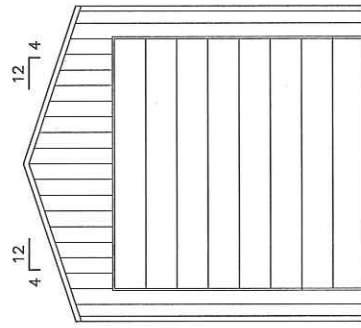


ARY LANDSCAPE /  
ON PLAN

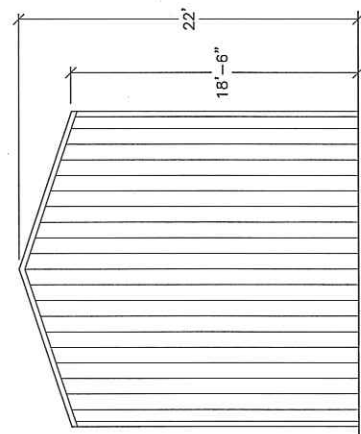
A.8

SHEET 1 OF 7	ODOT CORNELIUS PASS STOCKPILE SITE	
	U.S. HIGHWAY 30, MILE POINT 13.5	
DRAWING L1.0	PRELIMINARY LANDSCAPE/MITIGATION	
	CALC. BOOK	
FACILITY NO. F2400701		
DATE 12-8-09		
OREGON DEPARTMENT OF TRANSPORTATION FACILITIES MANAGEMENT SECTION 885 AIRPORT RD SE, SALEM, OR 97301		
PRELIMINARY		
DESIGNED: JON DOUGHTON, P.E.		
DRAFTED: JD		
CHECKED:		
BY		
DATE		
REVISION		

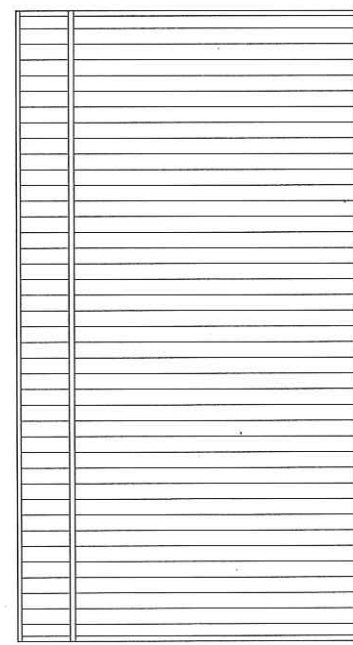
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FEB 04 2011  
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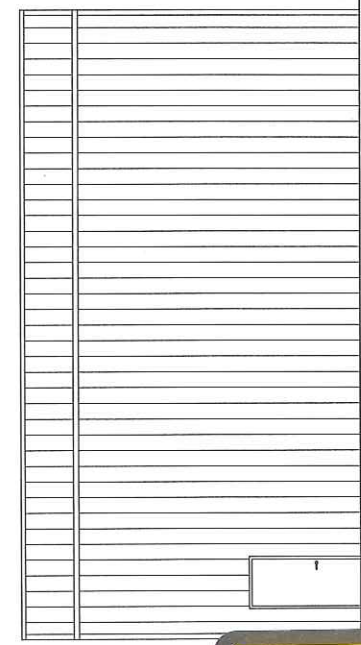
**NORTH ELEVATION**  
SCALE: 1/8" = 1'-0"



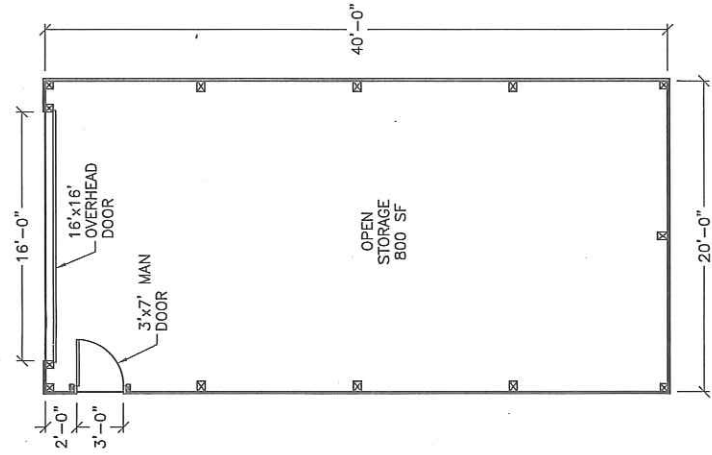
**SOUTH ELEVATION**  
SCALE: 1/8" = 1'-0"



**EAST ELEVATION**  
SCALE: 1/8" = 1'-0"



**WEST ELEVATION**  
SCALE: 1/8" = 1'-0"



**PROPOSED FLOOR PLAN**  
SCALE: 1/8" = 1'-0"

A.9

SHEET 1 OF 1		ODOT CORNELIUS PASS STOCKPILE SITE PROPOSED SCOOP SHED U.S. HIGHWAY 30, MILE POINT 13.5		DRAWING A1	
FACILITY NO. F2400701		DATE 12-16-10		CALC. BOOK —	
DESIGNED: BY:		DRAFTED: JON DOUGHTON, P.E.		CHECKED: REVIEWED:	
DATE:					
				</	



OREGON DEPARTMENT OF TRANSPORTATION  
FACILITIES MANAGEMENT SECTION

PRELIMINARY





*Delineation of Wetlands and Other Waters for  
Cornelius Pass Stockpile Site Property Line  
Adjustment*

*Prepared for*

**Gazley Plowman Architects,  
(Consultant to ODOT Facilities  
Management Section)**

*December 15, 2010*

*Prepared by*

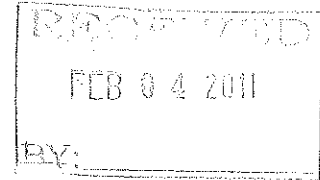
**WHPacific, Inc.**  
9755 SW Barnes Road, Suite 300  
Portland Oregon, 97225

**WHPacific**



DELINEATION OF WETLANDS AND OTHER WATERS  
CORNELIUS PASS STOCKPILE SITE, MULTNOMAH COUNTY, OREGON

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**Prepared for:** Robert Schroeder, Project Manager,  
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**Title:** Delineation of Wetlands and Other Waters

**Project:** Cornelius Pass Stockpile Site  
Multnomah County, Oregon

**Prepared by:** WHPacific, Inc.  
9755 SW Barnes Road, Suite 300  
Portland, Oregon 97225

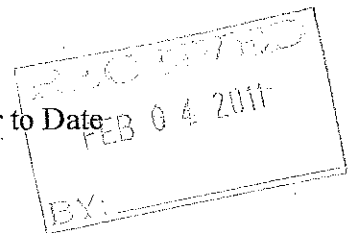
**Contact:** Philip J. Quarterman, PWS  
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(503) 372-3562  
FAX: (503) 526-0775  
E-mail address: [pquarterman@whpacific.com](mailto:pquarterman@whpacific.com)

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## TABLES

Table 1: Monthly Precipitation Data for 2009-2010 Water Year to Date



## APPENDICES

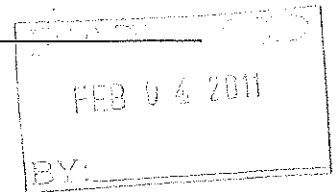
### Appendix A: Maps

- Figure 1: Location Map
- Figure 2: Tax Lot Map
- Figure 3: National Wetland Inventory Map
- Figure 4: County Soil Survey Map
- Figure 5: Aerial Photograph
- Figure 6: Wetland Map

### Appendix B: Data Forms

### Appendix C: Site Photographs

### Appendix D: References



## **A LANDSCAPE SETTING AND LAND USE**

The study area is the ODOT Cornelius Pass Stockpile site on US Highway 30 at Mile Point 13.5, and the immediately adjoining area to the southeast. See Figure 1 (Vicinity Map) for an overview of the surrounding area. The study area is located in Township 2N, Range 1W, Section 18D. It consists of ODOT right of way, plus a small part of adjacent tax lot 100. See Figure 2, Tax Lot Map, showing the tax lots that are in the study area.

The landscape setting of the study area is on a narrow terrace between the Tualatin Mountains to the southwest, and the floodplain of the Multnomah Channel to the northeast. The floodplain of a small unnamed stream lies to the northeast of the Astoria branch railroad embankment, which abuts the project area.

The predominant land uses in the surrounding area are forest lands and small farms, with a scattering of rural residences. Extensive wetlands are found in the Multnomah Channel floodplain to the northeast of the railroad.

## **B SITE ALTERATIONS**

The site has been altered by the construction of the existing stockpile site. Construction involved leveling and filling the site and construction of a de-icer containment structure, a shed, and concrete barriers. A steep fill slope adjoins the stockpile site to the southeast.

## **C PRECIPITATION DATA AND ANALYSIS**

Daily precipitation totals were obtained from the National Weather Service's Portland Airport weather station. We accessed the Preliminary Local Climatology Data (F6) for the period October 1, 2009-October 5, 2010 (the day of the site visit). The table below presents these data.

<b>Table 1 – Monthly Precipitation Data for 2009-2010 Water Year to Date</b>				
Month	Actual (in.)	Departure from Average (in.)	Cumulative Rainfall (in.)	Cumulative Departure from Average (in.)
October 2009	3.02	+0.14	3.02	+0.14
November 2009	5.13	-0.48	8.15	-0.34
December 2009	3.76	-1.95	11.91	-2.29
January 2010	4.94	-0.13	16.85	-2.42
February 2010	2.76	-1.42	19.61	-3.84
March 2010	3.58	-0.13	23.19	-3.97
April 2010	2.92	+0.28	26.11	-3.69
May 2010	3.26	+0.88	29.37	-2.81

DELINEATION OF WETLANDS AND OTHER WATERS  
CORNELIUS PASS STOCKPILE SITE, MULTNOMAH COUNTY, OREGON

June 2010	4.27	+2.68	33.64	-0.13
July 2010	0.59	-0.13	34.23	-0.26
August 2010	0.23	-0.70	34.46	-0.96
September 2010	3.36	+1.71	37.82	+0.75
October 2010 *	0	-0.46	37.82	+0.29
<b>TOTALS</b>	<b>37.82</b>	<b>+0.29</b>		

\* Through October 5, 2010

Rainfall for the water year prior to the initial site visit on April 8 had been 37.82 inches, or 0.29 inches above average. Thus, total rainfall for the water year prior to the site visit had been very close to average. The rainfall for the three complete months prior to the site visit had been 0.59 inch for July, 0.23 inch for August, and 3.36 inches for September. The summer had been dry, but rainfall was well above average for September. However, rainfall for the previous 14 days had been only 0.17 inch. There was no rainfall on the day of the investigation.

In summary, rainfall for the previous year had been close to average. After a dry winter, the spring was wet, followed by a dry summer. The fall (September) began with above average rainfall, nearly half of it falling on one day.

## D METHODS

We examined existing information prior to performing field investigations. See Appendix 1 for figures.

- The USGS topographic map (Figure 1),
- The tax lot map for the property (Figure 2),
- The National Wetland Inventory map, Sauvie Island quadrangle (Figure 3),
- The Multnomah County soil survey map (Figure 4),
- A recent aerial photograph (Figure 5), and
- A site plan of the existing facility.

The delineation investigation was conducted on October 5, 2010. Plots and boundaries were established during this time. Data collected on-site at sample plots by WHPacific were recorded on the Oregon Department of State Lands Wetland Determination Data Form for the Western Mountains, Valleys and Coast Region. A total of 4 sample plots were examined within the study area (see Figure 6). See Appendix B for copies of the field data forms.

Based on the topographic information on the site plan, we focused our investigation on the low area to the southeast of the facility, and next to the railroad embankment. We established plots within this feature, and where wetland conditions were found, we



established additional plots to characterize adjacent uplands. We marked the plot locations with wire flags. We made the following observations at the plots.

- Where standing water was absent, we dug soil pits to a depth of 18 inches to look for direct and indirect indicators of a water table or soil saturation, such as oxidized rhizospheres.
- We performed a visual observation of the soil surface to determine the presence of other primary and secondary indicators of wetland hydrology.

This information was recorded on the field sheets.

At each plot, we also observed soil characteristics. Soil color and texture characteristics were observed to a depth of 18 inches by removing and opening a slice of soil representing the soil profile.

We established vegetation sample plots around each soil pit. Plot sizes were the standard sizes: 15-foot radius for the tree and shrub/sapling layers, and 5-foot radius for the herbaceous layer.

We marked the wetland boundary with wire flags, based on the findings in the plots. We also walked the railroad embankment to the southeast, to locate the nearby unnamed stream crossing, and relate it to the hydrologic conditions found on and near the site. We documented the main features with photographs (Appendix C). The wetland boundaries were surveyed by a WHPacific survey crew, and a map of wetlands was prepared. See Figure 6, Wetland Map.

## **E DESCRIPTION OF ALL WETLANDS AND OTHER NON-WETLAND WATERS**

The field investigation identified one area that met wetland criteria in the study area totaling 2,317 square feet, and extending east outside the study area. The area at the base of the fill slope to the southeast of the stockpile facility is on the edge of the floodplain associated with a small unnamed stream that lies some 200 yards to the east. We observed this stream where it emerges from the culvert under the railroad, and noted that there was flow in it. At the back of the stockpile facility, between the fill slope and the railroad embankment, there is a narrow swale that gradually rises in elevation toward the northwest.

The railroad embankment cuts across this floodplain. To the northeast of the railroad embankment, the floodplain extends out to the Multnomah Channel.

We characterized conditions in the wetland at Plots A1 and B1. Plot A1 is in the narrow swale. The plant community is dominated by red alder (*Alnus rubra*, FAC), Japanese knotweed (*Polygonum cuspidatum*, FACU), and reed canarygrass (*Phalaris arundinacea*, FACW). The soil was a low-chroma silt loam with redox concentrations below 4 inches,

and redox depletions below 12 inches, meeting hydric soil indicator Redox Dark Surface (F6). While no soil saturation was present, due to the season, we noted that the geomorphic position and drainage characteristics are consistent with the soil being saturated in the upper layer during the early growing season (mid-February onward). Also, the presence of redox depletions below 12 inches suggests that the soil is seasonally saturated below this depth.

Plot B1 has dense growth of black cottonwood (*Populus trichocarpa*, FAC) saplings and red osier dogwood (*Cornus sericea*, FACW), together with Oregon ash (*Fraxinus latifolia*, FACW) overstory, and touch-me-not (*Impatiens noli-tangere*, FACW) dominant in the herbaceous layer. The soil is a 10YR 4/1 matrix fine sandy loam with redox concentrations, meeting the Depleted Matrix (F3) hydric soil indicator. We determined wetland hydrology to be present based on the same indicators as Plot A1.

Plots A2 and B2 were found to be non-wetland. Both plots had hydrophytic vegetation, but lacked hydric soils: redox concentrations were found only below 10 inches with a 2-chroma matrix in Plot A2, and were absent at Plot B2. Both were located on rising ground, above the natural elevation of the floodplain.

## **F MAPPING METHOD AND ACCURACY STATEMENT**

Wetland boundary and sample plot flags were tied by a WHPacific survey crew using total station equipment. The level of accuracy was to within 0.1 foot.

## **G DEVIATION FROM NATIONAL WETLAND INVENTORY**

Wetlands in the floodplain of the unnamed stream are identified on the National Wetland Inventory as Palustrine Shrub Scrub, Broad Leaved Deciduous, Seasonally Flooded (PSS1C) (see Figure 3). The unnamed stream to the southeast of the site is also identified. There is currently no Local Wetland Inventory for this area.

## **H ADDITIONAL INFORMATION USED TO ESTABLISH JURISDICTION**

### **A. Oregon Department of State Lands (DSL):**

The DSL regulates *waters of the state*. There are three general categories of “waters” that are regulated by the DSL:

1) Waters, Including Rivers, Intermittent and Perennial Streams, Lakes and Ponds. These waters are jurisdictional to the ordinary high water line (OHWL) or, absent readily identifiable field indicators, to the bank-full stage (OAR 141-085-0515 (3)).

“Intermittent stream” is defined as “any stream which flows during a portion of every year and which provides spawning, rearing or food-producing areas for food and game

fish". "Food and Game Fish" are defined as those species identified under ORS 506.011, 506.036, or 496.009 (state statutes governing Oregon Department of Fish and Wildlife). (OAR 141-085-0510 (34) and (41)).

(2) Wetlands. Wetlands are jurisdictional within the wetland boundary (OAR 141-085-0515 (4)).

(3) Jurisdictional Ditches.

B. U.S. Army Corps of Engineers:

The Corps of Engineers regulates activities in *waters of the United States*, which include those waters listed below (33 CFR 328).

Terms are defined as follows. The term *waters of the United States* means:

- All waters which are currently used, or were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide;
- All interstate waters including interstate wetlands;
- All other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds, the use, degradation or destruction of which could affect interstate or foreign commerce including any such waters: which are or could be used by interstate or foreign travelers for recreational or other purposes; or, from which fish or shellfish are or could be taken and sold in interstate or foreign commerce; or, which are used or could be used for industrial purpose by industries in interstate commerce;
- All impoundments of waters otherwise defined as waters of the United States under the definition;
- Tributaries of waters;
- The territorial seas; and,
- Wetlands adjacent to waters.

The term *adjacent* means bordering, contiguous, or neighboring. Wetlands separated from other waters of the United States by man-made dikes or barriers such as natural river berms and the like are *adjacent wetlands*.

When adjacent wetlands are present, the jurisdiction extends beyond the ordinary high water line to the limit of the adjacent wetlands (wetland boundary).

Two US Supreme Court cases (*Rapanos* and *Carabell*) have changed the way the federal government looks at jurisdiction over wetlands and waters. The Corps and EPA issued guidance in 2007 based on these decisions, summarized as follows:

“The agencies will assert jurisdiction over the following waters:

- Traditional navigable waters
- Wetlands adjacent to traditional navigable waters
- Non-navigable tributaries of traditional navigable waters that are relatively permanent where the tributaries typically flow year-round or have continuous flow at least seasonally
- Wetlands that directly abut such tributaries.

C. Preliminary Determination of Jurisdiction:

We base our preliminary determination of jurisdiction on DSL administrative rules and current Corps guidance. This preliminary determination is based on our interpretation of the criteria and is our professional opinion.

The identified wetland is under state jurisdiction to the wetland boundary. The wetland is considered by the Corps of Engineers to directly abut a non-navigable tributary (the unnamed stream) of a “traditional navigable water” (Multnomah Channel). This is based on either year-round or continuous seasonal flow in the stream. The wetland is therefore under federal jurisdiction.

## I RESULTS AND CONCLUSIONS

There is one wetland totaling 2,317 square feet within the study area. According to our preliminary determination, the wetland is under both DSL and Corps jurisdiction.

## J DISCLAIMER

This report documents the investigation, best professional judgment and conclusions of the investigators. It is correct and complete to the best of our knowledge. It should be considered a Preliminary Jurisdictional Determination of wetlands and other waters and used at your own risk unless it has been reviewed and approved in writing by the Oregon Department of State Lands in accordance with OAR 141-090-0005 through 141-090-0055.”