



Mitigation / Conservation Bank Task Group Work Plan
Mitigation Analysis in the Willamette River's North Reach

A Project Prepared for:
City of Portland, Bureau of Planning
River Plan Team

by:
River People, Inc.



Client: City of Portland, Bureau of Planning, River Plan Team

River People, Inc.:

John Hazlett

Matt Harding

Matt Lustig

Anita MacAuley

Stakeholders: (Preliminary List)

NOAA

Port of Portland

Working Waterfront Coalition

North Reach property owners

Portland Audubon



Table of Contents

Workplan: River People, Inc.

I. Purpose Statement.....	1
II. Problem Definition	3
III. Group Methodology	6
IV. Client Perspective & Responsibilities.....	8
V. Public Outreach.....	9
VI. Workshop Final Product & Milestones	10
VII. Product Timeline Matrix	13

Appendix A: River People, Inc. Documents

Item 1	Memorandum of Understanding.....	17
Item 2	What Makes a Good Workshop Project?	19
Item 3	Staff Bios	20
Item 4	Staff Roles & Responsibilities	21
Item 5	Group Decision Making & Communications.....	22

Appendix B: Research / Background Materials

Item 6	Regulatory Framework & Background & Historical Context.....	24
Item 7	Historical Context	29
Item 8	List of People Contacted / Interviewed (as of 3/2/2007)	31

Appendix C: Task Group Documents

Item 9	Charter Agreement.....	34
Item 10	Issue Paper	37
Item 11	Meeting Outline: Mitigation / Conservation Bank Task Group	44

Work Plan:

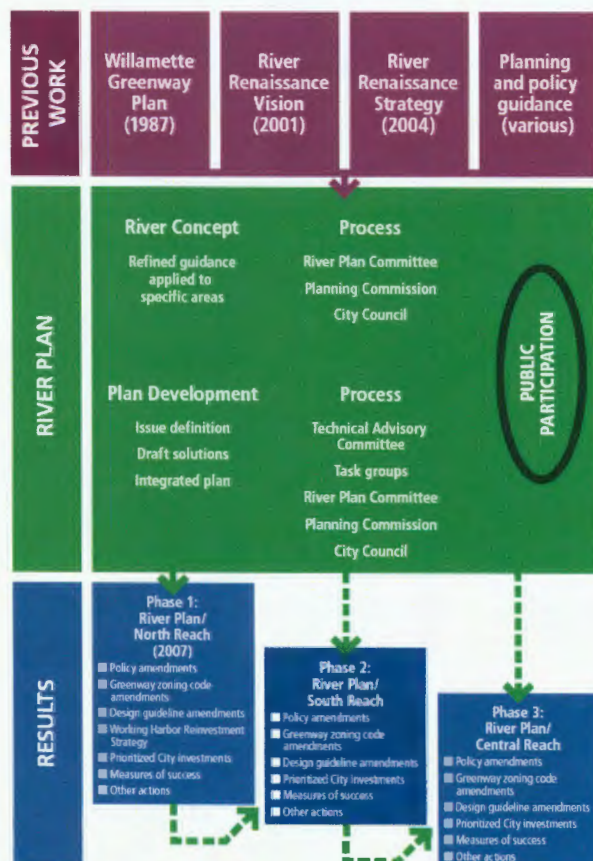
River People, Inc.

- I. Purpose Statement**
- II. Problem Definition**
- III. Group Methodology**
- IV. Client Perspective & Responsibilities**
- V. Public Outreach**
- VI. Workshop Final Product & Milestones**
- VII. Product Timeline Matrix**

I. Purpose Statement

The Master of Urban and Regional Planning (MURP) program at Portland State University is a two-year degree that focuses on the history and theory of planning as a field, plan implementation, analytical methods and the dynamics of metropolitan development. The program culminates with a two-term planning workshop capstone project in which students group together, work with a real world client and deliver an agreed-upon planning product.

River People, Inc. will work with Sallie Edmunds, the River Plan Project Manager for the City of Portland's Bureau of Planning. Sallie will be the client for the workshop project. This project will address current onsite mitigation requirements for natural resource degradation within the River Plan North Reach Project area (see Map of River Plan project Area, page 2), located in the Lower Willamette River. River People, Inc. will convene a task group that will provide technical expertise as well as assist with the development of criteria for an alternatives analysis. A main objective of the project is to enhance natural habitat while providing landowners with flexibility for future development. The Charter Agreement (Item 9, Appendix C) fully outlines the relationship between River People, Inc., (the facilitators) and the Task Group members. The ideas that emerge from the task group will inform the final product created by River People, Inc. This final product is outlined in detail in Section VI, Workshop Final Product, of this Work Plan document.



The River Plan is a comprehensive multi-objective plan for the land along the Willamette River. It is an update of the 1987 Willamette Greenway Plan, zoning code and design guidelines, which serve as Portland's compliance with Statewide Planning Goal 15.

The first phase of the River Plan focuses on the North Reach of the Willamette River in Portland from the Broadway Bridge to the mouth of the Columbia River. (See River Plan project area Map, page 2.) This phase will address issues relating to neighborhoods, recreation and habitat conservation along the river. The River Plan also includes a working harbor reinvestment strategy that seeks to

improve the economic vitality of the industrial districts by focusing on land, workforce, and infrastructure improvements to stimulate private industrial reinvestment.

The River Plan Committee is composed of citizens who broadly represent the civic interests of Portland and has been formed to work with River Plan staff to prepare an integrated plan of these elements. Task groups composed of stakeholders and other interested parties, are being convened to delve into the details of specific River Plan issues. Task groups planned or underway include:

- **Greenway Trail Alignment**
- **Industrial Zoning**
- **Watershed Health**
- **Water-Based Recreation**
- **Riverbank Design and Permitting**
- **Contaminated Sites**
- **Mitigation / Conservation Bank**

River People will be in charge of convening, scheduling, facilitating and providing the necessary materials to the Mitigation/ Conservation Bank Task Group. River People Inc., will present their findings and recommendations to the River Plan Committee on May 15th, 2007. A detailed list of River People, Inc., roles and responsibilities can be found in the MOU (Item 1, Appendix A) and in Item 4, Roles and Responsibilities, Appendix A.

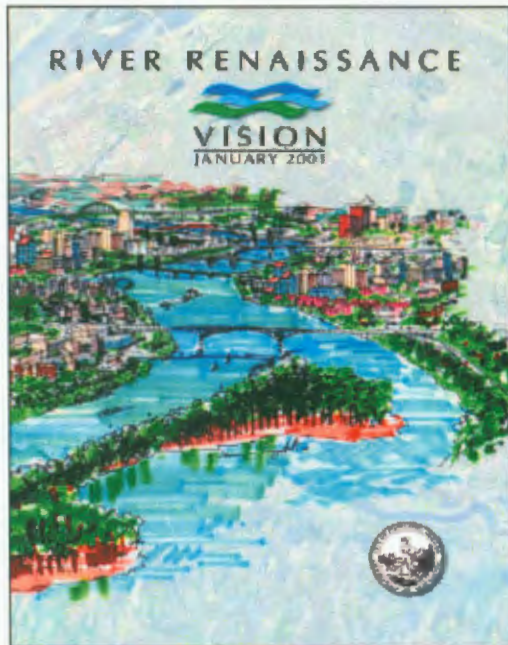


This work plan document serves several purposes. First, it fulfills the work plan workshop requirement which informs the Urban & Regional Planning faculty of project details. It also serves as an agreement between River People, Inc., and the City of Portland regarding the scope of work to be performed along with the product that will be delivered. It also lays out the project background, planning methodology and client and workshop team responsibilities.

II. Problem Definition

Problem statement: *Given the current economic, environmental political, conditions, which mitigation strategies will best facilitate the City meeting its natural resource obligations and multi-objective goals of enhancing watershed health in the North Reach, while simultaneously protecting the working harbor?*¹

The City through the River Renaissance initiative is committed to improving natural resource function in and along the Willamette and protecting and enhancing Portland's working harbor, one



of the region's major economic engines. This commitment is embodied in the River Plan, an effort to update the 1987 Willamette Greenway Plan, zoning code and design guidelines consistent with the five interrelated *River Renaissance* themes:

- *Ensure a Clean and Healthy River System for Fish, Wildlife and People*
- *Maintain and Enhance a Prosperous Working Harbor*
- *Create Vibrant Waterfront Districts and Neighborhoods*
- *Embrace the River and its Banks as Portland's Front Yard*
- *Promote Partnerships, Leadership, and Education;*

and to reflect current environmental conditions and

key events including the listing of steelhead and Chinook salmon in the Lower Columbia as endangered and the designation of the Portland Harbor as a Superfund site.

The River Plan North Reach project area stretches along the river between the Fremont and Broadway Bridges to the confluence with the Columbia and is characterized by river-dependent and non-river-dependent manufacturing, warehousing and transportation industries. These operations affect areas which perform or could potentially provide significant natural resource functions. Degraded watershed health and a tightening industrial land supply pose challenges to updating the Willamette Greenway Plan and regulating riverfront development.

¹ Matt Lustig, February 2007

The River Concept, adopted by Portland City Council in April 2006, outlines the City's vision for the North Reach:

"The North Reach will continue to provide Oregon with access to global markets and support the region's economy as a west coast distribution hub and a heavy industrial area. Environmental cleanup, recreational access, and watershed health actions will contribute to the harbor's long-term vitality."

Integrating economic and environmental objectives to protect and improve watershed health while also protecting and enhancing the region's economic and industrial base is a key aspect of this endeavor. Creative multi-objective approaches, both regulatory and non-regulatory, will be required to optimize watershed function and industrial operations simultaneously. These solutions must heed the potential for litigation given the rights of property owners under Measure 37. Additionally, the City must comply with federal (ESA; CWA), state (TMDLs) and regional mandates, including Metro's Title 13 Nature in the Neighborhoods through the protection of significant fish and wildlife habitat. Metro granted Title 13 exemptions to several North Reach industrial property owners, including Schnitzer Steel and the Port of Portland, from the protection of *regionally* significant habitat. However, the City has decided not to honor these exemptions, therefore with the Greenway Plan update, these properties may potentially face mitigation requirements as a result of new City policy.²

Mitigation is one tool whereby property owners can provide compensation for impacts to on-site development on natural resources. Currently, within the City, mitigation is explicitly required within the Environmental and Greenway River Water Quality ('q') overlay zones, as well as within the Peninsula Drainage District 1 comprehensive Natural Resource Management Plan (NMRP) area. Mitigation measures may also be required as conditions of approval through greenway review within the Greenway River Natural ('n') overlay zone. Within the North Reach the 'n' overlay applies to a limited stretch of land, mostly in public ownership, clustered along Waud's Bluff and between the University of Portland and Swan Island Lagoon. The 'q' overlay requires an alternatives analysis and mitigation for unavoidable negative impacts to resources that perform water quality functions (e.g. natural water infiltration and purification, slope stabilization and stream temperature reduction) including wetlands and riparian and upland vegetation.

Though not defined as such in the Greenway Code, site- enhancement measures such as on-site landscaping and planting requirements as well as balanced cut and fill requirements that apply to development within all five Greenway overlay zones are viewed as mitigation by North Reach stakeholders.³

² Sallie Edmunds, personal communication, February 16, 2007

³ In addition to the 'q' and 'n', other Greenway overlay zones include River Industrial ('i'), River General ('g') and River Recreational ('r').

The piecemeal, site-by-site nature of current greenway mitigation and the above-mentioned on-site requirements do not maximize watershed health benefits and potentially restrict land-constrained industrial users from taking full advantage of the development potential of their properties.⁴ As such, property owners have expressed interest in an approach that offers greater flexibility and includes off-site mitigation options.⁵

This Workshop project comes at an opportune time in the River Plan process. The City has recently completed a Natural Resources Inventory Update (NRIU) which identifies, ranks and maps natural resource features and wildlife habitat throughout the City, including the North Reach. The NRIU results for the North Reach indicate that nearly half of the resources ranked for quality and quantity of riparian and wildlife habitat are outside of existing overlay zones designed to protect natural resources and requiring mitigation.^{6,7} Additionally, the Greenway code contains a sunset provision for the 'q' overlay triggered by the update of the Greenway Plan. As a result, this regulatory protection for water quality, however limited, will expire. The City may renew the 'q' overlay, replace it with a new overlay covering additional areas or, adopt new strategies involving both regulatory and non-regulatory tools to protect natural resource function.

The update of the city's NRIU as a tool to help improve watershed health and meet Title 13 requirements and the sunset of the 'q' overlay, present an opportunity for the Mitigation and Conservation Bank Task Group to explore several key issues related to the purpose and scope of current North Reach mitigation requirements and to inform the development of recommendations for new City mitigation policy.⁸ Primary among these are:

- **Who** should be required to mitigate and **why**?
- **Where** should mitigation be located; and what are the appropriate criteria to determine **when** mitigation should be on-site and/ or off-site?
- **What** would an off-site program look like?
- **How** much of the cost of mitigation should be paid by private landowners?

⁴ Sallie Edmunds, personal communication, February 12, 2007

⁵ Steve Kountz, *Working Harbor Reinvestment Strategy: Business Interview Results*, December 2006; Sallie Edmunds personal communication, January 2007

⁶ Roberta Jortner, NRIU River Plan Committee presentation, February 15, 2007

⁷ This coverage includes Kelley Point Park, PGE Harborton wetlands, the Linton waterfront and a stretch between the University of Portland and Cathedral Park for the "q" and along the BPA power-line corridor for the Environmental overlay.

⁸ See Appendix C, Mitigation and Conservation Bank Issue Paper for the full range of issues to be addressed by the Task Group.

III. Group Methodology

River People, Inc., will use the following methodology as a guide to deliver quality analysis and recommendations. Please refer to Section VI, Workshop Final Product, for a list of key milestones associated with these methods.

1. Direction Setting

River People will focus on mitigation options meant to improve natural resource function and provide flexibility for property owners in the North Reach. River People will convene a task group of stakeholders to provide technical expertise and advice in developing a range of alternatives to the City's current mitigation requirements.

2. Establish Evaluation Criteria

Criteria will be determined through the deliberations that occur during the task group process. General criteria may include being clear, simple, understandable and implementable; lead to the desired outcome; meet the City's multi-objective goals and River Renaissance principles; support the purpose of the Greenway overlay zone and advance city compliance with relevant federal, state and regional requirements; be efficient and cost-effective; and apply equitably to any person, organization, or agency.

3. Data Collection

River People, Inc., will gather data through a number of different methods, including: 1) research on programs and approaches identified from other jurisdictions; 2) interviews with stakeholders and those with expertise in natural resource mitigation (For a complete list of subject-area experts interviewed to date, see Item 8 of Appendix B); and finally, 3) input and suggestions that emerge from the task group process.

4. Identification of Alternatives

Alternatives will be generated as a result of the data collection process and in consultation with City staff.

5. Evaluation of Alternatives

River People will apply the criteria that emerge from the task group process to the alternatives. This evaluation will form the basis of recommendations developed in consultation with River Plan staff.



6. Make Recommendations

River People, Inc., will present the recommendations to the River Plan Committee. After all task groups conclude their work, these recommendations will be fully considered by the River Plan Committee during the integration phase of the River Plan.

7. Future Implementation, Monitoring and Evaluation

Implementation will occur after River People, Inc.'s, involvement has ended. The River Plan Committee will forward overall recommendations for the River Plan to the Planning Commission. After the Planning Commission stage, City Council will ultimately be responsible for implementation.



IV. Client Perspective & Responsibilities

River Plan staff are interested in building upon the work of the Watershed Health Task Group which discussed the concept of off-site mitigation for natural resource loss. Additionally, through a series of interviews with River Plan staff, industrial stakeholders have expressed concerns related to the current on-site mitigation requirements and have voiced support for the establishment off-site options. It is the responsibility of River People, Inc., to develop and present substantive recommendations based on solid research and clear analysis with conclusions drawn from appropriate models for:

- How the City should modify existing mitigation requirements within the North Reach;
- If an off-site program should be established;
- What the appropriate structure of such a program should be.

To develop the recommendations, River People, Inc., will convene the Mitigation & Conservation Bank Task Group. River People, Inc., are responsible for:

- Conducting background interviews;
- Communicating with Task Group members;
- Preparing appropriate background materials;
- Scheduling and facilitating meetings;
- Maintaining meeting notes;
- Analyzing solution concepts that emerge;
- Preparing a report with recommendations based on input from the Task Group;
- Presenting the recommendations to the River Plan Committee on May 15, 2007.

River Plan staff will assist River People, Inc., with the identification and selection of Task Group members and:

- Offer guidance on the strategic direction of the Task Group process;
- Prepare materials for the Task Group based on solution concepts that emerged from the Watershed Health Task Group;
- Provide feedback on materials River People, Inc., drafts for the Task Group, and the final report with recommendations.

River People, Inc., will work with River Plan staff to develop and implement public participation and community outreach opportunities. Public outreach efforts are also outlined in more detail in Section V of this report.

V. Public Outreach

When? The Public Outreach phase of this planning process will occur as the Task Group meetings are concluding, during the week of April 20-27 (for more details on how public outreach fits into this planning process, please refer to Section VI, Workshop Final Product, and Section VII, Product Timeline Matrix). River People, Inc., have strategically built in public outreach into this process at this stage in order to generate feedback on the ideas developed through the task group process, so that public input can be fed into the development of evaluation criteria to be used for the analysis.

What? Public Outreach will consist of a number of presentations by the River People, Inc., outlining criteria discovered through the task group process, during at least one (and possibly more) public meetings. One possible venue, the Portland Harbor Community Group Meeting, has already been identified. Other venues are to be determined. A field trip and/or site visit led by River People, Inc., for other PSU MURP students may also be scheduled.

How? The main tool used to capture the feedback generated at these meetings will be detailed note takers and two primary facilitators. Other tools to capture feedback—such as a questionnaire, survey, etc., is still to be determined.

Why? The primary purpose of the public outreach phase is to inform and augment the evaluation criteria established during the task group process, as well as to inform and augment the evaluation criteria that emerge from the regulatory Technical Advisory Committee. (For more on how these 3 efforts interrelate, see Section VI, Workshop Final Product. The integration of these three sources of evaluation criteria will be carried out by River People, Inc., and will allow the alternatives analysis phase of this planning project to move forward based on solid foundation.

VI. Workshop Final Product & Milestones

Workshop Final Product

The culmination of the processes outlined in earlier sections of this Work Plan (Task Group formation and facilitation, Establishment of Evaluation Criteria, Data Collection, Public Outreach) will take the form of a Final Report, which will serve two primary functions: a) convey to the River Plan Committee the policy recommendations developed by River People, Inc., on May 15th, 2007, and; b) fulfill the requirements of the MURP Workshop Planning capstone requirement.

The final report will contain recommendations regarding potential mitigation strategies for the Greenway Plan update and may include recommended changes to the City's current on-site mitigation requirements, including the possibility of either in-lieu fees and/ or conservation banking. Conservation banks are privately or publicly owned land managed for its natural resource values and used to offset environmental impacts from projects elsewhere. The natural resource benefits from this management regime are sold as "credits" to property owners to satisfy the mitigation requirements of their projects. An off-site in-lieu fee program may allow for coordinated natural resource protection and restoration among multiple property owners. These off-site options may result in larger contiguous areas dedicated to natural resource function, help the City meet its natural resource obligations and provide greater flexibility for property owners. If off-site mitigation strategies are sufficiently explored in task group meetings, our recommendations will address a range of key issues related to them including funding, ownership, management (e.g. maintenance and monitoring) and whether the mitigation should be located in the North Reach or operate at a regional scale. Recommendations may also incorporate the results of "testing" proposed solution concepts at specific sites in the North Reach if the task group schedule permits.

The Final Report will be informed by two decision-making tools: 1) a **list of criteria** that apply specifically to the North Reach project area, to be developed with the assistance and input of Task Group members and the regulatory stakeholders Technical Advisory Committee and informed by the results of public outreach efforts; 2) an **alternatives analysis** of the appropriate mitigation tools for the North Reach, to be conducted by River, People, Inc. with River Plan project team assistance.

The Final Report will ultimately give decision makers (River Plan Committee) the place- and policy-based considerations needed to make an informed decision about how best to achieve the goals of natural resource protection in balance with flexibility for landowners.

Date-certain presentation of the Workshop final product:

May 15th, 2007

Milestone Setting:

To ensure arrival at its final set of policy recommendations by the date-certain of May 15th, 2007, River People, Inc. will be responsible for ensuring that a number of key milestones are met. Readers of this Work Plan are encouraged to refer to the Product Timeline matrix, Section VII, for more details on scheduling and other associated tasks. The **primary milestones** are outlined below:

1. Invitations Extended to Task Group Members, to be conducted by River People, Inc., with the assistance of River Plan project team staff, prior to the week of March 5, 2007.

2. Issue Paper and related Task Group Process Documents, to be distributed by River People, Inc., to the task group members prior to 1st task group meeting on Wednesday, March 7, 2007: As discussed in other sections of this Work Plan (See Product Timeline matrix, Section VII, and Appendix C, Issue Paper), River People, Inc. has framed the issues which are to be presented to the task group members in an Issue Paper. The Issue Paper explores questions related to the logistics of setting up a mitigation program that could work for the North Reach project area, including those questions outlined in Section II, Problem Definition, of this Work Plan (i.e., Who should be required to mitigate and why? Where should mitigation be located; and what are the appropriate criteria to determine when mitigation should be on-site and/ or off-site?). Other Task Group Process Documents include the Task Group Charter Agreement, Meeting Agenda and Schedule (refer to Appendix C of the Work Plan for Task Group Process Documents).

3. Criteria Development

Development of Criteria to be used in the alternatives analysis will issue from 3 primary sources: 1) The Task Group members; 2) input gathered from Public Outreach efforts; and 3) feedback provided through the regulatory Technical Advisory Committee. Because these efforts will need to be carried out contemporaneously, River People, Inc. has outlined date-certain expectations for "Criteria Development" products.

Task Group Product: Criteria Development, to be completed at the final Task

Group (Mtg. 4, April 19) It will be the responsibility of each of the Task Group members to consider the issues presented, and to provide the more detailed input on constraints/ opportunities that might exist within the River Plan North Reach project area (See Map, page 2) with respect to the different mitigation tools examined. Criteria must be developed in conjunction / coordination with data gathered from two other efforts: Public Participation/ Outreach (see below) and regulatory Technical Advisory Committee.

Public Participation/Outreach (Citizen Groups), to be conducted during the week of **April 20-27, 2007**. River People, Inc., will take the opportunities/constraints developed during the Task Group process and present these to citizen groups such as the Portland Harbor Community Advisory Group. Data gathered as part of public outreach efforts (See Section V, Public Participation, and Section VII, Product Timeline matrix for more details) will inform the criteria used for an alternatives analysis.

Convening of the Regulatory/Technical Advisory Committee, to be conducted during the week of April 20-27, 2007. River People, Inc., will take the opportunities/constraints developed during the Task Group process and present these to a group of Regulatory Technical advisors. Suggestions that emerge from the Regulatory Technical Advisory Committee will also inform the criteria used for an alternatives analysis.

4. Alternatives Analysis, to be conducted by River People, Inc., with River Plan project team assistance, by April 30, 2007.

5. Formulation of Policy Recommendations for Final Report, to be conducted by River People, Inc., with River Plan project team assistance, April 30-May 14, 2007.

VII. River People, Inc. – Product Timeline Matrix

MURP Workshop: River Plan Mitigation/ Conservation Bank Task Group																					
Product Timeline Matrix																					
Product	Feb	Feb	F/ Mar	Mar	Mar	Mar	M/ Apr	April	April	April	April	A/ May	May	May	May	May/ J	June				
	12_18	19_25	26_4	5_11	12_18	19_25	26_1	2_8	9_15	16_22	23_29	30_6	7_13	14_20	21_27	28_3	4_10				
Draft Work Plan & MOU	12																				Written Product
Workshop Presentation Draft Work Plan & MOU		19																			PSU Product Deadline
Draft Background Issue Paper, Charter, Meeting Outline River Plan Staff review		21																			River Plan Deadline
Final Background Issue Paper, Charter, Meeting Outline			28																		Interviews
Select Task Group			2																		Task Group Meeting
Complete Background Interviews			2																		TG/ PSU Presentation
Final Workshop Work Plan & MOU				5																	Outreach Presentation
Task Group Meeting 1: Orientation Introduction, Charter, Issue Paper Discussion of issues # 1, 2, 3				7																	
Workshop Self/ Peer Assessments					12																
Revised Issue Paper Meeting #1 Notes Background Materials: Other Jursidictions Email for Task Group review					14																

Product	Feb	Feb	F/ Mar	Mar	Mar	Mar	M/ Apr	April	April	April	April	A/ May	May	May	May	May/ J	June			
	12_18	19_25	26_4	5_11	12_18	19_25	26_1	2_8	9_15	16_22	23_29	30_6	7_13	14_20	21_27	28_3	4_10			
Task Group Meeting 2: Off-site mitigation Discussion of issues # 1, 2, 3... Presentations: Off-site mitigation programs: Hazlett; MacAuley; Harding- Camas WA, S.F. Bay, Commencement Bay, WA						22														
Meeting #2 Notes Conservation Banking Materials Email for Task Group review							29													
Task Group Meeting 3 Conservation Banking Discussion of issues # 4, 5, 7 Presentations: Conservation Banking: Sky Miller, Wildlands, Inc.; Krystyna Wolniakowski, National Fish & Wildlife Foundation								5												
Meeting #3 Notes Draft Proposed Solution Concepts Email for Task Group review									12											
Draft Criteria Matrix									12											
Task Group Meeting 4: Applying Solution Concepts to the North Reach Proposed Solution Concepts Final Issue Discussion #2, 4, 5, 6, 7										19										
Public Participation: Technical Advisory Committee Present Task Group Results										20- 27										
Public Part., cont: Portland Harbor Community Advisory Group Present Task Group Results										20- 27										

Product	Feb	Feb	F/ Mar	Mar	Mar	Mar	M/ Apr	April	April	April	April	A/ May	May	May	May	May/ J	June				
	12_18	19_25	26_4	5_11	12_18	19_25	26_1	2_8	9_15	16_22	23_29	30_6	7_13	14_20	21_27	28_3	4_10				
Revised Solution Concepts Meeting #4 Notes Email for Task Group review											23										
Revised Criteria matrix											27										
Draft Report with Recommendations River Plan Staff review												30									
Class Presentation Findings & Conclusions													9								
Final Report w/ Recommendations													9								
Presentation of Final Report w/ Recommendations River Plan Committee														15							
Draft University Report Faculty Review														16							
Final University Presentation															23,25						
Client Presentation															23 or 30						
Final University Report																	6				
Final Self/ Peer Assessment																	6				

Appendix A:

River People, Inc., Documents

- | | |
|---------------|---|
| Item 1 | Memorandum of Understanding |
| Item 2 | What Makes a Good Workshop Project? |
| Item 3 | Staff Bios |
| Item 4 | Staff Roles & Responsibilities |
| Item 5 | Group Decision Making and Communications |

Item 1 Memorandum of Understanding

To: Sallie Edmunds, Bureau of Planning
From: River Plan Workshop Team (River People, Inc.)
CC: Ethan Seltzer, Sumner Sharpe, PSU Planning Workshop
Re: Terms of Agreement – Planning Workshop Project

Date: February 8, 2007

WHEREAS the Bureau of Planning and the Workshop Team agree that:

1. The River Renaissance Vision Themes are applicable within the North Reach: A Clean and Healthy River; A Prosperous Working Harbor; Vibrant Waterfront Districts and Neighborhoods; Portland's Front Yard and Partnerships, Leadership, and Education
2. Protecting natural resources in the North Reach of the Willamette within an industrial sanctuary requires integrating economic and environmental goals to protect and improve watershed health while also protecting and enhancing Portland's working harbor
3. The City must comply with City, regional, state and federal goals, regulations and mandates to protect water quality and natural habitat in the North Reach
4. The River Plan Project Team is engaged in a planning process to update the Willamette Greenway Plan and implementing tools (e.g. Greenway Code and Design Guidelines) to comply with these goals, regulations and mandates
5. The feasibility of implementing measures necessary for improving watershed health and protecting and restoring natural resources in the North Reach requires creative solutions
6. Industrial stakeholders concerned with land constraints on industrial sites have raised issues with current on-site mitigation, planting and balanced cut and fill requirements and have suggested implementing of off-site mitigation options
7. Creating an off-site mitigation program may allow for coordinated natural resource protection and restoration among multiple property owners yielding greater ecological benefit than a piecemeal site-by-site approach

NOW THEREFORE, BE IT RESOLVED THAT the Workshop Team will assist the Bureau of Planning by undertaking the following tasks:

1. Select, in consultation with River Plan staff, the appropriate City, State and federal agency representatives and organized interests to sit on the Mitigation / Conservation Bank Task Group
2. Convene, facilitate, and provide process documents for the aforementioned Task Group, including a Task Group Charter, Mitigation Issues Background Paper, Issue summary Table, and Potential Solution Concepts

3. Provide meeting agendas, meeting notes and process documents to River Plan Staff for posting on the River Plan website and River Plan News
4. Work in consultation with River Plan staff to develop and implement public participation and outreach efforts as part of the planning process
5. Conduct an analysis of the alternatives that emerge from the Task Group
6. Develop in consultation with River Plan staff, recommendations for amendments to the Greenway Plan and provide guidance for future Greenway Code changes related to on-site mitigation and present these recommendations to the River Plan Committee on May 15, 2007.

BE IT FURTHER RESOLVED THAT River Plan staff will assist the Team by providing:


1. Time for meetings and general consultation
2. Assistance in selecting stakeholder representatives
3. Technical review of background and process documents including all reports
4. Support for public outreach and participation


BE IT FURTHER RESOLVED THAT this relationship will produce 4 main bodies of work:

1. A Mitigation/ Conservation Bank Issues Background Paper
2. An abbreviated Background Issues Synopsis
3. A decision document in the form of an Alternatives Analysis Matrix
4. A Final Mitigation/ Conservation Bank Report in the form of recommendations based on advice from the Task Group, background research and interviews. This Report will include the content of the aforementioned documents. An appendix will contain a summary of Task Group meetings.

ADOPTED ON: March 5th, 2007

Date: 3/5/07


Sallie Edmunds, Bureau of Planning


Shannon Buono, Bureau of Planning


Matt Harding, River People, Inc.


John Hazlett, River People, Inc.


Matt Lustig, River People, Inc.


Anita MacAuley, River People, Inc.

Item 2

What Makes a Good Workshop Project?

A good workshop project meets the following criteria:

- Begins with a well-defined problem statement;
- **Strives for public involvement at key stages of the planning process;**
- Identifies and outlines the planning process to be followed;
- Serves the public interest;
Provides an innovative/elegant solution;
- Identifies and uses the appropriate planning tools;
- Defines the outcome/work products.

Values and Assumptions:

Because no planning process can claim perfect neutrality, River People, Inc., feels it is important to state our value assumptions. In addition to abiding by the AICP Code of Ethics and Professional Conduct (<http://www.planning.org/ethics/conduct.html>), some key assumptions will guide us as we make decisions and enlist the help of stakeholders to make decisions. These key assumptions take the form of substantive “frames” through which a problem is viewed.

Key Assumptions:

- Watershed health in the Willamette is degraded
- The City is committed to the recovery of salmon and improving watershed health.
- The working harbor is vital to the long-term economic health of the region.
- Current regulations and approaches do not ensure improvement of watershed health.
- Some industrial property owners consider on-site mitigation requirements to be onerous and place burdensome constraints on industrial development. Such requirements have been successfully opposed in the past.
- Off-site mitigation may allow for improved watershed health and reduce constraints on industrial land.
- Concentrating habitat restoration in specific locations may yield greater ecological benefits than on-site parcel by parcel mitigation requirements.

Other assumptions can be more procedural in nature. Because a focus of this planning process will be the convening of a Task Group, and because a main goal of the Task Group will be the development of creative, integrative approaches, much thought and care will need to go into the formulation of safe rituals that will allow fresh ideas and synergies to emerge. John Forester, in *The Deliberative Practitioner*, calls these “participatory rituals.”⁷ River People, Inc, is committed to group learning in deliberative settings, and has established a set of participatory rituals for its own staff meetings (see, Staff Communications, Appendix 4). River People, Inc., will also be reflecting on and establishing appropriate participatory rituals for the Task Group as the planning process moves forward.

⁷ Forester, John. *The Deliberative Practitioner: Encouraging Participatory Planning Processes*. The MIT Press, Cambridge. 1999

Matt Harding

Matt Harding currently works for the law firm of Bullivant Houser Bailey PC and is an avid outdoorsman and dedicated bicycle commuter. His MURP specialization is in environment and transportation. He was born and raised in Milwaukee, WI, before moving west where he received a B.S. in Environmental Studies and Political Science from the University of Oregon. Matt moved to Portland in 1997 and has since been an active member of his neighborhood association. He currently lives in Northeast Portland and is busy raising his 9 month old son, Jack.

John Hazlett

John Hazlett is an Indianapolis Colts fan and has a strong interest in stormwater management. He hails from the Hoosier state and holds a B.A. in Cultural Anthropology from Indiana University. His experience includes work for the City of Portland's Bureau of Environmental Services, where he has focused on stormwater management and Superfund site analysis. He has also logged time at Portland State University's Community Environmental Services, where he worked to implement recycling and waste reduction awareness programs. John has lived in Portland since 2001.

Matt Lustig

Matt Lustig hails from the Chicago area. He currently works for the City of Portland in the Bureau of Planning, on the River Plan, North Reach planning project team. He holds a B.A. in political science and environmental studies from St. Lawrence University and a M.S. in Environmental Studies from the University of Montana. Matt's experience includes teaching history at independent schools in New York, New Jersey, and Nevada. He has a chocolate lab named Jackie and lives in Northwest Portland.

Anita MacAuley

Anita MacAuley served as administrative assistant in the Habitat Conservation Division at NOAA Fisheries for several years before applying to the MURP program. She currently works at the City of Portland, Bureau of Planning's Code Development Group, where she's helping out with research and monitoring for the regulatory improvement process. Anita holds a degree in French from the University of Oregon. She has an Australian Shepherd named after a Portland street.



Item 4 Staff Roles & Responsibilities

Key Roles and Responsibilities

All four team members will be responsible for conducting background research, expert interviews, public outreach, planning bi-weekly meeting agendas and preparing presentations and written documents for both the client and university. Each team member will also have additional individual duties that will be as follows:

- Matt Lustig will be the primary communication link with the client. He will also be responsible for contacting task group members as well as maintaining the product matrix.
- Anita MacAuley will be the final editor for all prepared documents as well as keeper of the decision log.
- John Hazlett will create the company logo as well as send out weekly responsibility email reminders. He will also be responsible for task group member invitations.
- Matt Harding will be in charge of creating, maintaining and updating the company website (the "Wiki").

Task Group Meeting Roles and Responsibilities

River Plan, Inc., in cooperation with the client, will be responsible for scheduling task group meeting times, providing meeting agendas, planning expert presentations, supplying all relevant background materials and facilitating each meeting.

At each meeting, one team member will act as lead facilitator, one as secondary facilitator and two will be note takers. The roles will rotate through all four meetings so that each team member will assume each role at least once. In addition, Anita MacAuley, John Hazlett and Matt Harding will prepare short presentations for the task group on other jurisdiction examples for one of the meetings.

All team members will be involved in presenting the final recommendations to the River Plan Committee, client and university faculty.

Group Decision Making

River People Consulting is composed of 4 team members, and brings together a diversity of skills and backgrounds. Because the Task Group planning process will require excellent facilitation skills and creative solutions, this team has established a commitment to clear and thoughtful communication and will strive to maintain an environment where ideas are heard openly. All group members bring something valuable to the Workshop process, and we strive to allow for an open, deliberative environment so that the best solution can be discovered among a range of options.

To achieve these goals, River People, Inc., will rely on a number of process tools, as outlined below.

1. To aid in group memory and for the purposes of recording key decisions, the team will maintain a decision log, to be updated at key milestones in the planning process.
2. Weekly staff meetings will aid in scheduling deliverables and allow for collaborative team efforts to emerge through structured “brainstorming” time each week;
3. “Interview Teams” will hold for all informational interviews. To achieve greater transparency in understanding of key issues, two team members will be present at all informational interviews and will report back to other team members on key findings and understandings;
4. A designated “Take Aways” scribe will send out follow-up notes to the team to reinforce deliverables and due dates.

Staff Communications

In the interest of creating “safe rituals,” and a participatory setting where the best work can emerge, River People Consulting has established ground rules for how staff meetings are to be carried out. Staff meetings with all members present will take place once a week, with more meetings scheduled as needed. Each meeting will be conducted with the aid of a meeting agenda, to be prepared in advance of the meeting and distributed at the beginning of each meeting. Before agenda items are addressed, each team member will have an opportunity to raise questions/concerns, and to add items to the agenda. Each staff meeting will also include “brainstorming” sessions as needed to assist in idea development and airing of concerns/issues related to the Workshop project.

Appendix B:

Research / Background Materials

- | | |
|---------------|--|
| Item 6 | Regulatory Framework |
| Item 7 | Historical Context |
| Item 8 | List of People Contacted / Interviewed as of (3/2/2007) |

Item 6 Regulatory Framework & Background & Historical Context

Regulatory Framework

This project is set in a multi-layered regulatory framework of various relevant federal, state, regional and local policies that guide planning efforts in the North Reach. Many of these policies are interrelated in that regional or city policies are often the local implementation of federal and/or state mandates. A brief review of the relevant federal, state, regional and City policies demonstrate the regulatory context for our recommendations.

Federal:

1899 Rivers and Harbors Act

The U.S. Army Corps of Engineers regulates all activities within navigable waters and requires a Section 10 permit for all structures which affect the course, location, or condition of the water body.

1972 Clean Water Act (CWA)

The U.S. Army Corps of Engineers administers Section 404 of the Clean Water Act which regulates the discharge or fill of dredged material into the waters of the United States and adjacent wetlands. Section 404(b)(1) outlines the sequence of avoidance, minimization and compensatory mitigation for impacts to waters of the U.S. and wetlands. The mitigation required is a minimum of 1:1 ratio and increases in consideration of the scarcity and quality of the habitat to be impacted, the cumulative effects of projects throughout the watershed, and the expected degree of success associated with the mitigation plan.

Through the Oregon Department of Environmental Quality, the CWA also regulates pollutant discharges to waters of U.S. through establishment of water quality standards and total maximum daily loads (TMDLs). Under the CWA, the City of Portland manages permits for stormwater and wastewater discharges, permits for in water sediment removal and fill, and compliance with TMDL requirements and water quality standards. TMDLs for the Willamette mainstem in Portland that includes the North Reach were recently set for temperature, bacteria and mercury. The City will develop a Local Implementation Plan in the next 2 to 3 years to meet these TMDLs.

The Rivers and Harbors Act and Clean Water Act programs act together to meet the federal laws designed to protect, conserve, restore and maintain the physical, chemical and biological integrity of waters of the United States.

1973 Endangered Species Act (ESA)

In 1998 and 1999, NOAA Fisheries listed steelhead trout and Chinook salmon as threatened under the ESA. In 2005, coho salmon were also listed. The North Reach provides critical habitat for migrating salmonids and is vital to the City's desire to assist with the recovery of listed fish.

1980 Comprehensive Environmental Response, Compensation and Liability Act (CERCLA)

Due to the presence of contaminated sediments in the river, the Portland Harbor was designated a federal Superfund site in 2000. Contaminates were found in sediments between the southern tip of Sauvie Island to Swan Island, a major portion of the North Reach. Upland sites within the harbor are also being investigated and cleaned up through an IGA between the City, Oregon Department of Environmental Quality (DEQ) and several businesses.

1986 Water Resources Development Act (WRDA)

This legislation authorized construction or study of 270 Corps projects related to water resources development and planning. WRDA authorizes the Corps to create or enhance fish habitat and requires mitigation when projects harm habitat. The City of Portland is sponsoring the Corps' Lower Willamette River Ecosystem Restoration project to facilitate restoration actions throughout the Lower Willamette, including the North Reach.

State:

1967 Oregon Removal Fill Law

The Oregon Department of State Lands requires a permit for projects requiring the removal or fill of 50 cubic yards or more of material from waters of the state. Additionally, many projects also require a federal permit from the Corps under Section 404 of the Clean Water Act. DSL has the ability to authorize and protect designated water bodies including protecting public navigation, fishery and recreational uses, flood protection, water quality, and providing fish and wildlife habitat. Similar to the Corps, DSL also requires compensatory mitigation for resource impacts. Complete rules are listed in the Oregon Administrative Rules (ORS 141-085-0121 through 141-085-0176). Such mitigation may include off-site or on-site enhancement.

1973 Statewide Planning Goals

There are three planning goals that guide planning in the North Reach: Goals 5 (Natural Resources), 6 (Water Quality) and 15 (Willamette Greenway). The City recently conducted a Natural Resource Inventory that includes the North Reach and will meet Goal 5 requirements through compliance with Metro Title 13. Goal 6 is addressed through Metro Title 3 and Goal 15 through the City's Willamette Greenway Plan.

Regional:

Metro's Urban Growth Management Functional Plan contains implementation tools for the 2040 Growth Concept. Applicable regulations include:

Title 3 implements State Land Use Planning Goal 6 (Water Quality) through performance standards that protect water quality in streams, rivers and wetlands. Title 3 requires preservation of riparian corridors, the use of native vegetation along streams and wetlands, and balanced cut and fill in the floodplain. The City achieved compliance with Title 3 requirements in the North Reach in 2002 through establishment of a Water Quality ('q') overlay zone in the Willamette Greenway chapter of the Zoning Code.

Title 4 restricts the nature of non-industrial land uses in Regionally Significant Industrial Areas determined by Metro. The North Reach includes the Willamette Industrial Sanctuary and Portland's working harbor.

Title 13 (Nature in the Neighborhoods Program) is intended to protect and restore the region's fish and wildlife habitat through identification of significant upland and riparian habitat conservation areas (HCAs), Title 13 also implements Statewide Planning Goal 5. Local jurisdictions must establish programs to prevent impacts to these areas and mitigate unavoidable impacts. Approximately 480 acres of HCAs have been designated in the North Reach, but several industrial property owners were exempted from the requirements due to their economic importance. Much of the HCAs in the North Reach lie outside of the 'q' overlay zone.

City policies:

1979 Willamette Greenway Plan (updated in 1987) is considered part of the City's Comprehensive Plan. The Greenway Plan implements Statewide Planning Goal 15. The plan guides development on lands adjacent to the Willamette River and within 150 feet of the river's ordinary low water line through a series of land use controls including five overlay zones which include the purpose of conserving or enhancing the river's scenic and natural qualities:

- River Natural ('n') protects, conserves, and enhances land of scenic quality or of significant importance as wildlife habitat
- River Recreational ('r') encourages river- dependent and river-related recreational uses which provide a variety of types of public access to and along the river while enhancing the river's natural and scenic qualities

- River General ('g') allows for uses and development which are consistent with the base zoning, which allow for public use and enjoyment of the river, and enhance the river's natural and scenic qualities
- River Industrial ('i') encourages development of river-dependent and river-related industries which strengthen the economic viability of Portland as a marine shipping and industrial harbor, while preserving and enhancing the riparian habitat and providing public access where practical
- River Water Quality ('q') protects the functional values of water quality resources by limiting or requiring mitigation of development impacts within the setback zone implements parts of Metro's Urban Growth Management Functional Plan and is applied over the other four Greenway overlays and underlying base zoning.

The Greenway Plan also includes design guidelines and landscaping requirements. The overlay zones and landscaping requirements are codified in Chapter 33.440 of the City's Zoning Code.

Environmental Overlay Zones

Goals for these zones include avoiding, minimizing and mitigating for unavoidable impacts caused by development. The Environmental Protection ('p') overlay zone and the Environmental Conservation ('c') overlay zone apply to all mapped environmentally sensitive areas including streams that drain into the Willamette River. The City requires mitigation for impacts to natural resources within the 'p' and 'c' zones. Except where mitigation could be better provided elsewhere, mitigation will occur:

- On-site and as close as practicable to the area of disturbance
- Within the same watershed as the development
- Within the Portland City limits

2001 River Renaissance Vision introduced five interrelated themes to guide future planning efforts for the river. A Clean and Healthy River; A Prosperous Working Harbor; Vibrant Waterfront Districts and Neighborhoods; Portland's Front Yard and Partnerships, Leadership, and Education. The first two themes are particularly relevant to the North Reach. Collectively they formed the basis for the River Renaissance Strategy. "At the heart of the River Renaissance is a commitment to improve the economy, ecology, and social aspects of the Willamette River simultaneously, recognizing that these interdependent systems are vital to Portland's well being and are best considered as a whole."

2004 River Renaissance Strategy

- Provides guiding principles for decision making related to the river
- Illustrates creative solutions to river-related issues
- Offers actions to enhance the ecological, economic, cultural and recreational aspects of the river

2005 Portland Watershed Management Plan establishes citywide goals and objectives to protect and improve watershed hydrology, physical habitats, water quality and biological communities.

2006 River Concept builds on previous policy work developed in the River Renaissance. The River Concept will guide development of the River Plan ("What is the River Plan", pg. 2), which includes an update of the Willamette Greenway Plan, design guidelines and zoning map as well as development of a Working Harbor Reinvestment Strategy for the North Reach.

2006 Working Harbor Reinvestment Strategy is an economic development component of the River Plan. The Strategy will coordinate public investments by the City, PDC and the Port of Portland in land, workforce and infrastructure. The goal is to eliminate barriers to expansion and redevelopment.

Historical Context: A River Transformed

The Willamette River is an essential element of Portland's self-image as a port city and has served as a backdrop to the city's history, from the docks and warehouses that lined the waterfront in the mid 1840s to the modern glass towers at South Waterfront. The river divides east and west and passes through a variety of natural and urban landscapes before it enters the heavily industrialized North Reach north of the Broadway Bridge. Throughout

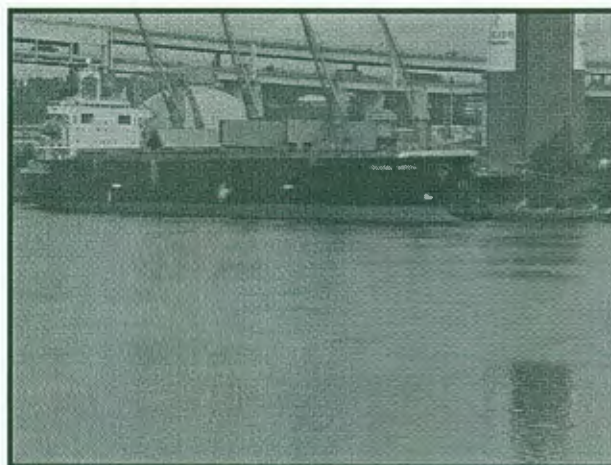


Portland's history, the success of the harbor has depended on human manipulation of the Willamette's natural form, whether through filling of the river's floodplain, bank hardening or dock and pier development, and efforts to narrow and deepen the mainstem navigational channel.

North Reach: A Portland IndustrialSanctuary

The North Reach epitomizes the working harbor that has established Portland's position as a gateway to global trade. The city's Comprehensive Plan designates the North Reach as Portland's industrial sanctuary. The harbor's proximity to a multimodal freight infrastructure and convenient access to regional markets have made Portland the fourth largest West Coast port by tonnage. The Rivergate District and Swan Island in the northern and southern ends of Portland Harbor are cluster locations for the region's metals and transportation equipment manufacturing industries.

The Northwest Industrial District is home to metals manufacturing and distribution. River access is essential to the success of these industries, and the abundance of marine terminals throughout the harbor is a competitive advantage that supports their long term presence in Portland.



Industrial and commercial development have altered the complex hydrologic system that once characterized the North Reach. Bank

treatments now prevent the river from connecting with its floodplain, resulting in the loss of potential shallow water habitat for the wide range of fish that use the North Reach. Bank treatments are so common that less than one-third of the Lower Willamette's banks are in natural condition. Filling of wetlands and floodplain areas to facilitate new development or expansion further contribute to the loss of natural resource functions (flood storage capacity, stormwater filtration, off-channel habitat) in the North Reach. Additional effects of industrial development include an increase in impervious surface, channeling of tributary streams, and loss of upland habitat, including trees and vegetative patches that are home to wildlife. The cumulative effects of these changes on watershed health in the North Reach have been detrimental and non-supportive of the fish and wildlife that use this stretch of the river for various purposes.



Item 8**List of People Contacted / Interviewed (as of 3/2/2007)**

2/12 Bettina Von Hagen, Ecotrust (emailed for interview, no response)
2/13 Bobby Cochoran, Clean Water Services (interview)
2/13 Dave McAlister, Portland Parks & Recreation (contacted, no interview set up)
2/15 Bruce McClelland/Bob Eaton, Multnomah County Drainage District No.1 (interview)
2/15 Mike Reed, BES (interview)
2/15 Dave Kliewer, BES (interview)
2/15 Dawn Sanders, BES (interview)
2/15 Phil Grillo, Miller Nash (contacted re: task group)
2/15 Anne Gardner, Schnitzer Steel/ Working Waterfront Coalition
2/16 Kevin Halsey, Parametrix (interview)
2/20 Noel Netusil, Reed College (interview)
2/21 Greg Theisen, Port of Portland (contacted re: task group)
2/21 Nancy Munn, NOAA Fisheries (contacted re: task group)
2/22 Susan Barthel, BES (interview)
2/23 Zari Santer, Portland Parks & Recreation (no response)
2/23 Bonny McKnight, (no response)
2/27 Sarah Vickerman, Defenders of Wildlife (emailed re: task group)
3/2 Dave Hendricks, MCDD No. 1 (interview)
3/2 Deb Lev, Portland Parks & Recreation (interview)

Appendix C:

Task Group Documents

Item 9 Charter Agreement

Item 10 Issue Paper

Item 11 Meeting Outline



Mitigation/ Conservation Bank Task Group Charter

(Goals and Working Agreements)

March 7th, 2007

Scope of the Mitigation/ Conservation Bank Task Group

Advise the River Plan Staff on:

- Achieving optimal mitigation strategies for the North Reach (e.g. increasing flexibility for property owners and maximizing natural resource function)
- Applicability of alternative models for off-site mitigation (e.g. in-lieu fees and conservation banking) to the North Reach
- Opportunities to successfully integrate mitigation strategies with other North Reach priorities and actions (e.g. industrial and economic development, recreation)

Due to the interrelationship of issues, the Mitigation/ Conservation Bank Task Group is invited and expected to provide information and feedback on other issues, including but not limited to discussions related to watershed health, riverbank treatment, and balanced cut and fill as they relate to facilitating optimal mitigation strategies within the North Reach. The Mitigation/ Conservation bank Task Group is also expected to review and comment on solution concepts related to mitigation advanced by the Watershed Health Task Group.

Given the abbreviated duration of this Task Group, the group agrees to keep its work tightly focused. The following issues or items are outside of the purview of this group:

- Evaluating data, research methodologies or recommendations included in adopted documents
- Resolving issues outside of the boundaries of the River Plan Project Area

Task Group Membership

1. Task Group members have been selected by the Task Group staff based on the following criteria:
 - Expertise and interest in issues to be discussed by the group
 - Ability to consider multiple perspectives and the larger context of river planning
 - Availability
2. The Task Group will be formally convened from March 7 through May 2007.
3. Presentation of Task Group recommendations to the River Plan Committee is scheduled for May 15th, 2007.
4. The Task Group will be led by students from the Master of Urban & Regional Planning program at Portland State University with support from Bureau of Planning staff.
5. Should a member fail to participate in meetings or resign from the Task Group prior to the completion of the group's work, a replacement member may be appointed by the Task Group staff if it is determined that a replacement would benefit the productivity of the group.

Arriving at an Outcome

The Task Group should strive to craft and recommend approaches and solutions that are workable for a wide range of river-related needs and interests. While consensus is desirable, it is not the goal of the Task Group. Instead, the group should strive for open and constructive dialogue to ensure that potential solutions are well tested, and that diverging opinions are aired, discussed and documented.

Role of the Task Group Members

1. Review background materials to understand the issues associated with mitigation in Portland within the North Reach.
2. Discuss key topics and issues within the purview of the Task Group.
3. Affirm criteria and priorities for successful solutions.
4. Analyze the strengths and weaknesses of a variety of draft solution concepts to ensure that all perspectives are on the table.
5. Provide a technical sounding board for staff to ensure that a variety of data and viewpoints have been considered in the formulation of recommendations.
6. Provide feedback and guidance to River Plan staff regarding issues that interrelate with mitigation.
7. Respond to questions and issues raised by the River Plan Committee, as appropriate.
8. Review the draft River Plan / North Reach when it is finished.
9. Inform constituencies of the Task Group's work and relay any comments back to the Task Group staff.

Role of the Task Group Staff

1. Convene and facilitate Task Group meetings.
2. Manage the process for the good of the Task Group as a whole.
3. Develop pertinent materials (e.g. background issue paper) as needed and meeting agendas and distribute these in advance of Task Group meetings.
4. Post agendas and other meeting materials on the River Plan website.
5. Guide Task Group discussions.

6. Develop notes from Task Group meetings and distribute them within one week of the meeting. These notes should faithfully represent areas of general agreement within the task group and areas in which there are diverging viewpoints. Once the Task Group approves the notes, Task Group staff will post them on the River Plan website.
7. Create a working report that documents key topics and issues and draft solution concepts.
8. Provide updates to other Tasks Groups and the River Plan Committee as appropriate.

Process Agreements

Protocols

1. Task Group staff will preside over the meetings, except in instances when a third-party facilitator is designated.
2. Meetings are open to any person who may wish to be heard regarding any item on the agenda. It is at the discretion of the Task Group staff when public comments will be received at the meeting.

Attendance and Participation

1. Because of the timeline and the scope of the task, it is important that members make every effort to attend meetings.
2. As a courtesy, Task Group staff should be notified in advance if a member is unable to attend.
3. If a member is unable to attend, he or she may provide comments on the notes and/or draft report.

Individual Agreements

Task Group Members agree to:

1. Listen and be open to diverse points of view represented on the Task Group.
2. Treat each other with civility and respect.
3. Strive to further understand the needs and interests of the broad range of communities that are stakeholders in the activities and plans for the river.
4. Provide fair and balanced information to constituencies about the issues that come before the Task Group and the River Plan Committee's discussions.

Confidentiality and Contact with the Media

Members may choose to respond to media inquiries, but agree to honor the group process and not use it to promote individual "agendas" or presume to represent the positions of other members or the group.

Mitigation/ Conservation Bank Issue Paper

March 2, 2007 DRAFT

Issue to be Addressed by the Task Group

The Mitigation/ Conservation Bank Task Group will consider concepts advanced by the Watershed Health Task Group related to current mitigation requirements within the North Reach. In addition, the Task Group will identify and explore alternative models for off-site programs applicable to the North Reach, including in-lieu fees and conservation banking.

Key Question

Given current economic, environmental, political, and legal conditions, which mitigation strategies will best facilitate the City meeting its natural resource obligations and multi-objective goals of enhancing watershed health in the North Reach, while simultaneously protecting the working harbor?

Background to the Issue

The Willamette River flows north through downtown Portland to its confluence with the Columbia River. This stretch of river, the North Reach, contains Portland's heavy industry, working harbor and multimodal freight infrastructure which have served as the backbone of the region's economy and established Portland's position as a gateway to global trade. The North Reach remains vital to the region's economy today. The success of these industrial activities has required intensive upland development, human manipulation of the Willamette's form through the placement of fill material in the floodplain and in streams and wetlands, dredging of the navigational channel and armoring of the banks. The complex hydrologic systems that characterize the North Reach have been impaired by the cumulative effects of pollution discharge and stormwater run-off. This activity has reduced water quality, contributed to Portland Harbor's listing as a Superfund site and reduced natural resource function and fish and wildlife habitat along this stretch of River.

As a result of federal (Superfund, ESA, Clean Water Act, WRDA), state (Statewide Planning Goals 5, 6 & 15; DEQ TMDLs) and Metro mandates (Titles 3 & 13), and City policies (Willamette Greenway Plan, River Renaissance Vision and Strategy; Portland Watershed Management Plan; River Concept, Natural Resources Inventory), the City is committed to developing regulatory and non-regulatory strategies to conserve and enhance natural resources along the Willamette. The goal is to increase natural resource function without placing an undue economic burden on private property owners facing the effects of a tightening land supply within the harbor.

The River Plan is an effort to update the Willamette Greenway Plan, zoning code and design guidelines to reflect contemporary challenges within the Greenway consistent with the five interrelated *River Renaissance* themes:

- *Ensure a Clean and Healthy River System for Fish, Wildlife and People*
- *Maintain and Enhance a Prosperous Working Harbor*
- *Create Vibrant Waterfront Districts and Neighborhoods*
- *Embrace the River and its Banks as Portland's Front Yard*
- *Promote Partnerships, Leadership, and Education*

The River Concept, adopted by Portland City Council in April 2006, outlines the City's vision for the North Reach:

"The North Reach will continue to provide Oregon with access to global markets and support the region's economy as a west coast distribution hub and a heavy industrial area. Environmental cleanup, recreational access, and watershed health actions will contribute to the harbor's long-term vitality."

Integrating economic and environmental objectives to protect and improve watershed health while also protecting and enhancing the region's economic and industrial base is a key aspect of this endeavor. Creative multi-objective approaches, both regulatory and non-regulatory, will be required to optimize watershed function and industrial operations simultaneously.

Current City Regulations that Require Mitigation

Mitigation is required within the City's Environmental and Greenway overlay zones, as well as within the Peninsula Drainage District no. 1 comprehensive Natural Resource Management Plan (NMRP) area.

Environmental zones protect and conserve resources and functional values that have been identified by the City as providing benefits to the public. Environmental review requires an alternatives analysis and mitigation plan whenever the proposed development will result in unavoidable significant detrimental impact on the identified resources and functional values.

The Environmental zones also include a menu of site enhancement options to be performed in exchange for increases in building coverage and exterior improvements. These include restoration plantings, impervious surface reduction, parking lot retrofit, or payment of a re-vegetation fee to the Bureau of Environmental Services (BES) re-vegetation program.

Greenway overlay zones: The River Water Quality ('q') overlay zone protects the functional values of water quality resources by limiting or mitigating the impact of development in the greenway setback. An alternatives analysis describing how the proposed location of the activity will have the least detrimental impact to the functional values is required. River-dependent industrial uses, however, are not in the 'q' zone and are thus exempt from the mitigation requirements. The City achieved compliance with Metro's Title 3 (Water Quality) on the Willamette through the 'q' zone to protect and improve water quality, and the functional values of the water quality resource area. Title 3 also required balanced cut and fill in the floodplain regulated through Title 17.

Within the 'q' overlay, development that requires greenway review must mitigate for any negative impacts to resources that perform a water quality function (e.g. natural water infiltration and purification, slope stabilization and stream temperature reduction). The mitigation plan must also ensure that the development does not contribute to a cumulative loss of functional values.

The River Natural ('n') overlay zone protects, conserves, and enhances land of scenic quality or of significant importance as wildlife habitat. Although there are no explicit mitigation requirements for impacts within the 'n' zone, mitigation measures may be required as conditions of approval through greenway review for significant detrimental environmental impacts on wildlife, wildlife habitat, and scenic qualities. The 'n' overlay applies to several parcels within the North Reach, clustered along Waud's Bluff and between the University of Portland and Swan Island Lagoon.

There are limited provisions for allowing off-site mitigation within the environmental and 'q' and 'n' overlay zones provided the applicant owns the mitigation site; possesses a legal instrument that is approved by the City (such as an easement or deed restriction) sufficient to carry out and ensure

the success of the mitigation program; or can demonstrate legal authority to acquire property through eminent domain. In general, except where mitigation could be better provided elsewhere, mitigation will occur:

- On-site and as close as practicable to the area of disturbance
- Within the same watershed as the development
- Within the Portland City limits

Peninsula Drainage District No. 1 (Pen 1) The City has adopted and implements a comprehensive Natural Resource Management Plan (NRMP) for the Pen 1 Drainage District. No part of Pen 1 however, is within the North Reach study area. The Pen 1 NRMP is an attempt to manage natural resources in a strategic and coordinated manner and provides a level of certainty in the environmental review process for the applicant. As part of the development of the Pen 1 NRMP, the ecosystem as a whole was evaluated and prime enhancement sites were identified and designated as mitigation sites. These sites represent areas where enhancement is most needed and will most benefit the Pen 1 ecosystem. Within the Pen 1 area, any mitigation required by an environmental review approval shall, as a first priority, take place in an area identified in the Pen 1 Enhancement/ Mitigation Plan. However, to date, no off-site mitigation has occurred on these enhancement sites.

City Natural Resource Inventory Update

There are areas within the City that provide wildlife habitat, protect water quality and contribute to watershed health. The City is completing a Natural Resources Inventory Update [NRIU] which is a helpful tool in the City's overall strategy to improve watershed health. The products of this work will supplement the natural inventories that the City Council has adopted over the last 15 years as part of Portland's environmental and greenway zoning program. Knowledge of the location and functions of Portland's natural resources will help the City update the environmental zones and Willamette Greenway program, set priorities and target sites for resource restoration and enhancement over time. The NRIU project will also inform implementation of the Portland Watershed Management Plan and development of the City's strategies to comply with Metro's Nature in Neighborhoods program and Clean Water Act Stormwater and TMDL requirements.

The NRIU results for the North Reach indicate that nearly half of the resources ranked for quality and quantity of riparian and wildlife habitat are outside of existing overlay zones designed to protect natural resources. These zones include the Greenway River Water Quality ('q') and River Natural ('n') overlays and the Environmental protection ('p') and conservation ('c') overlays. Mitigation is currently required only within the ('q'), ('c') and ('p') zones.

Mitigation Issues

Site- By- Site Mitigation May Not Optimize Natural Resource Benefits

Although on-site mitigation is the preferred option in both the Environmental and River Water Quality overlay zones, such an approach may not always optimize watershed and natural resource benefits throughout the North Reach. Mitigation resources and efforts directed to targeted areas may allow for greater habitat patch size and habitat connectivity, and increase the likelihood of long-term improvements to natural resource function within the North Reach. NOAA Fisheries has expressed support for larger contiguous off-channel and shallow water fish refugia in the North Reach. Such a program may allow for coordinated natural resource protection and restoration among multiple property owners.

Landscaping requirements are perceived as mitigation

“Mitigation” is often used broadly by stakeholders to mean landscaping and planting required by other sections of the Portland Zoning Code (e.g. parking lot landscaping and screening and stormwater management) and Greenway Plan design guidelines emphasizing conserving and enhancing riverbank and riparian habitat through retaining and planting vegetation. Although these requirements are not defined as mitigation in the zoning code, they may be perceived as requirements that compensate for development.

Property owners desire off-site options:

Current requirements allow for only limited flexibility in developing off-site mitigation options. Industrial stakeholders have expressed interest in expanding such options to meet their mitigation requirements. There is also interest among property owners in transferring some planting requirements and the balanced cut and fill requirements in the floodplain to an off-site location.

Sunset Provision for River Water Quality overlay zone

The Greenway code contains a sunset provision for the River Water Quality overlay zone. This provision is triggered by the update to the Greenway Plan. As a result, this regulatory protection for water quality, however limited, will expire. The City may renew the ‘q’ overlay, replace it with a new overlay covering additional areas or adopt new strategies involving both regulatory and non-regulatory tools for protecting natural resource function.

Limited Areas within the North Reach Require Mitigation:

The Environmental protection and conservation and River Water Quality overlay zones apply only to limited areas in the North Reach. This poses challenges for the City to meet its multi-objective goals, including enhanced watershed health within the North Reach, as well as compliance with federal, state and regional mandates.

Alternatives Analysis Limited to the Environmental and River Water Quality overlay zones:

The determination of which of the practicable project alternatives would have lesser or least significant adverse impact on natural resources or watershed functions is required only for projects proposed within the Environmental and River Water Quality overlay zones. The absence of such an analysis outside of these overlay zones makes achieving the City’s goals and complying with other jurisdictional mandates, such as Metro Title 13, more challenging.

Current Regulatory Climate Makes Implementing New Regulations More Challenging

Property owners are not likely to support requirements that constrain business expansion on existing sites. The uncertain future of Measure 37 poses additional questions and challenges. Increasing off-site mitigation options may be more feasible. Such an approach may increase flexibility for property owners while yielding both economic and natural resource benefits.

Mitigation Options for Task Group Consideration

In-Lieu-Fees:

In-lieu-fees, result in funds paid to a regulatory agency in-lieu of completing either project-specific mitigation or purchasing credits from a mitigation/ conservation bank. The regulatory agency applies these funds toward the purchase, preservation, restoration or maintenance of designated off-site mitigation/ conservation areas. In-lieu fees are similar to system development charges or impact fees used to fund infrastructure, parks and schools as part of new residential subdivisions.

City Developed and Maintained Mitigation Bank

The City could identify, acquire, and manage sites dedicated to mitigate the impacts to natural resource functions and values in the North Reach. In-lieu fees, perhaps in partnership with other City, state and federal (e.g. Natural Resource Damage Assessment, NRDA; Water Resources Development Act, WRDA; Pacific Coast Salmon Restoration Fund, PCSRF) could be directed toward the mitigation bank program. Both in-lieu fees and City developed mitigation banks could allow the City to strategically direct mitigation efforts to pre-identified priority areas.

Off-Site Program Partnerships:

This approach expands the above option to include partnerships among the City, private property owners and non-profit organizations dedicated to the conservation, protection and restoration of natural resources, by jointly acquiring and/ or managing sites for their natural resource function to off-set the impacts of development. Such a program potentially offers a greater ecological return on resources currently devoted to on-site mitigation and embraces the *Partnerships, Leadership and Education River Renaissance* theme.

Conservation Banking:

Conservation banks are privately or publicly owned land managed for natural resource values and used to offset environmental impacts from projects elsewhere. Conservation banks were first authorized by the state of California in 1995; currently there are over 60 conservation banks in operation nationwide. Banks receive regulatory approval based on the documented resources protected on-site. The natural resource benefits from this management regime are sold as “pre-approved credits” to property owners to satisfy the mitigation requirements of their projects. This system allows land to be “banked”, or protected from development prior to impact and permanently restricted through a conservation easement. Land ranking low in natural resource function may be purchased and enhanced, or existing areas with higher natural resource functions may be protected through a banking program. Conservation banks offer incentives for property owners interested in banking by placing economic value on the creation, protection or restoration of natural resources and wildlife. There are a number of potential benefits of conservation banking:

- restoration or protection occurs prior to impact
- management and monitoring requirements help ensure environmental benefits
- provides long- term protection, restoration, enhancement and management of habitat
- larger size is more likely to ensure ecosystem functions and foster biodiversity
- contributes to public open space and may also allow recreational opportunities
- reduces length and cost of permitting process through pre-approved credits
- reduces mitigation burdens on property owners to a single transaction
- increases certainty of meeting mitigation requirements
- provides economic incentives to some landowners for protecting and restoring natural resources

There are also a number challenges including overcoming administrative complexity and establishing agreements among City, state and federal jurisdictions. Some of these regulatory hurdles were addressed with the 2003 U.S. Department of the Interior comprehensive guidelines to promote the establishment of conservation banks.

Key Questions for the Task Group

Based on Concepts Developed and Advanced by the Watershed Health Task Group

- Who should be required to mitigate and for what reasons?
- Where should mitigation be located, on-site, off-site or both? Under what circumstances? What are the appropriate selection criteria?
- Should mitigation requirements be “like for like”? How is the appropriate amount/ ratio of required mitigation (square feet, acreage, canopy cover, flood storage capacity) determined? Are there opportunities to link mitigation and balance cut and fill requirements to achieve multiple goals?

Based on Concepts Advanced by the Workshop Team

- What would an off-site program look like? Would mitigation occur on private land, public land or a combination of both?
- What role would the City play in administering off-site mitigation? Which Bureau would administer such a program and how would it relate to other City programs, such as the BES re-vegetation program?
- Should the City acquire and manage land for mitigation purposes? Are there opportunities for public/ private partnerships? What role could environmental non-profits play?
- Is for-profit conservation banking an appropriate model for off-site mitigation in the North Reach? Is the market-based model of buying and selling credits feasible? What are the technical, economic, legal and jurisdictional issues? How to ensure the economic viability of such a program?
- For an off-site program, should the mitigation receiving areas be within the North Reach, within the Greenway, or within the Willamette watershed? Can a regional approach yield greater natural resource benefits?
- Mitigation requirements can impose a private cost. Who should pay for mitigation? Should the public bear a portion of the cost? What would a pricing structure look like? How are operation and maintenance costs accounted for?

Criteria for a Solution

In order to address the issues and challenges listed above, amendments to the City's mitigation requirements must provide a balanced and integrated approach that supports City goals to protect and restore natural resources and watershed functions, promote recreational opportunities, and foster economic prosperity in the North Reach. In addition, such changes should meet the multiple objectives suggested in following criteria:

- Be clear, understandable and implementable
- Lead to the desired outcome: mitigation requirements that protect and enhance the natural resource functions and values in the North Reach
- Meet the City's multi-objective goals and River Renaissance principles
- Support the purpose of the Greenway overlay zone and advance city compliance with relevant federal, state and regional requirements
- Be efficient and cost-effective
- Avoid significant impacts on resources and not cause other problems
- Apply equitably to any person, organization, or agency

Relevant Solution Concepts Developed by Watershed Health Task Group

Action	Potential Benefits	Potential Concerns
Pre-development enhancement credit. Consider allowing restoration or enhancement projects (e.g., plantings, floodplain reconnection, ecoroofs?) to serve as a "mitigation credit" that can be applied to future development on the same site (or off-site?).	<ul style="list-style-type: none"> Provides incentive to enhance or restore natural resources and functions. Added benefit to riparian area and watershed function because enhancement occurs sooner. 	<ul style="list-style-type: none"> Could preclude improvement of watershed conditions if most restoration projects and enhancements are ultimately used to mitigate for lost resources and functions. (Could be addressed by crediting only portion of the enhancement.)
Create clear direction pertaining to mitigation of impacts on resources and functions, including criteria and mechanism for off-site mitigation (e.g., list of pre-determined mitigation sites (similar to Pen 1 NRMP arrangement)).	<ul style="list-style-type: none"> Pre-determined mitigation areas could help foster an ecosystem approach to resource enhancement (e.g., increased habitat connectivity). Could increase cost-effectiveness of investments in mitigation. Would provide additional certainty for developers 	<ul style="list-style-type: none"> Offsite mitigation would be more difficult to track, monitor, and enforce. Would be challenging to craft criteria to determine if off-site mitigation is appropriate. Would need to address policy issues (e.g., if/ when to mitigate on public lands). Challenging to find receiving sites – may require agreements between landowners or between City and landowners. The development of a program with pre-determined mitigation sites is complex; requires LUR process (for "sending" or "receiving" sites or legislative process (e.g., the Pen 1 NRMP established mitigation sites through legislative process).
Create a mitigation bank program. The City would identify, acquire, and manage sites for mitigation of impacts in the N. Reach	<ul style="list-style-type: none"> Same as above 	<ul style="list-style-type: none"> Establishing mitigation bank program can be complex and costly (land acquisition, administration, monitoring, etc.).
Integration of floodplain and resource conservation/mitigation requirements. Create provisions that allow/ encourage floodplain management strategies to count toward meeting tree/vegetation replacement or other mitigation requirements (e.g., creating wetland as part of balanced cut and fill). Look as ways to achieve watershed benefits by preparing a suite of functions/features that can provide "equivalent" mitigation. Tree preservation/ replacement throughout the site might be equivalent to other functions or features restored or enhanced along the riverbank or along tributaries or wetlands.	<ul style="list-style-type: none"> May meet multiple code requirements and help meet watershed enhancement goals. 	<ul style="list-style-type: none"> Contamination issues could complicate this approach.

Meeting	Date	Title	Issues	Background Materials & Handouts	Agenda
1	March 7 th	Orientation	1, 2, 3, 6	Issue Paper Meeting 1 Agenda Task Group Charter	<ol style="list-style-type: none"> 1. Introductions 2. Review Agenda 3. Review Charter 4. Review of Issue Paper. Comments? Are these the right issues? What is missing? 5. Post-issue discussion: Are the right interests at the table? Who else should be represented? 6. Begin to discuss issues 1, 2, 3
2	March 22 nd	Off-site Mitigation	1, 2, 3, 6	Meeting 1 Notes Meeting 2 Agenda Case Studies & Potential Funding Sources Handouts	<ol style="list-style-type: none"> 1. Review Agenda 2. Comments on Meeting 1 notes 3. Presentation: Workshop Team, Case Studies- other jurisdictional mitigation requirements/ programs 4. Discussion of issues 1, 2, 3 (who should mitigate, where, in-lieu fees, "like- for- like") 5. Potential funding sources for off-site programs. Additional sources?
3	April 5 th	Conservation Banking	4, 5, 7	Meeting 2 Notes Meeting 3 Agenda Conservation Banking & Presentation Handouts	<ol style="list-style-type: none"> 1. Review Agenda 2. Comments on Meeting 2 notes 3. Presentation: Sky Miller, Wildlands Inc.- Commencement Bay, Tacoma, WA & NRDA 4. Presentation: Krystyna Wolniakowski- National Fish & Wildlife Foundation programs 5. Panel Discussion on conservation banking, non- profit partnerships. How could it apply within the North Reach? 6. Discussion of issues 4, 5, 7 (off-site programs, role of City, role of non-profits, partnerships, who should pay)
4	April 19 th	Applying Solution Concepts to the North Reach	2, 4, 5, 6, 7	Meeting 3 Notes Meeting 4 Agenda Draft Solution Concepts Handout	<ol style="list-style-type: none"> 1. Review Agenda 2. Comments on Meeting 3 notes 3. Review solution concepts. Comments? 4. Apply concepts to North Reach sites 5. Identify off-site mitigation areas within the North Reach and how the City could acquire/ manage/ oversee sites for mitigation purposes